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The Regular Meeting of the Board of Zoning Appeals Was Held on Wednesday, February 21, 1973. Members Present: Daniel Smith, Chairman; Loy Kelley, Vice-Chairman; George Barnes, Joseph Baker and Charles Runyon.

The meeting was opened with a prayer by Mr. Barnes.

I. WARREN & JOYCE M. PEEPLES, app. under Section 30-7.2.8.1.1 of Ord. to permit dog kennel, 638 Seneca Road, Barrington Subdivision, 6((1))97C, Dranesville District, (RE-2), S-5-73

Notices to property owners were in order. The contiguous owners were O'Meara and Benny Edney.

Mr. Peeples represented himself before the Board. He stated that this is an application for a renewal of his Special Use Permit that he has had for six years for a kennel. This kennel is for the purpose of showing dogs. They show poodles throughout the country. They need to have a number of dogs to get the kind of dogs they wish to show. He stated that he built the kennel to conform to the rest of his house. It looks like a part of his residence. There are no out-side runs. There will be no boarding of dogs. The building is sound proof with air conditioning and heating and the drainage is into the septic field. There are no signs on the property. They have from 40 to 45 dogs on the premises at times. They have from two to three visitors per week to see these toy poodles.

There was no opposition.

Mr. Runyon stated that he had viewed this property and the house itself sets back about 400' off the road and it consists of about four acres of property and it looks just like a residence.

In application No. S-5-73, application by I. Warren & Joyce M. Peeples under Sec. 30-7.2.8.1.1 of the Zoning Ordinance, to permit dog kennel on property located at 638 Seneca Rd., Barrington Subdivision, also known as tax map 6((1))97C, Dranesville District, Co. of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 21st. of February 1973.

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is Re-2.
3. That the area of the lot is 4.888 acres.
4. That compliance with all county codes is required.
5. That the original S.U.P. was granted January 24, 1967, # S-506-67, and the third and final extension granted by the Zoning Administrator has now expired.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN A NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use

and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. This permit shall expire in three years with the zoning administrator being empowered to grant 3 - 1 year extensions.

Mr. Baker seconded the motion.

The motion passed unanimously with all the members present.

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BERTHA E. BRILL, app. under Section 30-6.6 of Ord. to permit construction of carport closer to side property line than allowed by Ord., 5208 Ravensworth Road, Crestwood Park Subd., 70-4((4))(52)9, Annandale District (R-12.5), V-6-73

Notices to property owners were in order. The contiguous owners were Lt. Col W. L. Clarkin and Lt. Col. James Simmons.

Mrs. Brill represented herself before the Board. She stated that she would like a carport for protection of the car and to have a storage area.

Mr. Smith told her that under the Ordinance she must have topographic reasons.

She stated that she couldn't put it on the other side of the house as it would cut off the light from the window and it would not look good.

Mr. Smith suggested that the case be deferred for a couple of weeks to enable the applicant to read the Ordinance so she can understand the conditions under which the Board of Zoning Appeals has authority to grant variances. It cannot be for personal or financial reasons, but must be because of a topographic problem.

Mr. Runyon moved that this case be deferred until March 14, 1973, in order for the applicant to submit a justification for this variance. He stated that it is up to the applicant to justify why the variance should be granted.

Mr. Baker seconded the motion and the motion passed unanimously.

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UNITY OF FAIRFAX, app. under Section 30-7.2.6.1.11 of Ord. to permit construction of church, 2858 Hunter Mill Road, 47-2((1))17, Centreville District (RE-1), S-7-73

Mr. Tiffany, 10382 Main Street, the current address of the church, represented the applicant before the Board.

Notices to the property owners were in order. The contiguous owners were McClellan A. Finch, 2864 Hunter Mill Road and Henry Rolfs, 1494 N. Lake Way, Palm Beach, Florida.

Mr. Tiffany stated that for several years they have faced an increasing need for additional space. They have considered the feasibility of remodeling the current church or of renting space from someplace else, but both were not thought to be very good ideas. This land was donated to the church contingent on construction of the new church at this location.

Mr. Tiffany then showed the artist's sketch of what the church would look like after completion. He stated that there is a copy in the file of this. He also stated that there is a copy in the file of the Agreement by Mr. Rolfs to donate the land. The land is still titled in the name of Mr. Rolfs.

Mr. Smith read the agreement to the Board.

Mr. Smith asked if they would be able to get financing within the time limit that Mr. Rolfs put on the Agreement.

Mr. Tiffany stated that they believed they could, as they have tentative approval from one of the local banks for financing.

Mr. Baker asked if they intended to leave the trees in the large area (he indicated on the plat)

Mr. Tiffany answered that they were going to try to leave as many trees as possible. They will have to cut down the trees where the building will go and where the septic field will be, but generally they plan to leave the trees. This will also depend on how much they have to do in site plan.

Mr. Smith asked if the septic field had been approved. Mr. Gomerol, the architect, stated that it had been approved.

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UNITY OF FAIRFAX (continued)
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Mr. Paul Betz, 6506 Byrnes Drive, spoke in opposition to this use. He stated that his wife and mother-in-law are the owners of this property directly across the street. He stated that they are not exactly in opposition, but would like some additional information about specific items regarding this use. He asked if only part of this property was being used for the church. He stated that there is over 6 acres of land and he wished to know if they would use all this.

Mr. Smith stated that 2.64 acres of land is being used for the church building. It is a small church.

Mr. Barnes stated that it would set quite a ways back from the road. They are only using a portion of the lot for the church.

Mr. Betz asked if the County has any plans to put sewage facilities in this area since it is in the shopping center and in the townhouse area that is nearby.

Mr. Smith stated that they had no way to gain that knowledge. At the present the applicant is on septic field.

Mr. Barnes stated that the front portion of the property is swampy, but the septic field will go in back in the higher area.

Mr. Betz asked what kind of affect the building of this church would have on possible development or use of properties in the nearby area.

Mr. Barnes stated that he had much rather have a church than some of the cheap houses the builders are putting in around the County.

Mr. Smith stated that there are no restrictions as to the development surrounding a church except that whatever development was made of the adjacent land, they could not serve alcoholic beverages. He stated that that is the only restrictions that he knows of, as it relates to a church. He further stated that up until 60 days ago, this church could have gone in by right without a Special Use Permit.

Mr. Gomerson stated that the construction of the church would be steel and frame with masonry on the back and brick on the outside except for the indented circular area which would be a weathered redwood frame. The brick probably will be tan to blend in with the weathered wood.

Mr. Kelley asked whether or not a deceleration lane would be required in addition to the dedication.

Mr. Barnes stated that he didn't think a church would need one until such time as the Highway Department's plans go into effect.

Mrs. Madden, 2435 Hunter Mill Road, spoke in opposition to this use. She stated that there are quite a few church going in on Hunter Mill Road which will add to their already congested traffic problems. She stated that she does not oppose the church, but she does oppose the fact that Hunter Mill Road has become a proposed area for a multitude of churches which adds to the traffic problem. She stated that all churches hope to expand and even though it is small at the present time, it will become a problem in the future.

Mr. Barnes asked her which house she lived in.

She stated that she lived in the Kemper Park Subdivision.

Mr. Barnes stated that that is quite a ways from this church location. He stated that if this were in townhouses or apartments, there would be much more traffic than this church could generate and it would be seven days per week instead of one day per week.

He further stated that he knew it was in the plans to make Hunter Mill Road a four lane road, but he was certainly against that. The citizens in the area had stopped that at one time, but he stated that it looked like they would have to fight again to keep it from coming in there.

Mr. Runyon stated that he would have to abstain from voting on this application as he was doing some work for Mr. Rolfs.

Mrs. Madden stated that there are already three churches in the area which is more than any other local area around Vienna and there are special use permit applications for two more.

February 21, 1973
UNITY OF FAIRFAX (continued)

In application No. S-7-73, application by Unity of Fairfax, under Sec. 30-7.2.6.1.1 of the Zoning Ordinance, to permit construction of a church for 200 people, on property located at 2858 Hunter Mill Road, Centreville District, also known as tax map 47-2((1))17, Co. of Fairfax 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 21st day of February 1973.

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

1. That the owner of the subject property is Henry Rolfs.
2. That the present zoning is Re-1.
3. That the area of the lot is 2.634 acres.
4. That Site Plan approval is required.
5. That compliance with all county codes is required.
6. That Hunter Mill Road is proposed to be a 90' R/W.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLETED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The minimum number of parking spaces shall be 41.
7. Landscaping, screening, fencing, and/or planting shall be as approved by the Director of County Development.
8. Owner to dedicate 45' from the center line of the existing R/W for future road widening.

Mr. Barnes seconded the motion.

The motion passed unanimously, with the members voting., Mr. Runyon abstained as his firm was doing some work for Mr. Rolfs, the owner of the property.

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RALPH K. CHRISNER & GEORGE L. BETTS, app. under Section 30-7.2.10.5.4 of Ord. to permit retail used car sales, 13821 Lee Highway, 54-4((1))part parcel 105, Centreville District (C-G), S-8-73

Mr. Kennon Bryan, 4085 Chain Bridge Road, Fairfax, attorney for the applicant, testified before the Board.

Notices to property owners were in order. The contiguous owners were W. D. Richardson and Robert Lloyd Harris.

Mr. Bryan stated that this used car sales office will be located in the central area of Centreville. It is the property where the Dairy Queen used to be. On the south side on Lee Highway, there is currently C-G zoning. Under the ordinance under C-G zoning, the applicant has the right to have an automobile retail sales office. However, they need the special use permit because of the display area. This display area will be outside and they will use the small building that used to house the Dairy Queen for office and for the toilet facilities. There is a septic field on the property and it is shown on the plat. They propose 40 display spaces, 3 employee spaces and 4 visitor spaces.

CHRISNER & BETTS (continued)
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Mr. Bryan stated that there is a vacant lot directly to the rear with no improvements on it, and to the west there is residential property where the owner of this property lives. He is, of course, aware of this requested special use permit. On the right is a food stand and across Lee Highway, there is another vacant lot. There is a supermarket and a gasoline station in the general area. He stated that they feel they are in accord with the recommendations of the staff and the Planning Commission. He stated that they were not proposing that this use be a permanent addition to the Centreville area.

Mr. Kelley stated that the owner of record is shown to be Agnes Weaver.

The applicant stated that she is deceased.

Mr. Kelley stated that the record books in the County still shows her as owner.

Mr. Bryan stated that the period of the lease is five years with two ten year options.

Mr. Smith stated that that was not in the lease that was submitted to the Board. He asked the applicant for a copy of the lease that he was referring to.

Mr. Barnes asked the attorney if the applicant was going to build any additions to this use.

Mr. Bryon stated that they would like to build a structure in the back of this office for washing the cars, etc. and this structure would not be permanent, but pre-fab.

Mr. Smith stated that unless they were going to construct this right away, they would have to come back to the Board. He asked the attorney if they had a rendering to show what they would be building.

The attorney stated that they had no design for the building at this time.

Mr. Smith stated that they would have to show the Board a rendering or design of what they were going to put up.

Mr. Bryon stated that the building would be removed at the end of the five year period.

Mr. Smith stated that they would not be able to put any type of structure in without first obtaining the approval of this Board.

Mr. Kelley stated that the Planning Commission makes reference to the fact that the use is limited to the existing building.

Mr. Smith then read the Planning Commission memorandum which stated:

"The Fairfax County Planning Commission on February 15, 1973, under provisions of Section 30-6.13 of the County Code, recommended, by a vote of 6-2, to the Board of Zoning Appeals that the above subject application be approved to permit retail used car sales for a five year term in accordance with the staff recommendations attached hereto."

The Staff recommendation stated:

"That S-8-73 be granted for a maximum term of five years and for only the existing building as shown on the plat."

Mr. Smith stated that he did not think the Board should limit the construction of an additional building on this property.

Mr. Kelley stated that if the Board grants in accordance with the Planning Commission recommendation, the Board would have to limit the use to the existing building.

Mr. Kelley stated that he felt the purpose of this limitation is the fact that they would get more in the condemnation of the land for highway use.

Mr. Runyon stated that the plats shows dedication 87' from the center line of the road. They need room for a service drive.

Mr. Barnes stated that there will be no junk cars on the property, that this would not be permitted.

Mr. Covington stated that not only does the owner of the property live in the adjacent area, but the applicant does also.

Mr. Barnes stated that he agreed with the limitation for the 5 year permit.

CHRISNER & BETTS (continued)
February 21, 1973

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In application No. S-8-73, application by Ralph K. Chrisner & George L. Betts, under Section 30-7.2.10.5.4 of the Zoning Ordinance, to permit retail used car sales, on property located at 13821 Lee Highway, Centreville District, also know as tax map 54-4(1)pt. parcel 105, County of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 21st day of February, 1973.

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

1. That the owner of the subject property is James W. & Lillian Maley.
2. That the present zoning is C-G.
3. That the area of the lot is 20,790 square feet.
4. That Site Plan approval is required.
5. That compliance with all County Codes is required.
6. That the Fairfax County Planning Commission on February 15, 1973,

recommended by a vote of 6-2 to the BZA that the subject application be approved for a five year period.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I Districts as contained in Section 30-7.1.2 in the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction of operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plans submitted with this application. Any additional structures of any kind, change in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Department of the County of Fairfax during the hours of operation of the permitted use.
6. The maximum number of display parking spaces, shall be 40, and 7 parking spaces for employees and visitors.
7. Landscaping, screening, fencing and/or plantings shall be to the satisfaction of the Director of County Development.
8. No string of lights surrounding the area shall be permitted.
9. All cars and trucks shall be state inspected and inoperable condition.
10. The hours of operation shall be 9 A.M. to 9 P.M. Monday thru Friday, and 9 A.M. to 6 P.M. on Saturdays.
11. This permit is granted for a period of 5 years.

Mr. Barnes seconded the motion.

The motion passed 4 to 0. Mr. Runyon abstained.

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February 21, 1973

LESTER F. MARKELL, SR. AND AMOCO OIL COMPANY, INC., app. under Sec. 30-7.2.10.2.5 of the Ordinance to permit car wash, 10701 Leesburg Pike, Centreville District, 12-3((1))18A,

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Mr. Smith read a letter from the Health Department approving the proposal to provide water reclamation equipment to re-use the water with no discharge. They also stated that there is a potential area for a sub-surface absorption system should the owner find it desirable to dispose of a quantity of water not to exceed 10,000 gallons per day, but complete soil studies will be necessary to determine the suitability of the soil.

Mr. Smith also read the memorandum from the Planning Commission which stated:

"The Fairfax County Planning Commission on January 23, 1973, under provisions of Section 30-6.13 of the County Code, recommended by a vote of 6-2, to the Board of Zoning Appeals that the above subject application be approved with the restrictions the BZA may place on the facility.

Mr. Polychrones, before making his motion to approve, stated that he could understand the staff's position that the original intent of the Board of Supervisors in 1967 on this rezoning and issuance of special use permit was really to permit a business, which was put out of business by the widening of a highway, to recontinue its operation. For many years car washing was very much a related part of a service station's activities. With this in mind and with the example that had been placed in that location, it was a very attractive service station and had always been neatly kept.

Therefore, for those reasons, Mr. Polychrones' motion for a recommendation of approval passed by a vote of 6-2."

Mr. Runyon stated that all the information the Board had asked for is now in the file: new plats, letter from the Health Department, and the application has been amended to include American Oil.

In application No. S-198-72, application by Lester F. Markell, Sr. under Sec. 30-7.2.10.2.5 of the Zoning Ordinance, to permit car wash on property located at 10701 Leesburg Pike, Centreville District, also known as tax map 12-3((1))18A, County of Fairfax, 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 in accordance with the by-laws or the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 17th day of January, 1973, and deferred to the 21st day of February, 1973.

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

1. That the owner of the subject property is Lester F. Markell, Sr. & jr.
2. That the present zoning is C-N.
3. That the area of the lot is 1.8767 acres.
4. That Site Plan approval is required,
5. That compliance with all County Codes is required.
6. That the Fairfax County Planning Commission on January 23, 1973, recommended by a vote of 6 to 2 that the subject application be approved.
7. The existing service station is operating under Special Use Permit granted October 24, 1967, following rezoning action by the Board of Supervisors on July 19, 1967.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I Districts as contained in Section 30-7.1.2 in the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

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

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February 21, 1973
HARKELL (continued)

2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.

3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. The minimum number of parking spaces shall be 13.

7. Landscaping, screening, fencing and/or plantings shall be as approved by the Director of County Development.

8. The owner shall dedicate to the back of sidewalk along Route #7 and Baron Cameron Avenue for the full frontage of the property in order for the complete service drive to be under State maintenance.

Mr. Barnes seconded the motion.

The motion passed 4 to 0. Mr. Runyon abstained as he was not present at the public hearing.

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AFTER AGENDA ITEMS:

RUDELPH STEINER SCHOOL, S-154-70.

Mr. Smith read a letter from Mr. Richard Long, Engineer, stating that Mr. Schiffer of the Rudolph Steiner School has requested that they submit their building location survey of St. Patrick's Episcopal Church dated August 18, 1962, for the extension of the use permit for the school. He stated that this plat does not comply with the current standards required for use permit plats. Mr. Schiffer feels that a more extensive survey should not be required because his school is a non profit organization using the existing facilities of St. Patrick's Church.

Mr. Long asked the Board if they felt the plat dated August 18, 1962 was adequate and to let him know at the earliest possible date.

Mr. Kelley stated that most of the schools that come in are non profit schools and the Board makes everyone else come in with a new application and new plats conforming to the present standards. He stated that he felt this applicant would have to do the same.

Mr. Barnes agreed.

Mr. Runyon stated that the old plats do not show the recreation area for one thing.

Mr. Smith stated that it seemed that the decision of the Board members was for the applicant to come back to the Board with new plats complying with the present standards, as the old plats were inadequate. It was suggested that the applicant try to get a longer lease from the church and perhaps the Board could consider granting the permit for a longer period of time.

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CAMPBELL & THOMPSON

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The Board discussed this application as to whether or not they were permitted to use the water that was adjacent to their property. The Board members went through both files on the permit, the original one and the last one that came before them.

Mr. Covington stated that on the original permit the Board told them not to use the water and when they came back in 1968, the Board after hearing that they were using the water went ahead and granted the Special Use Permit. Mr. Covington stated that it is under condemnation proceedings from the Regional Park Authority February 22, 1973 and the main question seems to be on whether or not they have the right to use the water.

The file indicated that one of the zoning inspectors, Mr. Koneczny, had checked up on the applicant just last year and at that time the applicant told Mr. Koneczny that they had been using the water all these years with the verbal permission from the Water Authority.

Mr. Covington stated that they do rent boats, etc.

Mr. Smith stated that he did not see anyplace in the file where the Board prohibited them from using the water, but they were not to use it without the Water Authority's permission.

Mr. Barnes agreed with Mr. Smith and stated that he also felt they could use the water if they had the Water Authority's permission to do so.

Mr. Smith further stated that it certainly was not his intention to prohibit them from using the water. Mr. Smith stated that he and Mr. Barnes were the only members on the Board then that are still on the Board and this is their interpretation.

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CITY ENGINEERING (Continued from previous week, February 14, 1973)

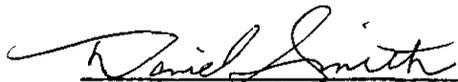
Mr. Smith explained to the Board members that City Engineering is now requesting another extension to their use permit. He stated that this case has been held in litigation for quite some time and there are many problems with it. He stated that the Board has requested further information from the County Departments and the County Attorney in order that they can make a proper decision. This case will be called again next week when the Board has all the information.

Mr. Smith asked Mrs. Kelsey to write Mr. Gassen, the attorney for the applicant, and ask him to be present at the next meeting. He also asked that Mr. Covington call the County Attorney and arrange for an appointment to discuss this matter.

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The hearing adjourned at 2:56 P.M.

By Jane C. Kelsey
Clerk


Daniel Smith, Chairman

APPROVED March 21, 1973
Date

The Regular Meeting of the Board of Zoning Appeals Was Held on Wednesday, February 28, 1973, in the Board Room of the Massey Building. Present: Daniel Smith, Chairman; Loy Kelley, Vice-Chairman, Joseph Baker, George Barnes and Charles Runyon

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The meeting was opened with a prayer by Mr. George Barnes.

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FORESTVILLE METHODIST PRESCHOOL, app. under Sec. 30-7.2.6.1.3 of Ord. to permit preschool 50 children ages 3 to 5, 8:30 A.M. to 12:30 P.M., 5 days per week, 10100 Georgetown Pike, 12-2((1))16, Dranesville District (RE-1), S-9-73

Mr. B. T. Clarke, Pastor of the Church represented the Church before the Board.

Notices to property owners were in order. The contiguous owners were Mr. J. C. Bryant, Lot 17, behind the church and Sam Farland Bryant, beside the church and Martin A. Bacher.

Rev. Clarke stated that no transportation will be provided for the students. The parents will continue to bring the students to the school. They have been in operation since late 1950. At that time they had a five year old class, but when the County opened their Kindergarten they planned to close down. However, the parents of the students requested that they open a class for three and four year olds. Currently, they only operate three days per week, but they might start operating for five days per week and that is what they are requesting. This has been a church sponsored school and they did not know they had to get a special use permit.

Mr. Kelley asked if they were aware of the Planning Engineer's comments regarding the dedication of land for right-of-way.

Mr. Runyon stated that he had looked at the property and he does not feel the applicant should have to do this and he does not feel that the Board should condition the permit on that dedication. If they do dedicate, then the house and the church will both be in violation of the setback requirements. The Staff is restudying that area now in the Upper Potomac Plan. He stated that the church will probably ask for a waiver of the site plan anyway, but he still did not think the Board should condition the use on that.

Mr. Kelley stated that since Mr. Runyon has viewed the property and is an engineer, he would go along with his statement.

Mr. Smith asked when the church was constructed.

Rev. Clarke stated that the sanctuary was construction around 1945 or 46 and the addition put on in 1960. This school has been in operation since the construction of the addition which would be in 1960 rather than 1950. He stated that one of the ladies in the church called Land Use Administration at that time and was told that they did not need a Special Use Permit.

Mr. Smith read a letter from the Great Falls Citizens Association dated February 20, 1973, stating that they supported the application and they felt that this school had provided a great service to the community in the past.

Mr. Smith also read a letter from the Health Department stated that this facility is adequate for fifty (50) children, and limited the recreation area to 35 children at any one time.

Mr. Kelley asked Rev. Clarke if he was aware that the Health Department limited the number of children in the recreation area.

Rev. Clarke stated that he was aware of this requirement.

In application No. S-9-73, application by Forestville Methodist Preschool under Section 30-7.2.6.1.3, of the Zoning Ordinance, to permit preschool, 50 children, ages 3 to 5, 8:30 A.M. to 12:30 P.M., on property located at 10100 Georgetown Pike, Dranesville District, also known as tax map 12-2 ((1))16, County of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

February 28, 1973
FORESTVILLE METHODIST PRESCHOOL (continued)

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 28th day of February, 1973.

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

1. That the owner of the subject property is Trustees of Forestville Methodist Church.
2. That the present zoning is RE-1.
3. That the area of the lot is 2.0577 acres.
4. That Site Plan approval is required.
5. That compliance with County and State Codes is required.
6. That applicant has been operating a Day Care Center for some time at Forestville Methodist Church, apparently unaware that a Special Use Permit was required.
7. The Health Department indicates that facilities are adequate for the 50 children requested by the applicant, that the play area is fenced, and that sanitary facilities are satisfactory. The fenced play area is slightly over 3,500 square feet.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMITS AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The hours of operation shall be 8:30 A.M. to 12:30 P.M., 5 days per week, Monday through Friday.
7. The maximum number of children shall be 50, ages 3 to 5.
8. The recreational area shall be fenced in conformance with State and County codes and not more than 35 children shall be allowed to use the present area at any one time.
9. The operation shall be subject to compliance with the inspection report, the requirements of the Fairfax County Health Department, and the State Department of Welfare and Institutions.
10. All buses and/or vehicles used for transporting children shall comply with County and State standards in regard to color and light requirements.
11. Landscaping, screening, and/or plantings shall be to the satisfaction of the Director of County Development.
12. This permit is granted for a period of 5 years, with the Zoning Administration being empowered to extend for 3 one-year periods.

Mr. Barnes seconded the motion. The motion passed unanimously.

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February 28, 1973

FAITH CHAPEL, app. under Section 30-7.2.6.1.11 of the Ord. to permit church, 2504 Brentwood Place and 7714 Delafield Place, 102-1((7))(8) 509 and 510, Mt. Vernon District (R-17) S-10-73

Mr. James Coaroy, attorney for the applicant, 301 Park Avenue, Falls Church, Virginia, testified before the Board.

Notices to property owners were in order. The contiguous owners were M. Brown, 7721 Francis Drive, Lot 501; Blair J. Surviner, 7717 Francis Drive, Lot 502; Kenneth Willets, 5328 Fifth Street, S., Lot 511.

Mr. Coaroy stated that the land has been deeded to the church. The church bought these lots last August and they are the recorded owner of the lots. The present membership is approximately 25 families for a total membership of approximately 70 people. It has stayed that number for about 5 or 6 years with no great increase or decrease. The seating capacity of the church is 180. There are 38 parking spaces, which is one more than the number required. It is on public sewer and water.

Mr. Gillett spoke in opposition to this use. His address is 7708 Elba Road. He stated he lived on the corner of Elba and Brentwood, across the street from the proposed church. He stated that he was representing 66 of his neighbors who all live in that general area. He stated that he did a survey himself of how the neighbors feel about having a church on this property. He submitted a map of the area surveyed and a Petition to the Board signed by these neighbors. He then talked about why they opposed this use. He stated that they were not opposed to a church in general, but the development in their community. He stated that there was a letter in the file from the President of the Civic Association of Hellin Hills opposing this use.

Mr. Gillett stated that they are bordered on one side by the Route 1 corridor and on another side by Sherwood Hall Lane, which is four lane, therefore, they are surrounded by four lane highways. There is a new public service establishment in the area which accommodates a fire station, hospital center, etc. They are, therefore, in a highly developed area. He stated that he feels it is up to the person who is trying to develop the land to show cause why it should be developed. All the people who signed the Petition feel this use is inappropriate for this location and that it does not fit in this area. He stated that the building would be three times as high as most of the houses in the area. There is no parking lot in the area now and there is one planned for this church. The lot is now wooded and the residential character of the community is wooded and they try very hard to conserve the trees. This is one of the main reasons why most of the people bought homes in this community. The site is at the conjunction of a dirt road, Delafield Place and there are no sidewalks. None of these streets are planned and built or maintained to handle a heavy volume of traffic. They are intensely aware of the traffic generated in their community by a new development up the road which uses Brentwood Street. He further stated that they are aware that there are many churches in their area now which are located in public service areas and already have parking lots and have access on a major thoroughfare, and they feel this is a better way.

Mr. Gillett stated that the other point he wanted to make is the probable reason why this lot has not been developed previously and that is there is a stream that flows right through that property. The stream comes down from the Hellin Meadows Swim Club and their runoff goes into the stream and during Agnes, they had a major overflow of that stream. They are very concerned that any removal of trees and top soil on that property will increase the runoff into Little Hunting Creek substantially. There are no storm drains to handle the runoff and it will go into the houses of the people who live there. Most of the people down there have invested all they own in their property and the property values have been maintained over the years. They are concerned that this will also affect their property values, particularly if it causes flooding.

Mr. Smith asked if they had any facts to substantiate the statement that a church in a residential area would devalue property.

Mr. Gillett stated he could only offer the feelings of the neighbors and it is a great concern. They feel there are better uses for the land. Developing this land into residences would not alter the drainage. He stated that there is a possibility that this property could be used for park land.

Mr. Gillett stated that he knew Faith Chapel needed to have a church building and he proposed if the Board agrees with the ever whelming voice of the neighbors to deny this use, that the neighbors should step in to help Faith Chapel by buying the land and asking the real estate agents to find them another place.

Mr. Smith stated that that was not a matter to be brought before this Board.

Mr. Smith stated that flood plain deficiencies would have to be overcome before any development could be done on this property. This is under Site Plan. Any person who came in to develop would have to contribute a pro rata share of the off site drainage.

FAITH CHAPEL (continued)
February 28, 1973

Mr. Smith stated that the pro rata share is based on the impervious acreage that is developed so this church would spend more money because they are developing the parking lot and would be required to spend far more than any other development in the community. He stated that he felt a person has the right to use their land within the scope of the zoning ordinance and they could not deny the applicant the use of the property unless they could show that it has an adverse effect on the adjacent property owners. He stated that this Board has never been able to verify that a use of this type devalues property values of residences around it.

Mr. Barnes stated that he sold a church some of his property because he felt that use was much better than having a subdivision next door.

Mr. Gillett stated that he was conveying the feelings of sixty seven people.

Mr. Milton Learner, 7724 Frances Street, spoke in opposition. He stated that his immediate problem is that of surface water. He stated that he lives directly opposite the church property. He has a drainage ditch in the back of his property that drains Schelhorn Street which is in the back of his property. The flood plain is an existing thing and any blockage will back up water into the homes that are in this area. All these homes are on a slab and there are no basements.

Mr. Smith read the report from Preliminary Engineering which stated that this use would be under Site Plan and they had no objections to this use.

Mr. Learner stated he wanted to stress that the problem does exist and is a fact. These open ditches will not carry off any excessive amount of water. He stated that Mr. Smith stated the problem would be taken care of eventually, but eventually is not soon enough. The problems will become so great that all the people will suffer unless something is done to solve them before the building is begun.

Mr. Smith stated that he felt this additional building would cause very little runoff.

Mr. Learner stated that he disagreed.

Mr. Smith stated that the Site Plan people are the ones who make the decisions in these matters. They use the surrounding area and the plans that are anticipated over a period of time, etc., so they can arrive at a conclusion that this will not have an adverse effect from any standpoint. He stated that the merits of the case is before the Board.

Mr. Learner stated that with all due respect to the planning people, he knows that when trees are cut and land is cleared of brush with pavement put on it instead of trees, the water has no place to go except runoff.

Mrs. Benot, Richcrest Drive, spoke in opposition to this case. She stated that she is a real estate agent and has been selling in this area for five years. She stated that in her opinion this use will devalue the property. She stated that she bases her opinion on taking people around and showing them houses for five years. She said she had never seen a church in a subdivision such as this one.

Mr. Smith asked if she had any facts. She stated that she had no facts, but is expressing an opinion.

Mr. Conroy then spoke in Rebuttal to the opposition. He stated that he did not expect this type of opposition that is here today. He submitted to the Board a rendering of the church building. He stated that it is solid brick. The total height of the building will be 26' which is about the same height as a two story colonial house. He stated that the total cost of construction will be about \$100,000. The church has paid cash for the land plus 10% architect's fee for the plans. The church now has \$75,000 of the construction money in cash in the bank, therefore, he can assure the neighbors that this will not be shabby construction. The church is prepared to do anything and everything that the County will require of them in order to make this construction in keeping with the community. He stated that this is the first he has heard of the drainage problem. The structure is small and the parking lot is small. The church has an acre of land here.

Mr. Smith stated that the zoning would allow three houses here on this property according to his estimate. The parking lot is larger than a single family home's parking area would be, but that would be the only contributing factor as far as runoff is concerned.

Mr. Kelley moved that this case be deferred in order that the Board members might view the property, and for a more detailed report from the Engineering Branch, until March 14, 1973 for final decision only. The case is closed except for decision.
Mr. Barnes seconded the motion.

The motion passed unanimously

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February 28, 1973

CITY OF FALLS CHURCH, app. under Section 30-7.2.2.1.5 of Ord. to permit water booster pumping station, 800 Chain Bridge Road, 31-2((1))pt. parcel 12, Dranesville District, (RE-1), S-12-73

Mr. Smith read the Staff Report which stated that this case has been removed from the agenda of the BZA because the Board of Supervisors amended the Ordinance on February 12, 1973, to provide that such cases would come before it rather than the BZA. A copy of the amendment will be supplied as soon as possible after its printing.

After a brief discussion the decision of the Board was to refer this file to the Board of Supervisors for scheduling.

// AFTER AGENDA ITEM

EPIPHANY OF OUR LORD BYZANTINE CATHOLIC CHURCH, S-44-73 (Request for out-of-turn hearing)

Mr. Smith read a letter from Reverend John S. Danilak, Pastor of the Church, requesting this out-of-turn hearing for a Special Use Permit for temporary classroom building to be used by the students of Epiphany Parish for religious instruction on Sunday mornings. Rev. Danilak stated that the approved church building is nearing completion and should be ready for final inspection within two to three weeks. It is most important to the parish to be able to use this classroom building in conjunction with the occupancy of the church under construction.

Mr. Smith asked why they needed a Use Permit if their Church was already there by right.

Mr. Knowlton stated that it is in the Ordinance and states "...churches, chapels, and uses pertinent thereto..." He stated that it is his feeling that this would include a Sunday School.

Mr. Smith asked if this was a portable building.

Mr. Knowlton stated that it is a trailer similar to the ones that the School Board uses.

Mr. Baker moved that the request be granted and the case scheduled for the next available hearing date which the Clerk has indicated to be March 28, 1973.

Mr. Barnes seconded the motion and the motion passed unanimously.

// AFTER AGENDA ITEM

MURRAY HOLLOWELL T/A CROSSROADS CLEANERS, V-236-71, Granted March 22, 1972
(Letter from Ronald W. Tydings, attorney for applicant, requesting 6 month extension)

Mr. Smith read the letter to the Board which stated that the reason for requesting the extension is that Mr. Hollowell needs some additional time within which to arrange for financing and obtaining a builder for the proposed addition. Due to a personal situation with his brother which required him to purchase his one-half interest in the partnership, the applicant's efforts were momentarily diverted from making final arrangements for the proposed addition.

Mr. Barnes moved that this request be granted to extend the permit for three (3) months and further stated that if the applicant was going to do something, he should be able to do it in ninety days.

Mr. Kelley seconded the motion.

The motion passed unanimously.

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February 28, 1973

IMMANUEL PRESBYTERIAN CHURCH, app. under Section 30-7.2.6.1.3 of Ord. to permit school for special instruction, 888 Dolley Madison Blvd., 22-4; 31-2((1))4A, Dranesville District, (RE-1), S-11-73

Mr. Leland T. Johnson, 888 Dolley Madison Blvd., McLean, Virginia, testified on behalf of the applicant.

Mr. Johnson stated that Mrs. Louise Hampton, the Director of the Speech and Language Center, was present should the Board have any questions.

Notices to property owners were in order. The contiguous property owners are Mr. and Mrs. Stephen Rozbecki, 1146 Basil Road, McLean and D. W. Rohrbaugh Builders, Lots 1 & 8, Saville Manor, Section 2, McLean, Virginia.

Mr. Johnson stated that this school is to provide diagnosis and therapy services for children with speech and language problems. They plan to have a total number of 35 children, but they will not all be there at the same time. The children will come to the facility once or twice per week. There would never been any more than four there at any one time. The number is actually less most of the time. When there are four there, it is when a child has missed a period and has to make it up. These children are brought to the school by parents or guardians and the hours of operation is from 9:00 A.M. until 4:00 P.M. on weekdays, Monday through Friday. They plan to carry the program through the entire year, therefore, summer would be involved as well. The church has been at this location for 12 to 14 years. There will be no other building required for this purpose. The center has been in operation for over a year and it is because of an oversight that it did not come to this Board sooner.

Mr. Smith stated that this type of thing is allowed as a home occupation, but because this is in a Church instead of a home, it was necessary for it to come before this Board.

Mr. Johnson stated that no outside play area is provided, because these children will only be on the premises for the length of their particular lesson and will not go outside. The children are only there for a period of an hour. The church is on a tract of six acres.

Mr. Smith stated that the letter from Mr. Bowman in the Health Department states that the fence and recreation section of the ordinance is not applicable in this case, therefore the Board will not require it either.

There was no opposition.

Mrs. Scott Terrill, 1122 Seville Lane, McLean, Virginia, spoke in favor of the application. She stated that they are the only close neighbors of the church. Their driveway is directly opposite the church's driveway. She stated that she could assure the Board that the small amount of traffic is of no concern to them and they think the whole idea of this center is worthwhile and serves a definite need in Fairfax County.

In application no. S-11-73, application by Immanuel Presbyterian Church, under Section 30-7.2.6.1.3, of the Zoning Ordinance, to permit school for special instruction, on property located at 888 Dolley Madison Blvd, Dranesville District, also known as tax map 22-4; 31-2((1))4A, County of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 28th day of February, 1973.

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

1. That the owner of the subject property is Trustees of Presbytery of Washington City.
2. That the present zoning is RE-1.
3. That the area of the lot is 6.000 acres.
4. Compliance with all County and State Codes is required.

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5. Site Plan approval is required.
6. Requirements of Chapter 15-C of the Fairfax County Code has been waived by letter from Mr. J. O. Bowman, Assistant Director, Division of Environmental Health dates 11-14-72.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the NON-RESIDENTIAL USE PERMIT on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The maximum number of children shall be 35, of which not more than 4 to be in attendance at any one time, ages ranging from 3 to 6 years.
7. The hours of operations shall be 9:00 A.M. to 4:00 P.M., 5 days per week, Monday through Friday.
8. The operation shall be subject to compliance with the inspection report, the requirements of the Fairfax County Health Department and the State Department of Welfare and Institutions.
9. All buses and/or vehicles used for transporting children shall comply with County and State standards in regard to color and light requirements.
10. This permit is granted for a period of 5 years.

Mr. Barnes seconded the motion

The motion passed unanimously.

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February 28, 1973

JEFFREY SNEIDER & CO., app. under Section 30-2.2.2 of Ord. to permit service station, corner of Blake Lane and Jermantown Road, 47-2((1)) part parcel 60, Providence District, (PAD) S-13-73

Mr. Harold Miller, 5295 Leesburg Pike, Bailey's Crossroads, attorney for the applicant, represented them before the Board.

Notices to property owners were in order. The contiguous owners were Martin Sneider, James Critchfield, Richard Brainard.

Mr. Miller submitted up-to-date plans to the Board to solve the tree problem as suggested by the Staff.

Mr. Miller stated that the total area of the entire project which was rezoned is 75 acres. The shopping center will be six acres and is under the PAD ordinance. That ordinance provides that even though this is zoned and granted by the Board of Supervisors, they still must come to the Board of Zoning Appeals to get approval of the design and the plantings, etc. He stated that Jeffrey Sneider was before this Board in October for the sales center and they will be coming back from time to time with additional projects as they develop. He stated that he would like to address several points the Staff raised. The Staff noted that the proposed "Lombardy Poplars" be replaced with a less disease-ridden and longer lasting tree of similar stature. They met with the County's Landscape Architect and he changed the type of planting to what the Board will see on the plat that was submitted.

Mr. Miller further stated that the Staff Report stated that the applicant has not complied with the procedural requirement in PAD in that he had not submitted a final subdivision plat of not substantially 50 acres, to which the site plan of this application would relate. The Staff Report asked the Board to interpret the pertinent provisions of the Ordinance in conjunction with this application. Mr. Miller stated that this is not so. They have, in fact, done this. He stated that perhaps this word had not gotten around to all departments. They have presented the preliminary site plan showing all building locations, roads and open space. This was approved by the County and it was put on record. The overall final plan is on record, indicating the type use which would be in each building. This exceeds 50 acres. As the Staff did note, this is an integral part of the six acre shopping center and it is shown on the detailed site plan which is also before the Board.

Mr. Miller stated that they had also presented for the file a sketch of the station and an indication of the style, which they call Mansard and they have indicated that it will be brick. Mr. Barnes has requested that the bays be put in the back rather than the front and the applicant is willing to do this and this will be done.

Mr. Miller stated that Jeffrey Sneider is going to develop this station and will retain ownership.

Mr. Smith stated that this should come in with the development of whatever service station this will be with the user of the site. He asked if they had a lease on the property.

Mr. Miller asked Mr. Logan Jennings, one of the officers of the corporation, to speak to this.

Mr. Logan Jennings stated that they did not have a lease from an oil company because the rest of the projected center will be affected by this station, therefore, they want to continue to control this site.

Mr. Smith stated that normally the Board requires the applicants to present the type of architecture at the time of the hearing and also the lessee of the station be identified.

Mr. Miller stated that he believed in this ordinance they did not have to do this, that he did not believe this to be a requirement.

Mr. Smith stated that it is a requirement of the Board, it is a procedural requirement when the Board grants a Use Permit to have some knowledge of who will actually be operating it.

Mr. Jennings stated that as to architecture, the sketch of the station shown to the Board and in the file is the exact building that they are going to build. This building will be similar in design and materials with the multi-family dwellings that are going up and also with the shopping center.

Mr. Smith stated that he felt this application was a little premature. The Board needs an architectural design and the name of the Oil Company that will be leasing and operating this station, otherwise the Zoning Administrator runs into problems with enforcing the ordinance.

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Mr. Smith stated that there are also many oil companies who would come in, but they might wish to change the design.

Mr. Miller stated that if that particular oil company didn't want to go along with the design, then they wouldn't get the lease.

Mr. Smith stated that the Board loses control over the operator if the oil company isn't part of the Use Permit. The Zoning Administrator's Office has had this problem.

Mr. Miller stated that they could be sure the lease has included in it the provisions made by the Board of Zoning Appeals.

Mr. Runyon and Mr. Kelley both stated that the Resolution granting these Permit include that if there is a change in owner, operator, etc. it will have to come back to this Board.

Mr. Smith stated that if they just waited awhile, they wouldn't have to go through the entire thing all over again though.

Mr. Miller stated that Mr. Hockman, one of the adjacent property owners, came by at 12:00 when this case was scheduled because he wanted to view the plans and see what this was all about. Mr. Miller stated that he showed him the plans and he felt they looked pretty nice, so he didn't stay for the public hearing as he had no objections then.

Mr. Smith asked for an explanation as to what is happening to Blake Lane.

Mr. Runyon explained that it would be deadended as planned, and a barricade put across it. They are changing the roads considerably.

Mr. Knowlton, Zoning Administrator, stated that they checked the records during lunch on whether or not the applicant was complying with the procedural requirements of the ordinance in relation to PAD and they find that the applicant has, in fact, complied with this. The Site Plan has been approved for Section 1 and the Preliminary is in for Section 2 and the two of those together account for more than the 50 acres.

There was no opposition to this application.

Mr. Runyon moved that in Application S-13-73, Jeffrey Sneider & Company, that this case be deferred until a later time when such arrangements for a lease have been completed and a revised architectural plan showing the actual detail of what will be built here are submitted and all other obligations of the PAD ordinance have been met. He stated that he would like to put a limit on the deferral of six months (180 days). If the applicant has not replied at the end of that time, the application will die for lack of interest. After that time, the Board will have to have a new application and a new hearing.

Mr. Baker seconded the motion and the motion passed unanimously.

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FAIRFAX COUNTY FIRE AND RESCUE SERVICES, app. under Section 30-7.2.6.1.2 of Ord. to permit construction of Fire Station, 5316 Carolina Place, 80-2((1))47 & part parcel 46, Annandale District (C-OL), S-15-73

Mr. George Alexander, Director of Fairfax County Fire and Rescue Services, testified before the Board on this application.

Notices to property owners were in order. Contiguous owners were Mr. James O. Turley 5309 Clifton Street, Springfield, Virginia, Mr. Jim Conway, 511 Clifton Street and John Gabor, 5313 Clifton Street.

Mr. Alexander stated that they were before the Board in June of 1972 and secured a Special Use Permit for this fire station, but that permit expired because construction did not start within the year and they neglected to come back before the expiration date and request an extension. In that use permit it was stipulated that a brick wall be built for screening purposes. In attempting to take care of the drainage problem the wall became a problem to the site engineer. They then met with the citizens in the area and the President of the Edsall Citizens Association regarding this problem, but the citizens felt very strongly that the brick wall should be put in as it is in the covenant of the land. The site plan that is before the Board does not show the brick wall, but they do plan to put the brick wall in.

There was no opposition to the case, but Mr. Jim Conway, Mr. Gabor and Mr. Turley came before the Board. They restated that the covenant states that there must be a 6' brick wall 25' from their property line into the fire station property and that is where they would like this wall to be. He asked for a clarification on that.

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February 28, 1973
FAIRFAX COUNTY FIRE AND RESCUE SERVICES, (continued)

Mr. Alexander stated that the covenant says that it will be a 25' buffer strip, but it does not say where the wall should go. To the best of their knowledge, the adjacent property owner next to the fire station has the wall set back, but he didn't know exactly how far. It is their intent to set the wall back to conform with what is on the adjacent property.

Mr. Smith stated that the buffer strip would not allow any construction within that area. He asked who was going to maintain that strip in between the wall and the property owner's property that backs up to it.

Mr. James O. Turley, 5309 Clifton Street, stated that he would maintain the part that backs up to his property. Mr. James Conway and Mr. John Gabor, 5313 Clifton Street, also stated that they would maintain the part that backs up to their property.

Mr. Gabor said he would also like to bring out that there is a recording studio called Capital Recording next to the Fire Station and it was his understanding that they had to have an As-Built Site Plan before they could occupy the property. They have occupied the property for approximately a year now and they have not complied with this ordinance. They haven't put in the brick fence and he didn't know that the County now approves a gravel drive, which is what they have. They also have a lot of garbage in their yard.

Mr. Knowlton wrote down the name of this organization and the address and stated he could check on it.

Mr. Smith asked Mr. Alexander if they would be able to start construction within the year.

Mr. Alexander stated that the plans will be ready for bid within 45 days and construction should start within 60 to 90 days.

In application No. S-15-73, application by Fairfax County Fire and Rescue Services under Section 30-7.2.6.1.2, of the Zoning Ordinance, to permit construction of Fire Station, on property located at 5316 Carolina Place, Annandale District, also known as tax map 80-2((1))47 and part of parcel 46, County of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 28th day of February 1973.

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

1. That the owner of the subject property is County of Fairfax.
2. That the present zoning is C-0L.
3. That the area of the lot is 64,743 square feet.
4. That compliance with all County codes is required.
5. Site Plan approval is required.
6. That pro rate share for off-site drainage is required.
7. A Special Use Permit, S-125-71, was previously granted on June 15, 1971, but construction was not begun nor was an extension of time requested within one (1) year of the granting, so it expired.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses In C or I Districts as contained in Section 30-7.1.2 in the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable with out further action of this Board, and is for the

FAIRFAX COUNTY FIRE & RESCUE SERVICES (continued)
February 28, 1973

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the location indicated in the application and is not transferable to other land.

2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.

3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMITS AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the NON-RESIDENTIAL USE PERMIT on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. The 25 foot buffer strip at the rear of property, the brick wall, landscaping, screening, fencing and/or planting shall be as approved by the Director of County Development.

7. The building shall be constructed with a brick exterior.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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ARTHUR MORRISSETTE, Variance (Request for extension) , V-63-71 Granted September 14, 1971 extended 6 months from September 14, 1972.

Mr. Smith read a letter from Mr. Morrisette which stated that because of the sewer moratorium, the zoning moratorium and public expressions by County officials contrary to expansion and development, have all together caused an insurmountable difficulty as to persuading new enterprise to lease their properties, therefore, they have found themselves unable to proceed within the time limits imposed by the Board. He requested that the file be kept "open" so that they might be afforded the opportunity of renewing their application at a more appropriate time.

Mr. Smith stated that it was not possible to keep the file "open".

Mr. Baker moved that the applicant be notified that his variance will expire on March 14, 1973, unless the original construction requirements are met.

Mr. Runyon seconded the motion.

The motion passed unanimously.

Mr. Smith stated that he does have the right to come back in with a new application anytime.

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BAILEY'S CROSSROADS LIONS CLUB & ST. ANTHONY POST #1791 (CATHOLIC WAR VETERANS)

(Request that the matter of operating a carnival at Korvette Parking Lot by the above applicant be referred to the Board of Zoning Appeals for further consideration since the Zoning Administrator denied the request.)

Mr. Knowlton stated that there is a question as to whether this should be an appeal from the decision of the Zoning Administrator, or a Special Use Permit. He stated that this has given the Staff some trouble because the sound from the carnival echoes throughout the surrounding apartment areas. Consequently, he was put in the position of saying they would not issue any more permits for carnivals in that shopping center.

Mr. Smith stated that the application should be an appeal from his decision then. He asked Mr. Knowlton if he did, in fact, have the right to grant the permit for a carnival for up to two weeks.

Mr. Knowlton stated that he did have that right.

February 28, 1973
AFTER AGENDA ITEMS -- CONTINUED

Bailey's Crossroads Lions Club & Catholic War Veterans, St. Anthony Post #1791 (continued)

Mr. Smith stated that he did not know the particulars, but it would seem to him from what Mr. Knowlton has indicated today and from an earlier discussion that this has created a nuisance in the past and for that reason Mr. Knowlton denied the use of the property for a carnival.

Mr. Knowlton stated that under the Code, a carnival must come before this Board for a Special Use Permit if it is conducted for a longer period than two weeks.

Senior Zoning Inspector,

Mr. Barry/stated that the problem that they have had with the Korvett's Parking Lot is caused by several things. One is a natural problem in that you have a prevailing wind from southwest in the spring that carries the sound away from Korvett's shopping center toward the apartment building and a small subdivisn nearby. The Zoning Office has had no real problems with the smaller carnivals, but it is the larger shows with several diesel generators that cause the problems. These larger shows have noiser rides.

Mr. Smith stated that the Board could restrict the carnival to operating only in the afternoon, if they granted it at all. But he stated that it is up to the applicants to make their case and in view of the past history and the decision of the Zoning Administrator, they will have to make a very good case.

Mr. Knowlton stated that because of the conditions they must comply with for a Special Use Permit, they were running into more difficulties. The problem with an appeal from his decision, if this case were granted, then he would have to issue a permit for all carnivals.

Mr. Smith stated that he would not have to issue permits for all carnivals because he could take each case on its own merit. He might feel a smaller carnival could go in, but a larger one could not.

Mr. Smith asked how long these carnivals operate.

Mr. Barry stated that these smaller ones such as the one that is before the Board today only operates until about 11:00 P.M. This one closes at 11:00 P.M. and only has one portable generator and that is shut off promptly when the carnival closes at 11:00 P.M. This is not true of the larger carnivals. When a show has three or four generators that have to run for a longer period, then that droning can get on the resident's nerves when they try to sleep. In his opinion, what the problems are related to is primarily the number of generators the carnival runs and the length of time they run them.

Mr. Smith stated that he felt they would have to take the route of an appeal from the Zoning Administrator's decision.

Mr. Barnes stated that he had looked over the file and found that they have a certificate of insurance but it expires soon, therefore, they will need to renew it.

Mr. Knowlton stated that they will have difficulty when they have to submit the certified plat. They can get the copies of Korvett's as-built indicating the area to be covered by the carnival, but to try to survey and locate the rides exactly is impossible.

Mr. Barnes stated that since it is a small show, he didn't see any problems with cutting out a few parking spaces.

Mr. Smith stated that they would have to convince him of that. He stated that where there are a lot of residences near the shopping center there is a question in his mind whether it should be allowed at all.

Mr. Smith stated that if the applicant does file right away, the earliest hearing they could have is March 28, 1973.

Mr. Barry stated that he would advise them of that.

Mr. Smith stated that the Board needs to know the number of spaces they will be covering by the rides and booths.

// An out-of-turn hearing was granted by agreement of the Board members for March 28, 1973.

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AFTER AGENDA ITEMS (continued)
February 28, 1973

KOONS FORD -- Question from Zoning Administrator regarding whether or not the Board was allowing a body and paint shop -- question as to whether they will accept new plats showing a smaller building, lesser number of parking spaces -- ask the Board to approve or disapprove the architectural facade of the building.

The Board members reviewed the new plats and the architectural renderings presented to them. They questioned Mr. Reynolds from the Site Plan Office relative to the requirement for parking.

As to the question as to whether they would allow the paint and body shop, Mr. Smith stated that if the Board allows it here, it would have to be allowed in all C-D areas within the County. He stated that there was a statement at the hearing that this would not be allowed.

Mr. Knowlton stated that it was left out of the motion.

Mr. Smith stated that the reason it was left out was that everyone stated that the ordinance covered it.

Mr. Kelley stated that Mr. Louk, the attorney for the applicant, had stated that they would stand on the ordinance.

Mr. Smith stated that if it were allowed in this case, the ordinance was being overlooked. He stated that it might be that the Board of Supervisors may wish to allow body shops and paint shops in automobile dealerships, but the ordinance should be changed to so indicate and until such time as it is changed, they should not be allowed.

Mr. Knowlton stated that he believed it would boil down to what is allowed in a new automobile dealership.

Mr. Kelley stated that he felt his motion covered this. His motion stated that they must comply with all State and County Codes, and this is the ordinance.

Mr. Smith stated that it has been the Board's interpretation of the Ordinance that auto paint and body shops are not allowed in a C-D zone.

Mr. Knowlton stated that he stated at the time of the hearing that the Zoning Administrator's office must enforce this ordinance and this was the interpretation that was given previously on another case. He stated that it is felt that this is an accessory use to an automobile dealership.

Mr. Smith stated that these "accessory uses" have gotten the County into trouble before

Mr. Runyon stated that he felt the architectural design of the building is acceptable as shown.

Mr. Runyon stated that based on the number of parking spaces shown as being required by the ordinance, they are 108 over that, therefore, there should be no problem. He suggested that the Board amend the application to show the number of parking spaces on the revised site plan.

Mr. Smith stated that the Board could just approve the substituted site plan for the original plan that was submitted at the hearing since the changes are very minor and show a slight change in building design, size and parking layout.

It was the Board's decision to approve this new site plan.

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CITY ENGINEERING AND DEVELOPMENT CORP. , S-5-70

February 14, 1973 a letter had been received and considered by the Board of Zoning Appeals regarding an extension of the Special Use Permit. The Board deferred this until they could check on several items and talk with the County Attorney.

Mr. Smith read another letter from Mr. Gasson, attorney for the applicants, justifying his reasons for an extension.

The letter stated:

"In accordance with my telephone conversation of Friday, February 23rd, I would like to submit the following in support of our request for an extension of time. The Supreme Court of Virginia on November 27, 1972 affirmed the action of the lower court in holding that Cities Service had a vested right in the property covered by the use permit. They further reversed the Circuit Court and the Board of Supervisors in holding that the pre-existing zoning still continued. The formal

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CITY ENGINEERING (CONTINUED)
FEBRUARY 28, 1973

opinion was not received for approximately one week. After discussing the matter with my client and being advised by them that they wished to go ahead, I wrote to Mr. Langhorne Keith on December 27, 1972 with respect to this matter, a copy of my letter and a copy of Mr. Keith's Memorandum to Mr. Yaremchuk is attached to this letter.

Shortly after the first of the year I was advised by the company that there were problems with respect to the site plan. On January 8th the representatives of the company met with me and with Mr. Terrett and others from the County. It was my understanding that the site plan had been approved, subject only to Cities Service obtaining an easement for off-site drainage from the adjacent landowner. The representatives of Cities Service advised Mr. Terrett that they had attempted on several occasions to obtain such an easement and had been turned down by the adjacent landowner. We attempted to get the County to waive this requirement and to issue the permit subject to obtaining the easement at a later date, and were advised by Mr. Terrett that this was not possible under present policy, although it had been done previously. He assured us that he would recommend to the County that condemnation proceedings be initiated if we were unable to make further progress but advised us that we would have to have a formal appraisal made and again approach the adjacent landowner, and if at that time we were unable to obtain the easement he would recommend to the County that they authorize the institution of condemnation proceedings. We are in the process of carrying out this procedure and it will be absolutely impossible to complete it prior to March 10th. I might say that we were advised that because of the ban on sewer taps we would not be in a position to get a building permit at this time, even if the site plan were formally approved but this is not at the moment our problem.

I certainly feel that we have been diligent in pursuing the matter. Unfortunately, the case in the Court of Appeals was held up for some five or six months because the Court wished to hear argument on another case, also coming up from Fairfax County, and in fact these two cases were heard on the same day. Any seemingly delays in December and January I might say were caused not only by my heavy schedule but also by the fact that there were a number of holidays intervening, including some unscheduled holidays. No one regrets more than I do the delays, but I do feel that there has been no lack of diligence on our part and the delays have been caused by matters completely beyond our control. I believe Mr. Terrett would certainly support us on this. While we feel we need six months, we would appreciate a short extension and hope we could show more concrete evidence at the end of sixty days of our pushing this matter."

/s/ Edward D. Gasson

Mr. Smith read a memorandum from Vernon Long, Supervising Inspector to Wallace S. Covington, Assistant Zoning Administrator, dated February 23, 1973, answering the questions Mr. Smith had outlined at the February 14, 1973, board meeting. This memorandum stated that:

1. Site Plan #3 was submitted and filed on February 5, 1971. The Site Plan #3 was not approved, was returned on February 22, 1971 to the engineer, and has not been resubmitted. (Mr. Rudacille-Utility Permits, Design Review).
2. November 27, 1972 (Mr. Gasson, Attorney, Phillips, Kendroch, Gearheart and Aylor).
3. The sewer moratorium does apply (Mr. Howser, Systems Control and Planning Division, Public Works).
4. The opinion of Mr. Howser, the applicant has no control. (Mr. Howser).
5. The sewer moratorium went into effect November 20, 1972. (Mr. Howser).
6. The date of the enactment of the highway corridor ordinance in area in question of Route #236 was on April 24, 1972. (John Larsen).

Mr. Stuart Territt, Director of Design Review, spoke before the Board. He stated that there is a site plan problem other than the sewer easement, but the biggest problem is the off site easement for storm drainage. One problem is the slope and the extension of the service drive. He stated that they have met with CITCO and discussed these problems.

Mr. Smith stated that the question the Board has had is, Has the applicant diligently pursued the development of the property.

Mr. Territt stated that it is not unusual when someone needs an off-site drainage easement for them to take this long. He stated he had not talked with CITCO since the meeting.

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February 28, 1973
 CITCO - City Engineering, S-5-70 (continued)

The Board continued to discuss the problems that surround this application.

Mr. Baker moved that the Board grant the request to extend 60 days from March 10, 1973 in the application of City Engineering, S-5-70. This is the extension that they requested.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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VOB, LTD. a Md. Corp., app. under Sec. 30-7.2.10.5.4 of Ord. to permit used car dealership including rentals, not to exceed 1 year in duration, or new car dealership, whichever occurs first, 8753 and 8801 Richmond Highway, 109 ((2))7A, Mount Vernon Dist., (C-G), & (RE-0.5), S-3-72 (Deferred from March 15, 1973 for an indefinite period)

Mr. Shumate, attorney for the applicant, appeared before the Board. He stated that at the previous hearing last year the Board had deferred this case for an indefinite period because of the fact that a portion of this property which originally was zoned C-G was inadvertently put on the map as RE-0.5 and when the Board of Supervisors adopted the new maps this was left on that way. He stated that the Staff has requested the Board of Supervisors correct this mistake, but they have not. He stated that he has written to Mrs. Packard and other Board members requesting that they correct this error, but has had no reply. He stated that he had spoken with the County Attorney, but due to his heavy schedule he will not be able to render a decision on this until sometime in March. He asked for a continued deferral until this is cleared up.

Mr. Baker moved that this case be deferred until May 23, 1973 for reasons stated by Mr. Shumate. This is the question on the zoning of the RE-0.5 strip, a parcel of land involved in the application.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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VIRGINIA HILLS SWIM CLUB, Special Use Permit No. 7154

Mr. Smith read a letter from Victor H. Ghent, Engineer, P.O. Box 451, Annandale, Virginia requesting that Virginia Hills Swim Club be allowed to add a gatehouse to their present facilities in order to better control the direct ingress and egress to their pool facilities. The size of this addition would be 18' by 20' and would include the admission box, a hallway through, a small storage room and a small office. The location is between the existing parking and walk and the existing concrete pad. There would be no increase in employees and the building would provide a consolidation for better management.

The Board members reviewed the plats and the sketch of the building and made the decision that any addition would have to come back before the Board. They further added that this is an old use permit and it would be a good idea to have them submit a new application in order for the Board to update the permit and make sure they are following the conditions that the Board sets for this type use. One example was the limitation on the number of parties a swim club can have during the season and the fact that they must obtain special permission to have these parties from the Zoning Administrator.

Mr. Smith asked the Clerk to write a letter to the applicant and Mr. Ghent informing them that they must file a new application in order to have any addition to the use.

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By Jane C. Kelsey
 Clerk


 DANIEL SMITH, CHAIRMAN

APPROVED March 21, 1973
 Date

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The Regular Meeting of the Board of Zoning Appeals Was Held on Wednesday, March 14, 1973, in the Board Room of the Massey Building. Members Present: Daniel Smith, Chairman; Loy Kelley, Vice-Chairman; Joseph Baker and Charles E. Runyon. Mr. Barnes was absent.

The meeting was opened with a prayer by Mr. Covington.

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COLLEGE TOWN ASSOC., app. under Section 30-7.2.10.3.1 of Ord. to permit gasoline station, Braddock Road between Ox Road and Sideburn Road, 68-1 ((1)) pt. parcel 9, Springfield District (C-D), S-14-73

Mr. Donald C. Stevens, Post Office Box 547, Fairfax, Virginia, attorney for the applicant testified before the Board.

Notices to property owners were in order. The contiguous owners were Michael L. Kovalsky, 5044 Portsmouth Road, Fairfax, Virginia and Reginald E. and Janet Newman, 5042 Portsmouth Road, Fairfax, Virginia.

Mr. Stevens stated that College Town Associates is not a corporation but is a partnership that is building the community shopping center taking up the entire parcel zoned C-D with a buffer strip separating the shopping center from Country Club View subdivision. There is no separate parcel for the service station and the service station ownership will be retained by the owners of the shopping center and will be part of the shopping center. The zoning on this parcel of land, C-OL and C-D, was under zoning case C-83 granted by the Board of Supervisors last October. On the development plan in this rezoning, the service station was shown in the same location. The plan was approved by the Board of Supervisors. All of the property that is contiguous with the service station is owned by College Town Associates. They notified several of the lots in Country Club View, immediately to the south of the proposed shopping center.

Mr. Smith asked if this had been leased to an oil company as yet and was that planned.

Mr. Stevens stated that they did plan to lease this to an oil company, or they could operate it themselves. In any event whoever they lease it to they understand would have to come back before this Board and they also would have to accept the design of the building. The architecture and design will be the same as the shopping center and will be intergrated with the shopping center. This will be a four bay station. There is a copy of a rendering in the file of the rezoning folder. The materials to be used will be a soft buff Williamsburg brick.

Mr. Stevens stated that he had talked with the President of the Citizens Association for Country Club View and the association has no objection to this use as long as it is the same as was on the development plan that went before the Board of Supervisors at the time of the rezoning.

Mr. Smith stated that there should be no free standing sign for this use.

Mr. Stevens stated that from the point of view of the sign ordinance, they have more than 200 feet of frontage.

Mr. Smith stated that this is a designed shopping center and there will be only one sign allowed.

Mr. Stevens stated that it is on two streets.

Mr. Smith stated that then two shopping center signs will be allowed, but not a separate service station sign.

Mr. Smith asked Mr. Covington if he would be allowed a sign under the ordinance.

Mr. Covington stated that not if this station is developed in conjunction with a designed shopping center.

Mr. Kelley asked if they had given any thought to having the service station bays in the rear. He stated that this is something that has been done in other areas that improves the looks of service stations.

Mr. Stevens stated that he saw no problem except it would require a redesign of the plan.

Mr. Kelley asked Mr. Stevens if College Town Associates decide to lease this use to an oil company, if that oil company would be required to go along with the design of the station, etc.

Mr. Stevens stated that they would have to take it like they find it.

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COLLEGE TOWN ASSOCIATES (continued)
March 14, 1973

Mr. Runyon stated that he wanted to make it clear that they would have to come back if they should get a different operator. If the Board grants it this way, actually all they could do would be to get the station leased.

Mr. Stevens stated that they could build the station. Then if the applicant wants to buy gas from someone and sell it, he could.

Mr. Smith asked if they actually plan to construct this station prior to getting a lease.

Mr. Stevens stated that it depends on a point in time. If they can get a sewer tap, they will begin construction. That is up in the air, but they hope to work something out in the near future.

Mr. Smith stated that there are quite a few questions in connection with this underground storage tank which will, of course, be on the site plan, but when they come back in with a new applicant, they should then show the storage tanks and the number of gallon they will hold.

There was no opposition to this use.

Mr. Smith stated that the Planning Commission held a hearing on this application and voted unanimously to recommend to the Board of Zoning Appeals that this application be approved in accordance with the Staff report and that it be constructed in conformance with the development plan of the shopping center that was presented to the Board of Supervisors at the time of the rezoning.

Mr. Smith again asked Mr. Stevens if they understood that they would have to come back to the Board when they lease the property.

Mr. Stevens stated that he did know that.

In application No. S-14-73, application by College Town Assoc. under Sec. 30-7.2.10.3.1 of the Zoning Ordinance, to permit service station on property located at Braddock & Ox & Sideburn Road, also known as tax map 68-1 ((1)) Pt. Parcel 9, Springfield District, Co. of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 14th day of March 1973.

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

1. That the owner of the subject property is Edith Malone F. Elliott.
2. That the present zoning is C-D.
3. That the area of the lot is 0.78748 acres.
4. That Site Plan approval is required.
5. That compliance with all county codes is required.
6. That the station is proposed as it was shown to the Board of Supervisors on the rezoning plan when the rezoning application, C-83 was granted on October 28, 1972.
7. The Planning Comm. on 3-8-73 unanimously recommended approved in accordance with Staff Report.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I Districts as contained in Section 30-7.1.2 in the Zoning Ordinance and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application.* Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to,

*Except for the limitations outlined below.

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changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

- 4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN A NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
- 5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the NON-RESIDENTIAL USE PERMIT on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
- 6. The hours of operation shall be 6:00 A.M. to midnight.
- 7. There shall not be a single free standing sign for this use and any sign must be on the building and conform to the county sign ordinance.
- 8. There shall not be any display, selling, storing, rental, or leasing of automobiles, trucks, trailers, or recreational vehicles on said property.
- 9. Dedication of land along the frontage of the property as deemed necessary by the Director of County Development for future road widening on Braddock Road, Route # 620, is required.
- 10. Landscaping, screening, and/or fencing shall be as approved by the Director of County Development.
- 11. Materials and architecture for building are to be compatible with the planned shopping center adjoining subject property.

Mr. Baker seconded the motion.

The motion passed unanimously with the members present. Mr. Barnes was absent.

CARL H. HINK & A. E. O'REILLY, app. under Section 30-2.2.2 of Ord. to permit construction of display swimming pool with display office, 7444 Leesburg Pike, Pimmit Hills, 40-1 ((6)) (N) 7, Dranesville District (C-N) S-16-73

Mr. Tom Lawson, 4101 Chain Bridge Road, Fairfax, Virginia, attorney for the applicant, testified before the Board.

Mr. Lawson stated that he sent a letter to the Staff just yesterday stating that he had just been retained in this case on Monday evening and he had found that there were two problems, at least. One is they had not sent out the proper notices to the nearby property owners and they also did not get a statement from the State Corporation Commission as to their standing and the applicant needs to amend the application to include Anthony Pools, Inc. For these reasons, Mr. Lawson asked the Board to defer this case until a later date.

Mr. Lawson stated that there is one individual who is opposed to this use and he had advised him that they were going to ask for deferral.

Mr. Smith asked if there were people in the audience who were interested in this case.

Two gentlemen raised their hands to indicate they wished to speak.

The speaker was Mr. Simmer, Pimmit Hills Civic Association. He stated that he felt it was unfortunate that the applicant has not taken the proper procedures after the case has been advertised and this has put the citizens to some inconvenience.

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CAROL H. HINK & A. E. O'REILLY (continued)
March 14, 1973

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Mr. Smith stated that he agreed, however, he did not see how the Board could hear the case when there are additional procedures the applicant must take. Mr. Smith asked Mr. Lawson if he had notified any of the people.

Mr. Lawson stated that he tried to call Mr. Zimmer on Monday night at his home, but he was unsuccessful, but he did call him on Tuesday. He stated that he had asked Mr. Zimmer to notify the people he knew who were interested to make them aware of the problem.

Mr. Joseph Konvelmann, property owner in Section 2 of Pimmit Hills, then spoke before the Board. He stated that the attorney failed to mention one deficiency that he would like to call to the Board's attention that is a great concern to the citizens of the community and that is the intended use of the property will be in violation of the covenants and restrictions of the land that is recorded in the County deed books. This is not supposed to be used except for single family residences.

Mr. Smith stated that it is zoned for commercial uses and zoning takes precedent over covenants. He stated that this is something their group will have to solve in legal fashion. The zoning gives the applicants the right to use it for commercial uses. He asked when this property was zoned.

Mr. Konvelmann stated that it was rezoned from R-10 to C-W back in 1959 by the owners of the property and the builders of the shopping center. This has not been contested. The shopping center was not subject to the covenants, only this parcel. He stated he did not know whether the rezoning was contested or not.

Mr. Smith stated that the letter from Mr. Konvelmann would be made part of the record in the file.

Mr. Baker moved that this case be deferred until April 11, 1973.

Mr. Runyon seconded the motion and the motion passed unanimously.

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GREENBROOK CREATIVE DAY SCHOOL, app. under Section 30-7.2.6.1.3 of Ord. to permit nursery school, 12410 Lee Jackson Hwy., 45-4 ((1)) 9, Centreville District (RE-1), S-17-73 (60 students, 9:00 A.M. to 12:00 N)

Mrs. Elizabeth Reed, 4302 Ballard Place, Fairfax, Virginia represented the applicant before the Board.

Notices to property owners were in order. The contiguous owners were Emmet H. Markwood, E. M. Coopersmith, 7720 Wisconsin Avenue, Suite 206, Bethesda, Maryland and Bernard Steinberg, 1394 Reservoir Road, Springfield, Virginia.

Mrs. Reed stated that they had operated the school since September, 1969, but now they would like to add another classroom and increase their students to 60. The ages of the children are from 3 to 4. They plan to have 2 four hour sessions with 60 children at each session. At this present time, they do not plan an afternoon session this year, but they will in September. They have a lease with the Church now.

Mr. Smith asked if this was actually Greenbrook Corporation trading as Greenbrook Creative Day School.

Mrs. Reed stated that it was.

Mr. Smith asked her if she had any objections to amending the application to read that way.

Mrs. Reed stated that she had no objections to this.

Mr. Baker so moved that the application be amended.

Mr. Kelley seconded the motion and the motion passed unanimously with the members present.

Mr. Smith suggested that the applicant try to get a longer lease from the Church so the Board could grant a longer Use Permit.

Mrs. Reed stated that she would like to try to do this and asked that the case be deferred until she could obtain this.

There was no opposition.

Mr. Smith stated that the Board would then defer this case until April 11, 1973, to allow the applicant to obtain a longer lease.

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WILLS & VAN METRE, INC., app. under Section 30-7.2.6.1.3 of Ord. to permit day care center, Arlington Drive, Mount Vernon Square Apartments, 93-3(1)pt. parcel 5, Mt. Vernon District (RM-2) S-18-73 - 100 children, 7:00 A.M. to 6:00 P.M., for apartment only)

Mr. Lee Fifer, 4085 University Drive, Fairfax, attorney for the applicant, testified before the Board.

Notices to property owners were in order. The contiguous owners were Gordon F. Bradburn, 7518 Milway Drive, Alexandria; and Eugene Hooper and Mr. and Mrs. Daniel Reeder, 2816 Woodlawn Trail, Alexandria; St. Louis Catholic Church, 2907 Popkins Lane, Alexandria; Homes Oil Realty Company, Inc., 8539 Richmond Highway, Alexandria, Virginia. Mr. Fifer actually had notified fifteen property owners and most of them were contiguous.

Mr. Fifer stated that the day care center is in the middle of their property. Their property is shown on the map as RM-2 and RT-10.

Mr. Fifer then showed some viewgraphs of the proposed facility to show the Board the nature of the area and how the buildings would look. Mr. Fifer stated that this is an artist's conception of how the area will look. The day care center is located in the recreation area. In the same general area is a Club House, swimming pool, tennis courts, shuffle board courts, but this is a separate building from the Club House. This day care center will serve only the apartments and other contiguous units that have been built by Wills & Van Metre, Inc. It is all owned by Wills and Van Metre, Inc. They will use no other buildings for this use, but the children will have the use of the pool area and other areas in the recreation area. He stated they would like to begin operation at 7:00 A.M. as they have talked with a lot of people in the business and find that a lot of parents have to go to work that early. Therefore, they would like to be open. The maximum number of children will be 100. These will be pre-school children from 2 to 6 ^{years of age}. There will be no need to provide transportation as all the children will live in the contiguous area. Wills & Van Metre presently plan to operate this day care center. It is possible that at some later date it will become more feasible to lease it to someone else.

Mr. Smith stated that if they did change the operator or owner, they would have to come back to the Board for a new hearing.

Mr. Fifer reminded the Board that a set of the building plans for the building were in the file for the Board's information.

Mr. Smith and the other Board members went over these plans.

There was no opposition.

Mr. Fifer stated that this building is a one story building and meets the requirements of the Health Department as indicated in the letter in the file from Mr. Horace Jones and they have provided a recreation area immediately adjacent to the building itself and it also complies with the Health Department's requirements.

The Board complimented Wills & Van Metre, Inc. on a well planned project.

Mr. Eugene Wills and Mr. Ed Fhruerher were present from the corporation.

Mr. Fifer was asked by the Board to initial the plans amending the application from 8:00 A.M. to 7:00 A.M. Mr. Fifer did so initial the plans changing the hours of operation.

Mr. Fifer stated that they had sent out an initial survey in the apartment complex and they have received about thirty letters that are full of praise for this type of use. He stated that the developer is trying to do everything he can to make this a good project.

630

In application No. S-18-73, application by Wills and Van Metre, Inc., under Section 30-7.2.6.1.3 of the Zoning Ordinance, to permit day care center, on property located at Mount Vernon Square Apartments on Arlington Drive, also known as tax map 93-3(1) part parcel 5, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 14th day of March, 1973.

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is RM-2.
3. That the area of the lot is 2.8805 acres.
4. That site plan approval is required,

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction has started or unless reviewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plans submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Certificate of Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The maximum number of children shall be 100. Ages 2 to 6 years.
7. The hours of operation shall be 7 A.M. to 6 P.M., 5 days per week.
8. Landscaping, screening, planting, and parking shall be as approved by the Department of County Development.
9. The operation shall be in compliance with the inspection report and the requirements of the County Health Department, the State Department of Welfare and Institution.

Mr. Baker seconded the motion.

The motion passed 4 to 0. Mr. Barnes was absent.

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FRANCONIA GRAVEL CORP., app. under Sec. 30-7.2.1.1 of Ord. to permit gravel operation and crushing operation, 7800 Beulah Road, 99-2 ((1))39, Lee District (RE-1), NR-26

Mr. Thorpe Richards, 117 South Fairfax Street, Alexandria, attorney for the applicant, represented them before the Board.

Notices to property owners were in order. The contiguous owners were Lehigh Portland Cement Company, 718 Hamilton Street, Allentown, Pa., 99-2((1))38; Edna B. Hunter, P.O. Box 68, Springfield, Virginia, 100-1((1))1 0.

Mr. Richards stated that the applicant is moving from one operation to this one, therefore, there will be no additional traffic created by this use. He stated that the report that is in the file from the Restoration Board states their case much better than he could. He stated that he feels this complies with all of the regulations imposed by the County ordinance regarding the extraction and processing of gravel. He then submitted some pictures to the Board showing the property involved in NR-20. The recent property is still subject to the approval since the County Soil Scientist cannot approve it until the spring grass crop is grown. These pictures showed the company in the process of the removal of gravel and the way they seed the ground as they finish each individual section. He stated that he feels these pictures will show the Board that the past performances of the company

He stated that they have never had any complaints from the adjacent citizens.

Mr. Smith asked if this was a lease operation.

Mr. Richards stated that it is. Mr. Galliot owns the land and subleases it to Mr. Gorham, who then subleases it to Franconia Gravel Corporation.

Mr. Smith asked that both these parties be made a part of the application.

Mr. Baker so moved and Mr. Kelley seconded the motion. The motion passed unanimously with the members present. Mr. Barnes was absent.

Mr. Covington, Assistant Zoning Administrator, stated that this application does meet the requirements of the County.

There was no opposition.

Mr. Smith read the recommendation from the Planning Commission of March 16, 1973. They unanimously approved the application in accordance with the Staff report and the Restoration Board recommendations. They asked that an additional requirement be added "that the equipment be free of all debris so that it is not carried out on the public highway".

Mr. Smith stated that he concurred with that recommendation.

Mr. Smith asked the applicant if they were familiar with the Staff recommendation and the recommendation of the Restoration Board.

Mr. Richards stated that they were familiar and in accord with those recommendations.

Mr. Kelley asked the Board members what time limit they would like to put on this permit.

Mr. Smith stated that he felt it should be a two year limit.

031

032

In application No. NR-26, application by Franconia Gravel Corp & A.H. Gailliot & Marshall C. Gorman under Section 30-7.2.1.1 of the Zoning Ordinance to permit gravel operation and crushing operation, on property located at 7800 Beulah Road, also known as tax map 99-2((1))39, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 14th day of March, 1973.

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

1. That the owner of the subject property is Albert H. Gailliot and applicant owns mineral rights.
2. That the present zoning is RE-1.
3. That the area of the lot is 16.5886 acres.
4. That the Restoration Board has recommended approval.
5. That the Planning Commission on March 6, 1973, recommended unanimous approval.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Certificates of Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. Bond amount to be \$17,000.00.
7. Hours of operation are 7 A.M. to 6 P.M., 5 days per week. Maintenance only Saturday until noon.
8. The permit is in conformance with the recommendations of the Restoration Board and the Planning Commission.
9. This permit shall expire in 2 years.
10. The applicant will keep all equipment free from all unnecessary debris so that none is carried onto the public highways.

Mr. Baker seconded the motion.

The motion passed unanimously 4 to 0, Mr. Barnes was absent.

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033

SCHOOL FOR CONTEMPORARY EDUCATION, app. under Section 30-7.2.6.1.3 of Ord. to permit preschool, 8120 Leesburg Pike, 39-2((1))1A, Dranesville District (RE-1), S-23-73 (25 children)

Dr. David William, Silver Spring, Maryland, representative from the school, testified before the Board.

Notices to property owners were not in order as they had only notified two property owners. These property owners owned five parcels surrounding the church, but the Code states that there must be five nearby property owners notified, two of which touch the property of the applicant.

Dr. Phillips, 11416 Vale Road, Oakton, Virginia, also connected with the school, testified before the Board. He stated that they were under the impression that they had to notify the owners of five pieces of property. Mr. Smith stated that that was incorrect. Mr. Smith read the code to him.

Mr. Kelley stated that they did not have the corporate verification either.

Dr. Phillips stated that they had submitted a Certificate with another case last November.

Mr. Smith stated that there had to be a current Certificate of Good Standing in each file. Each case is a separate case.

Mr. Kelley moved that this case be deferred until such time as the proper notices could be sent and the corporate papers are filed.

Mr. Baker seconded the motion.

The motion passed 4 to 0. Mr. Barnes was absent.

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BERTHA BRILL, app. under Sec. 30-6.6 of Ord. to permit carport closer to property line than allowed, 5208 Ravensworth Road, Crestwood Park Subd., 70-4((4))52)9, Annandale District (R-12.5), V-6-73 (Deferred from February 21, 1973 to allow applicant the opportunity to study the ordinance and offer a justification in accordance with that Ordinance as to topographic hardship)

Mr. Doug Brill, 5208 Ravensworth Road, represented the applicant before the Board.

He stated that the house is located in such a way that the lowest point in their yard is to the south, the other end from the proposed location of the carport. At that point they have a bad drainage problem. The drop off is approximately 5'. They have installed drain tile in the rear of the yard to keep the water from wetting the basement and they have also installed a sump pump in the basement. All this water drains toward that area. Therefore, they feel that they could not construct the carport on this portion of the property because of the drainage problems they have. They have two bedroom windows that the carport would also obstruct on that side.

Mr. Brill stated that their house is located on a corner lot, therefore, they have two fronts which limits where they can construct a carport.

Mr. Smith stated that the hearing had been completed at the previous hearing. He asked for opposition.

There was no opposition present.

Mr. Brill submitted additional pictures of the property showing the slope on the other side of the house. He also submitted a drawing of the house and the way it would look with the carport on the side they propose and how it would look on the other side.

Mr. Smith stated that for the record he would comment that the file has in it two additional letters from adjacent property owners indicating that they have no objection to this variance.

Mr. Brill stated that they believe this variance is within the applicable limits of cluster housing.

034

In application No. V-6-73, application by Bertha E. Brill, under Section 30-6.6 of the Zoning Ordinance, to permit construction of a carport on property located at 5208 Ravensworth Place, also known as tax map 70-((4)) 9, County of Fairfax, Virginia, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 14th day of March, 1973, and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 12,500 sq. ft.
4. That there is compliance with all county codes.
5. That subject property is a corner lot.
6. The request is for a minimum variance.

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

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
 - a. exceptional topographic problems of the land.

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Baker seconded the motion and the motion passed 3 to 0 with Mr. Runyon out of the room.

Mr. Barnes was absent.

FAITH CHAPEL, app. under Section 30-7.2.6.1.11 of the Ord. to permit church, 2504 Brentwood Place and 7714 Delafield Place, 102-1((7))(8) 509 and 510, Mt. Vernon Dist., (R-17), S-10-73 (Deferred for viewing by Board members and report from Plan Review Branch, Design Review Division of County Development relating to the flood plain)

Mr. Smith read a memorandum from Mr. Johnson, Chief, Plan Review Branch which stated:

"The Site Plan for the above referenced Church has been reviewed by this office and is being held for a report from the Virginia Department of Highways.

A flood plain study, to be made by the developer's engineer, has been requested. The developer will be required to establish a flood plain easement, the limits to be determined by the study, in which no construction or clearing will be permitted and the existing trees will be protected.

The Board of Supervisors' Storm Water Retention Policy requires the developer to provide roof top, parking lot or open space retention so that the rate of discharge from the site is not increased by the development.

I would suggest that the Board of Zoning Appeals consider requiring supplemental screening, including a fence if necessary, instead of standard, which would require the removal of trees in a twelve foot (12') strip to install, and also restrict clearing to the area to be built upon and paved."

Mr. Smith asked Mr. Conroy, attorney for the applicant, if he was aware of this memorandum.

Mr. Conroy stated that he had read the letter just yesterday when he came in to check the file. They feel it is reasonable and they have no qualms, at least, at cooperating with the suggestions made by Mr. Johnson.

Mr. Smith asked if the engineer was working on the flood plain study.

Mr. Conroy stated that he was not, but they are willing to cooperate in every way.

Mr. Smith stated that the Board members have viewed the property. He stated that it did not appear to him to be a problem.

Mr. Conroy stated that there is one vacant lot next door, but they do not feel they will need the additional land.

Mr. Smith stated that he was convinced that this is a good location for this church, but he is only one member on this Board. There are roadways coming into this property from all directions other than that dirt road that is there. He stated that he did feel the membership should be restricted to the proposed limit of 70 with the land that they presently have.

Mr. Conroy stated that they understand that.

Mr. Baker moved that this hearing be recessed until the end of the hearing.

Mr. Kelley seconded the motion and the motion passed unanimously.

The hearing was reconvened at a later time in the day.

Mr. Runyon made the motion as follows:

035

Faith Chapel (continued)
S-10-73
February 28, 1973

In application no. S-10-73, application by Faith Chapel, under Sec. 30-7.2.6.1.11, of the Zoning Ordinance, to permit a church on property located at 2504 Brentwood Place and 7714 Delafield Place, also known as tax map 102-1((7))(8)509,510, Co. of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 28th day of February 1973.

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-17.
3. That the area of the lot is 1.0655 acres.
4. That compliance with all county codes is required.
5. That Site Plan approval is required.

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

That the applicant has not presented testimony indicating compliance with Standards for Special Use Permit uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr. Baker seconded the motion.

The motion passed 3 to 1.

Mr. Smith voted against the motion.

After Mr. Runyon had read the motion and Mr. Baker had seconded the motion, Mr. Smith asked if there was any discussion. At that time Mr. Conroy, the attorney for the applicant came forward. He brought up the fact that during the hearing of the case he was not allowed as much time as the opposition.

Mr. Smith stated that although he might not agree with the motion that was just read, he did feel the applicant had had ample opportunity to present his case, and this case is now at Board level.

Mr. Conroy asked what the Board's reason was behind this denial resolution.

Mr. Smith asked Mr. Runyon to state his reasons for this resolution if he wished to state them.

Mr. Runyon stated that he understood that when the Board of Supervisors put this use under a Special Use Permit, they wanted to get all the facts that an application would have, some by law and some by principal. He stated that from what he had seen and heard during the testimony of the case, this amount of property for this use in this particular residential neighborhood would have an adverse impact on this particular area. There is insufficient land area to have this use in the middle of this particular area in its relation to principal access because the applicant is putting this use on two 50' streets which are streets of the minimum requirement for residential uses and it would have too high an impact on the area because of the street location and the amount of land coverage.

Mr. Conroy asked Mr. Runyon if he had seen the property.

Mr. Runyon stated that he had seen the property.

Mr. Conroy asked Mr. Runyon if he was aware of the fact that this church only serves 25 families?

Mr. Runyon stated that he was aware of the number of families, but the request is for a great deal more than that. The church will seat 180 people.

Mr. Smith stated that the Board would not debate the Resolution.

The vote was 3 to 1 with Mr. Smith voting No and Mr. Barnes was absent.

Mr. Smith told the applicant that the only right to appeal that he had was to the Courts, or he could ask the Board to reconsider the decision if he had information that could not have been presented at the time of the public hearing. This would have to be done in a formal manner, of course.

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036

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037

AFTER AGENDA ITEMS:

TYRONE DENNESSY, V-24-72 (Request for extension of variance)

Mr. Smith read a letter from Alphonse J. Audet, Jr. requesting that the Board approve an extension to this variance for six months with the opportunity to renew the extension should circumstances at that time remain beyond the control of the property owner, Dr. Dennessy. Mr. Audet stated that the reason for this delay necessitating this extension was that the property has been tied up by a Mechanic's Lien since June 30, 1972, thereby preventing Dr. Dennessy from obtaining any construction financing.

Mr. Smith stated that it is the Board's policy not to extend beyond the 6 months. The reasons Mr. Audet has given doesn't have anything to do with the variance and he stated that he feels there is no basis for even a six month extension.

Mr. Kelley stated that he agreed.

Mr. Baker asked if they had had an extension prior to this.

Mr. Smith stated that he had not.

Mr. Baker stated that a mechanic's lien should not apply to this lot, if it is on the lot next door, but he felt the Board should give the applicant some additional time to work out his problems. Mr. Baker moved that the applicant be granted a 6 month extension from March 22, 1973.

Mr. Runyon seconded the motion.

The motion passed unanimously.

Mr. Smith stated that the applicant should be notified of this extension and the fact that there will be no further extensions beyond that time because the reasons for this extension is not related to anything pertaining to the variance or the zoning of the property and the reason involved is a civil matter.

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CITGO, S-149-69 - Progress report from Mr. McIntyre, Field Engineer for CITGO relating to their progress on the station at 8318 Hooes Road, 89-3((1))pt. 24. This case has been continually deferred each month for a progress report in an attempt to allow the applicant sufficient time to complete the service drive and obtain a non-residential use permit. Mr. Smith read Mr. McIntyre's letter.

"Needless to say, there has been no progress with our construction on the lower section of CITGO Drive, the weather has been entirely against us.

The contractor has assured me that as soon as he gets a break in the weather, he will get on this job and finish it.

The job has taken too long for all concerned and he is most anxious to finish it, though I assure you, no more anxious than I am to see it finished and accepted.

If you will kindly bear with us a little longer, I assure you the job will be finished with all dispatch just as soon as winter breaks, providing, of course, we don't have a totally wet Spring..."

The Zoning Inspector, Doug Leigh, commented on the bottom on the letter that he concurred with this and had found Mr. McIntyre to be very cooperative.

The Board asked for another progress report in 30 days, with the hope that the weather would improve and CITGO would be able to make some progress.

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038

DONALD & LOIS SKALA, S-192-73 -- Letter from Donald Stevens, attorney for the applicant, requesting a clarification.

Mr. Smith read the letter which stated: that in the resolution the Board made granting the Special Use Permit for the above applicant it makes no reference to either nursery school or school of general education. While he understands they could do either or both, the language of the resolution granting the permit poses a potential problem from another point of view. In the event the Skalas clients do not desire day care services they would not wish to be subject to licensing and regulation by the State Department of Welfare and Institutions. They do not know if the State would require this, but because the permit calls the institution a day care center, regardless of whether or not in fact they furnish day care services, it has the potential for creating a misunderstanding and, for that reason, they request the Board amend their resolution of January 26, 1973 to permit "a school of general education and day care center".

Mr. Smith stated that actually the application did read "private school of general education and day care facility. He said he would like to know whether they planned to have a day care facility. The Board would need this clarification from the applicant.

The Resolution under which this was granted would permit either a school of general education or a day care center, whichever they prefer or both, Mr. Smith stated.

Mr. Kelley and Mr. Baker stated that they agreed with this.

Mr. Smith stated that the Clerk should write a letter to the applicant informing him of this and also telling him that in order to change the Resolution, the Board will need to know which the applicant plans to have.

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DAVID E. PULLMAN - Question on why his application could not be accepted as he sent it in.

Mr. Smith read a letter from Mr. Pullman asking why the Zoning Office had not accepted his application. He explained in detail how he felt about this. He felt his plat was adequate even though the proposed addition was not drawn in on the plat by a certified engineer and had no dimensions and no setbacks.

The Board stated that they felt Mr. Pullman's application was not adequate and he would have to comply with the regulations that everyone else has to comply with.

Mr. Covington stated that Mr. Pullman had already been told this by the Zoning Office.

Mr. Smith stated that Mr. Pullman should be notified that he will have to comply if he wishes to be heard by the Board. He must also justify his request according to the ordinance.

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BETHEL FULL GOSPEL CHURCH (Interpretation of new ordinance requiring churches to get a Special Use Permit)

Mr. Smith read a letter from Mr. James E. Stephens, Jr., Secretary-Treasurer of the Bethel Full Gospel Assembly of God requesting an interpretation of the new ordinance requiring churches to get a Special Use Permit from the Board of Zoning Appeals. They stated that in the new ordinance there is no statement concerning construction on land which historically has been used by a church, which is their situation.

The Board interpreted the ordinance to mean that any addition to an existing church or any new church would have to come before the Board of Zoning Appeals because the Ordinance reads in Section 30-7.2.6.1.11 "Church, chapels, temples, synagogues, convents, monasteries, seminaries, nunneries, and other places of worship, including Sunday schools and other uses appurtenant thereto".

Mr. Smith asked for a vote on this interpretation.

The vote was 4 to 0. Mr. Barnes was absent.

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HOLLIN MEADOWS SWIM CLUB, S-100-72, Special Use Permit Granted October 25, 1973 (Letter requesting clarification of the condition relating to the fence)

Mr. Smith read the letter from the President of the Association and also Mr. Kirk. They both indicated that they would like the Board to do away with the fencing requirement that stated that they must have a 6' chain link fence completely around the property.

Mr. Kelley stated that every time one of these Association's change officers the Board can't start changing the resolutions. He stated that he wrote the motion as he recalled and his feelings were that this fence needed to go around the entire property to satisfy all the members of the association. He stated that if there was to be a change, then there would have to be another public hearing. He stated that he would stand on his original motion.

Mr. Baker stated that he was in agreement with Mr. Kelley and he had seconded the motion.

Mr. Smith stated that the applicants should be notified that the Resolution will stand as is and if there is to be any change, the applicants will have to file a new application and come back in for a public hearing.

Mr. Kelley concluded by saying that either the fence goes up or the pool closes up.

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VIRGINIA HILLS SWIM CLUB

Mr. Smith read a letter from Mr. Victor Ghent, Engineer, requesting that the above applicant be allowed to erect a building 18' by 20' on the property.

Mr. Runyon stated that the Board had discussed this case last week and had made a decision to have the applicant come back with a new application.

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FORD LEASING AND DEVELOPMENT COMPANY, S-133-70

Mr. Smith read a letter from Myron C. Smith, 10560 Main Street, Fairfax, Virginia, attorney for the applicant, stating that the applicant, Ford Leasing feels that it is constructing this facility in accordance with the uses allowed by the zoning ordinance in respect to the parts and service department of the automobile dealership. The construction is also in accordance with a site plan approved by the officials of Fairfax County and a building permit issued by them.

Mr. Knowlton stated that there was some information during the hearing prior to the granting, that there would be no body shop in this facility. He stated that there had been a great deal of discussion as to whether or not there was to be a body shop in this facility. However, it was not in the motion to prohibit the paint and body shop. He stated that even though the Board has discussed this many times, it has not gone on record as for or against.

Mr. Smith stated that the Board has had a standing position on this for a long time, that there should be no paint and repair or body shops in an automobile dealership.

Mr. Smith stated that in February, 1969, this Board went on record that one could not repair a motor over 25 horsepower in a C-D and C-N district.

Mr. Knowlton stated that this was concerning the sale of boats and was not in connection with an automobile dealership.

Mr. Smith stated that an automobile dealership that came in down at Annandale for a Special Use Permit had a paint and body shop in it and that application was denied.

Mr. Knowlton stated that he is to the point where he needs to ask a formal question and get a formal answer. He stated that he would read Section 30-3.2.1 which states:
"General Limitations. The uses permitted in each district shall be deemed to include uses and buildings therefor that are customarily accessory and incidental to such permitted uses and are located on the same lot therewith..."

Mr. Knowlton stated that "My question to the Board is whether or not a body shop and paint shop in connection with a new car dealership is and constitutes an accessory use?"

Mr. Smith asked when the Board of Supervisors started allowing automobile dealerships in C-D zones.

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Mr. Smith further stated that the Board of Supervisors had even discussed whether or not to even allow repair work in a C-D zone.

This Board has always taken the position that they were not allowed in a C-D zone and for a long time even a new car dealership was not allowed in a C-D zone. Now they have decided to allow a dealership, but not a body and paint shop. This is the discussion that has taken place at the time Ford Leasing was granted and we are sticking with it. He stated that he couldn't change his position knowing the complete history of the C-D zoning category.

Mr. Covington asked if they could get a vote from the Board.

Mr. Smith stated that the Board's position has been fully documented in the past and discussed.

Mr. Knowlton stated that this is the only permit that makes any reference to this and he had researched them all.

Mr. Smith stated that this had been the Board's position ever since Mr. Woodson was the Zoning Administrator.

Mr. Knowlton stated that in the last granting of a new car dealership, Koon's over at Tyson's Corner, Mr. Louk, the attorney for the applicant, stated that they did intend to have a body shop and the Board went ahead and granted the permit without any reference to the body shop at all.

Mr. Smith stated that again they were going on the previous position of the Board that body and paint shops are not permitted. He stated that if the Zoning Administrator wants to interpret the ordinance not to allow it or to allow it, he wasn't going to argue the point. He stated that he would say, going back to the C-D zoning history, that it was never intended. He stated that he had brought it out at all the hearings so the applicant would be aware of it.

Mr. Kelley stated that after these numerous discussions on this subject and after Mr. Smith indicated that the ordinance would not allow it and Mr. Louk stated that he would live by the ordinance, he purposely refrained from putting it in, because if this was a court test, you would have to allow it. He stated that it is his belief that the body shop is an accessory to a new car dealership. He stated that if there is a court test, you will find that a lot of other people think the same way.

Mr. Smith stated that he disagreed.

Mr. Kelley stated that we each have that right.

Mr. Smith stated that body and paint shops are not required by the manufacturer.

Mr. Kelley stated that he was basing his statement on the ordinance.

Mr. Runyon then read the ordinance which permits a new car dealership "...sales and rental lots of automobiles and trucks (not exceeding one and one-half tons capacity) incidental and accessory to a new car dealership..." and in the preceding paragraph it states that "...Automobiles and trucks (not exceeding one and one-half tons capacity), sales rooms and service facilities appurtenant thereto, shall be entirely enclosed on all sides in connection with which there may be outdoor display of vehicles (a) on the same lot therewith, (b) incidental and accessory thereto, (c) occupying an area as authorized, and (d) not including the display of any vehicle that is not in operating condition..."

Mr. Smith stated that if the Board wants to take the position that it is allowed, they may do so.

Mr. Knowlton asked the he could have a Resolution on this.

Mr. Smith stated that if the Board is going to define body and paint shop as an accessory use, they will have to qualify it in a rigid position and if they don't it will leave the Board wide open. The Board will have to say to what extent of a dealership could have this. A man could come in with a very small new automobile dealership or even a used car dealership.

Mr. Knowlton stated that a used car dealership would not be permitted except as an accessory to a new car dealership.

Mr. Knowlton stated that again there is a question as to whether or not a used car dealership is accessory to a new car dealership.

Mr. Smith stated that "Yes, I agree with that."

Mr. Baker stated that he felt it was too.

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Mr. Runyon stated that he would like to see the full membership of the Board present before the Board votes on this question.

Mr. Smith stated that he felt the Board should spend some time thinking about it. He stated that he felt the Board of Zoning Appeals should go back to the Board of Supervisors for their intent when they granted this rezoning.

Mr. Runyon stated that the Board could go back to the minutes of the Board of Supervisors meeting on this case.

Mr. Knowlton stated that he felt this was an excellent idea.

Mr. Runyon stated that he felt Mr. Baker's case was a good example as he is going to have to take his car back to a new car dealership to get it repaired.

Mr. Smith stated that he knew too much about body and paint shops and he still feels it is an industrial use. It should go on industrial land.

Mr. Kelley stated that he agreed that it would be better on industrial land perhaps contiguous with the dealership.

Mr. Covington stated that it is permitted in C-G by right.

Mr. Smith stated that if it is, it is Mr. Covington who is interpreting it that way as the previous Zoning Administrator, Mr. Woodson, would not allow it.

Mr. Smith asked if he understood that he should write a letter to the Board of Supervisors requesting their opinion. He stated that to be impartial he would address a letter to them and ask them their opinion or intent. In other words, when they rezoned the land to C-D, did they intend that this new car dealership should be allowed to have a body and paint shop as incidental to the sales shop. He stated that he felt the BZA should let the Board of Supervisors know of the problems that the BZA is having and make them aware of all this as there will be some citizen opposition to the Ford Leasing case if a body and paint shop goes in there.

Mr. Runyon stated that he was not sure this was the proper approach.

Mr. Smith stated that he felt the BZA should make the Board of Supervisors aware of the situation. They are the legislative body.

Mr. Runyon stated that they do not interpret the ordinance, this Board does.

Mr. Smith stated that this Board needs their intent.

Mr. Runyon stated that they rezoned the land and they know what can go in a C-D category. He stated that he felt the BZA should interpret the ordinance and then if the Board of Supervisors feel it is wrong, then they should change the ordinance.

Mr. Smith stated that they rezoned the land for both dealerships in question when it possibly should have been rezoned to a higher category. It should have been zoned high enough to make the best possible use of the land.

Mr. Runyon stated that the dealership at Tyson's is not an everyday dealership. They have gone into a full development of an entire piece of property. It is not like a dealership in a shopping center. This is a separate piece of property.

Mr. Smith stated that the BZA could interpret the ordinance to allow this, but the zoning is what bothers him and the zoning should be higher if this is to be allowed. If you allow this body shop in this dealership, then you will have to allow them on an individual basis too.

Mr. Knowlton stated that if he understands the intent of the Board, they would like him to write to Ford Leasing and tell them that the Board is taking this under advisement.

Mr. Smith asked if Ford Leasing is building a body shop.

Mr. Knowlton stated that they were building two body shops. There are two dealerships there.

Mr. Baker moved that the Board write the letter to the Board of Supervisors.

There was no second.

Mr. Kelley read the ordinance relating to the powers of the Board of Zoning Appeals to interpret the ordinance.

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Mr. Smith stated that the Board would not be asking the Board of Supervisors to interpret the ordinance, but would be asking them for their intent when they rezoned the land. In other words, were they aware of the question that has arisen.

Mr. Runyon stated that perhaps we could ask them their intent on these two specific cases.

Mr. Smith stated that the Board of Supervisors may not be aware of the fact that when they granted an automobile dealership, this was considered to be an incidental use to a dealership.

Mr. Kelley stated that they had the plans they submitted to the Board of Supervisor's

Mr. Kelley further stated that the case should stand on its own merits.

Mr. Baker stated that there are a lot of things to be considered here.

Mr. Smith stated that he did not feel the Board could be this flexible, you either allow it in all or you don't allow it at all.

Mr. Kelley moved that the Board delay this decision until the 21st of March and then decide what to do.

Mr. Baker seconded this motion for a further discussion next week.

The motion passed unanimously with the members present. Mr. Barnes was absent.

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G. LANCE GILBERT (Request that Board accept application based on plat submitted for previous Special Use Permit for same location)

Mr. Smith read a letter from Mr. Gilbert on the above subject. The Board members reviewed the plat and determined that it does not comply with today's standards.

Mr. Covington stated that the Staff had advised Mr. Gilbert of this, but since he had written the letter, the Staff felt perhaps the Board should make the determination

Mr. Smith told Mr. Covington and Mr. Knowlton to advise the Staff that they should not accept any application unless in the Staff's opinion it does comply with the standards the Board has set forth for these application.

The Board advised the Clerk to notify Mr. Gilbert that it will be necessary for him to submit revised plats conforming to the Board's standards they have set forth for all Special Use Permits and Variance applications.

Mrs. Kelsey was to draw up the letter to Mr. Gilbert for Mr. Smith's signature on behalf of the Board.

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MILDRED LINSTER (CEDAR KNOLL INN) SPECIAL USE PERMIT #54 Now operated by Mrs. Mallick. Board to set hearing date on Revocation Notice.

Mrs. Mallick came before the Board to ask the Board if the Special Use Permit had been revoked as of this date.

Mr. Smith stated that there has been no final action taken on the revocation notice.

Mrs. Mallick asked why she had to apply for a Special Use Permit.

Mr. Smith stated that she had asked for an opportunity to be heard on the Revocation Notice and the Board had given her the opportunity to be heard. In accordance with the ordinance, he told her that they were entitled to appeal the revocation notice and they had exercised their right to appear and request a hearing. The Board told you they would have the hearing on the Revocation Notice but you must file the proper papers and come in on that appeal. You must submit all the information indicated on the instruction sheets.

Mrs. Mallick asked if this was on a Special Use Permit Form.

Mr. Smith told her that that is a proper application.

Mrs. Mallick stated that they were in the process of getting the Occupancy Permit and that seemed to be the full cause of the revocation. She stated that this Occupancy Permit has been signed. All the Departments of the County have signed off on it.

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Mrs. Mallick asked if since she has complied with these County requirements now, she would be issued an Occupancy Permit.

Mr. Smith stated that the Board is concerned about the use itself. The reason why she is being asked for complete plats, etc. is so there will be no problem about what is there and what is allowed.

Mrs. Mallick asked if she could operate at the present on the Use Permit or has it been revoked.

Mr. Smith said "Yes, you are still operating and you will be allowed to operate until this appeal is consummated."

Mr. Barnes stated that he was under the impression that the Zoning Office would take no enforcement procedures until the appeal is heard.

Mr. ^{Smith} Barnes stated that the Board would allow the lady an opportunity to file the necessary papers and come in and have this thing resolved.

Mr. William Barry, Zoning Inspector, stated to the Board that he had discussed this matter with Mr. Knowlton, the Zoning Administrator, with regard to the Occupancy Permit for the wing that they have had the trouble with and all the inspections have been made and their office is ready to issue the occupancy permit. Mr. Knowlton has suggested that they have it ready to issue, but not issue it until the Board has heard the case, and all the problems have been resolved.

Mr. Smith stated that the Board had set a limit on the time that they would be allowed to come in and make the application and file the necessary papers. Mr. Smith asked Mrs. Mallick, "What action have you taken to file the appeal and to present to Mrs. Kelsey the certified plats?"

Mrs. Mallick stated that she had certified plats, but she did not know if they were satisfactory.

Mr. Smith asked if anyone from the Staff had reviewed them.

Mrs. Mallick stated that she had left several messages with the Staff to get a clarification.

Mr. Smith stated that Mr. Covington and Mr. Knowlton's office has the authority to accept or reject these plats and if they say the plats are proper, then the Board will set the hearing date.

Mr. Barry stated that he did not believe they had been reviewed by the Staff, but he was under the impression that the engineer committed the oversight in not showing the parking.

Mr. Smith asked Mrs. Mallick if she had the plats with her.

Mrs. Mallick stated that she did.

Mr. Smith stated that the Board would take a look at them.

The Board members then went over the plats.

The Board stated that there were no setbacks, no building dimensions, no septic field is shown.

Mrs. Mallick stated that they were on city sewer and water.

Mr. Smith stated that the plats do not show setbacks from the property lines, the building do not have dimensions on them, there is no parking shown and there are no road improvements shown.

Mrs. Mallick stated that she believed there is a separate plan in Mr. Covington's office that they submitted when they made application for the improvements.

Mr. Barry stated that he did not believe that would have been certified plats.

Mr. Smith asked Mrs. Mallick how long it would take to get the necessary plats in and the application made on this appeal. He stated that he felt the Board is willing to give her additional time. The Board wants to see where the patrons are going to park the cars. That has to be delineated. When this was granted, there was a required parking lot. The Board needs to know the size of the building. There is no screening or landscaping shown.

Mrs. Mallick stated that she could go to the engineer, Mr. Schiller, this afternoon.

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CEDAR KNOLL INN (continued)

Mr. Kelley told Mrs. Mallick that unless she can comply, the Board has no alternative except to request the Zoning Administrator to stop the operation.

Mrs. Mallick stated that she understood that the reason for the revocation was because Cedar Knoll had not complied with all the requirements.

Mr. Smith stated that Cedar Knoll may not comply now unless the Board can see some parking. He stated that he knew that Mrs. Linster, the original owner, was required to provide parking spaces down there.

Mrs. Mallick stated that she still felt Mr. Covington's office had these plats already.

Mr. Barry stated that he did not believe it would be a site plan. It wasn't made as an addition. It was made as improvements to the existing structure. There is adequate parking on the property.

Mr. Smith stated that the Board is asking her to show the building, the parking and all that is on the property and all that is necessary to operate the place.

Mr. Smith suggested that the Board give Mrs. Mallick until the 11th of April, but she would have to make the application and get all the plats in prior to the 11th. He stated that she should have them in at least five working days prior to the 11th and the hearing date will be set after that. He stated that she would be notified of the hearing date.

Mr. Kelley stated that he wondered if Mrs. Mallick is aware of the fact that any changes you make under a Special Use Permit, you have to appear back before this Board to get an o.k. on it. He asked her if she was aware of that.

Mrs. Mallick stated that she was not aware of that. She stated that everything she did they got permits for.

Mr. Kelley stated that based on the inspections by the inspection team down there, they had quite a time getting Cedar Knoll to comply with these ordinances. Mr. Kelley told Mrs. Mallick that she was operating under the Board of Zoning Appeals and these inspectors have the right to go in and inspect.

Mrs. Mallick asked if they had said otherwise. She stated that any inspector has had free entrance.

Mr. Kelley stated, "I have read the reports, Mrs. Mallick, and based on the reports I have read, I think that a little more cooperation would be in order on this. We are not here to give you a rough time, but to enforce the regulations of the ordinance on property on which we have issued a Special Use Permit. I know you haven't submitted what you are supposed to submit today. We have a 1971 plat that shows no parking, no dimensions, and no distances between the buildings and numerous other things. We have to have this or you will be out of business. I do not like to put anyone out of business. You will have to cooperate if you want to stay in business."

Mrs. Mallick stated that certainly she had not refused entrance to any of the inspectors and if the Board is reading a report that says that, she would like to know who he was because it is not true.

Mr. Kelley stated that she had not complied with the ordinance. "You have made expansions without first coming back to this Board."

Mrs. Mallick stated that she had a building permit.

Mr. Kelley stated that that has nothing to do with it.

Mr. Smith again told Mrs. Mallick that she should get the plats in and the other information that Mrs. Kelsey has requested and it should be in five working days prior to April 11, 1973 and a date will be set for the hearing and they will be notified when the hearing is taking place.

Mrs. Mallick stated that she is quite confused as this is her first time. She asked if this hearing by this Board would determine the revocation.

Mr. Smith answered that it would be on the revocation and on the existing use. It will be decided after the hearing of the testimony on this case. "It is up to you to comply", he stated. "If you don't comply, the revocation will take place without the hearing." We are trying to work this out.

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CEDAR KNOLL INN (continued)

Mrs. Mallick stated that she had tried to get several people on the Staff to return her call to clarify this.

Mr. Smith stated that from his information, she had talked with several people on the Staff.

Mrs. Mallick stated that she did not get to the people where she needed specific information because everyone she talked with did not know all the answers she needed.

Mr. Smith stated that if she had any additional questions, the Board would be glad to answer them.

There were no further questions or comments on this case.

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PUBLIC UTILITIES

Mr. Smith read a memo from Public Utilities Commission regarding the power lines that run across the County and enclosed a copy of the proposed ordinance of this.

Mr. Knowlton stated that he had received a call from the Public Utilities Commission and it was their hope that this would be presented to the Board and these suggestions might go into decisions of this Board.

Mr. Smith stated that most of these suggestions the Board has been doing for several years. The Board has prohibited the spraying of trees in the right-of-ways for years, but certainly the Board will do any of the things suggested in these papers.

Mr. Smith asked Mr. Knowlton what else the Board should do about this memo.

Mr. Knowlton stated that it would be helpful if all the Board members were familiar with the contents in order that these suggestions could be applied when the Board hears a case relative to this. He stated that about two years ago, the Commission expressed a desire to be involved in some of the actions of this Board relative to utility lines and the Staff has since put them on the mailing list of the upcoming cases.

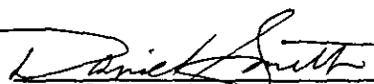
Mr. Smith stated that several years ago, this Board did as much research as possible with a number of interested people on underground cables and some people felt they should go underground, but after investigation and securing facts, they realized that the cost was prohibitive to put these cables underground for any distance as the taxpayers would have to bear the burden of the high cost.

Mr. Smith stated that he would, in the next ten days, go over these papers again and try to address several points in a reply to the Public Utilities Commission. He stated that the Board appreciates their interest.

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The meeting adjourned at 3:35 P.M.

By Jane C. Kelsey
Clerk


Daniel Smith, Chairman

April 11, 1973
Date Approved

The Regular Meeting of the Board of Zoning Appeals Was Held on Wednesday, March 21, 1973, in the Board Room of the Massey Building. Present: Daniel Smith, Chairman; Loy Kelley, Vice-Chairman; Joseph Baker; George Barnes and Charles Runyon

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The meeting was opened with a prayer by Mr. George Barnes.

SLEEPY HOLLOW PRESCHOOL, INC., app. under Sec. 30-7.2.6.1.3 of Ord. to permit nursery school, 6800 Columbia Pike, 60-4((1))10, Mason District (RE-0.5), S-26-73

Jane Van Gigh, 9126 Christopher Street, represented the applicant before the Board.

Notices to property owners were in order. The contiguous owners were Mr. and Mrs. James L. Mitchell, Jr., 6805 Capstan Drive, Annandale and Mr. and Mrs. Simon L. Carpenter and Joseph F. Hunter.

Mrs. VanGigh stated that this is a private, non-profit organization for preschool education with a current enrollment of 71 children, ages 3, 4 and 5. It was originally founded in 1949. It is a parent oriented association concept school. It is operated presently from 9:00 to 12:00, 5 days per week, September through May. The school is governed by a Board of Directors elected by the membership of the church. They have full power and authority to conduct all activities necessary in conducting this school. The school has four qualified teachers, trained in preschool education. Parent participation school means that not only are the parents responsible for the school, but they also participate in the classroom as a helper. Because they are non-profit, and because they have parent participation, they are one-third lower in enrollment fees than most other area schools that do not have parent cooperation and participation. They have a reasonable tuition and that is the reason for their full enrollment. They have a large waiting list.

She further stated that parent participation also helps them keep abundant equipment in each classroom and it is made and maintained by the parents. There is no bus service. The parents bring the children in carpools. This also helps keep the costs at a minimum.

Mr. Smith asked if another school also operates in this church.

Mrs. VanGigh stated that no other school operates here at the present time. Westminster School used to operate here, but they no longer do.

She stated that they are approved by the Health Department and the State for 100 students, but they have set their own limit at 71.

Mr. Smith stated that the lease shows that it will expire May 31, 1974.

In application No. S-26-73, application by Sleepy Hollow Preschool, Inc. under Sec. 30-7.2.6.1.3, of the Zoning Ordinance, to permit nursery school for 100 children on property located at Co. of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 21st day of March 1973.

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

1. That the owner of the subject property is St. Albans Episcopal Church.
2. That the present zoning is Re-0.5.
3. That the area of the lot is 6.000 acres.
4. That compliance with all county and state codes is required.
5. That this application meets the requirements of the new Ordinance.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R. Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without

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further action of this Board, and is for the location indicated in the application and is not transferable to other land.

2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.

3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN A NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLETED WITH.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Certificate of Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. The maximum number of children shall be 100, ages 3 to 5 years.

7. The hours of operation shall be 8 A.M. to 1 P.M., Monday through Friday.

8. The operation shall be subject to compliance with the inspection report, the requirements of the Fairfax County Health Dept., the State Dept. of Welfare and Institutions and obtaining a certificate of Occupancy.

9. Any buses and/or vehicles used for transporting students shall comply with standards of the Fairfax County School Board and state in color and light requirements.

10. This permit is granted for a period of 2 years, with the Zoning Administrator being empowered to extend for 3 - 1 year periods, with proper lease documents being presented.

Mr. Baker seconded the motion.

The motion passed unanimously.

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ST. STEPHEN'S UNITED METHODIST CHURCH, app. under Section 30-7.2.6.1.3 of Ord. to permit preschool, 9203 Braddock Road, 69-4((1))19A, Springfield District (RE-1) S-22-73

Mrs. Mark Gordon, 7605 Ingle Place, Springfield, Virginia testified before the Board.

Notices to property owners were in order. The contiguous owners were Williams and Dove.

Mrs. Gordon stated that the Staff Report is in error. It says that they have a Use Permit for 50 children and the letter they received when they obtained this Use Permit states that they have a Permit for 65 children.

Mr. Smith checked the old file and found that they do, in fact, have a Use Permit for 65 children.

Mrs. Gordon stated that they wish to increase their enrollment to 100.

Mr. Smith stated that the Staff report states that they wish to increase to 120.

Mrs. Gordon stated that they originally asked for 120 children, but then they found that the Health Department would only allow them 100 because of their septic field. She stated that they would love to be on public sewer in order to serve the community better, but the public sewer is one-half mile away and it would cost about \$30 to \$40,000 to hook up and they cannot afford it.

Mrs. Gordon stated that the age of the children is still 3 and 4. The hours of operation would be from 9 to 11:30 for the morning session and 12:30 to 2:45 for the afternoon session. The teachers arrive about 8:30 A.M. They go by the Fairfax County Kindergarten schedule. She stated that they have plenty of space and their only problem is the septic field. The floor space is adequate for 119 children. They have a lengthy waiting list every year. They have at least three full classes on the waiting list.

Mr. Smith stated that with their land area, they could expand when they get the septic field problem taken care of.

Mrs. Gordon stated that the land wouldn't perk except in the area in which they presently have their septic field.

Mrs. Gordon stated that the minister is present should the Board wish to ask him any questions.

Mr. Kelley asked what term the Board would like put on this school.

Mr. Smith suggested five years, as they would probably be able to get sewer within that time and would wish to expand further.

Mrs. Gordon stated that their school also has a scholarship system and they select four children to attend their school. This is paid for by the church members. They have volunteer drivers for these children. These children miss headstart because their parents make just a little bit more than the requirement. They are chosen because they might have some problem at home and the committee feels this school would be of help to them. They may be a hyper-kinetic child. They had two children who had beginning blindness which they caught and another child they sent to a speak therapist. If they can get sewer, they can have eight more children. It is really worthwhile to see these children blossom, she stated.

Their transportation is by parents who carpool. There are no busses.

In application No. S-22-73, application by St. Stephen's United Methodist Church under Se. 30-7.2.6.1.3 of the Zoning Ordinance, to permit preschool for 100 children, on property located at 9203 Braddock Road, Springfield District, also known as tax map 69-4(1) 19A, County of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 21st day of March 1973.

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

1. That the owner of the subject property is Trustees of St. Stephen's Methodist Church.
2. That the present zoning is Re-1.
3. That the area of the lot is 5.543 acres.
4. That Site Plan approval is required.
5. That compliance with all county and State codes is required.
6. That applicant has been operating a nursery school for a maximum of 65 children at St. Stephen's United Methodist Church under Special Use Permit granted July 22, 1969, number S-138-69.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plans submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN A NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.

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- 5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
- 6. The maximum number of children shall be 100, ages 3 to 5 years.
- 7. The hours of operation shall be 9:30 A.M. to 3:30 P.M., Monday through Friday, during regular term in conformity with Fairfax County School Board standards.
- 8. The operation shall be subject to compliance with the inspection report, the requirements of the Fairfax County Health Department, the State Department of Welfare and Institutions and obtaining a Non-Residential Use Permit.
- 9. All buses and/or vehicles used for transporting children shall comply with standards of Fairfax County School Board and state in color and light requirements.
- 10. This permit is granted for a period of 5 years.

Mr. Barnes seconded the motion.
The motion passed unanimously.

JOYCE R. SALGADO, app. under Sec. 30-7.2.6.1.5 of Ord. to permit beauty shop, 7923 Landing Lane, 49-2((23))4, Providence District (R-12.5), S-24-73

Mr. Robert, McGinnis, 417 West Broad Street, Falls Church, attorney for the applicant, testified before the Board.

Notices to property owners were in order. The contiguous owners were Stafford and West, a partnership and Leonard A. Cheek, 2717 Pioneer Lane, Falls Church and Timothy O'Sullivan, 2705 Westwood Court, Falls Church.

Mr. McGinnis stated that Mrs. Salgado's husband operates a beauty shop in the Falls Church area by the name of Raymond's. Mrs. Salgado has two small children and needs to stay home and take care of them. She has a following of customers that she has dealt with for years and she would like to continue to have these customers into her home to do their hair. She plans an outside entrance to the area in the basement where she wants to have her shop. There will be no sign, other than the family name on the property. There is no plans to change the exterior of the building. There will be no substantial increase in traffic. This operation will be conducted in the same manner as the home beauty shop at 7920 Shreve Road is conducted. Mrs. Salgado is not connected with that beauty shop, but it would be a similar type operation. There is no commercial on Shreve Road from Lee Highway almost to Route 7. Mrs. Salgado has talked with the President of the Shreveewood Citizens Association and they have no objections.

Mr. Smith told Mr. McGinnis that the Board will not consider word of mouth testimony, or hearsay evidence.

Mr. McGinnis stated that he has a written statement endorsing the application.

Mr. Smith stated that the Board would accept that.

Mr. McGinnis stated that this would not detract from or do damage to the surrounding property. There will be no outside lights or no large parking area. If she is denied this use, she will suffer a great financial hardship. There will only be one chair and she will have no help.

Mr. Smith asked if this is a new subdivision.

Mr. McGinnis stated that it was.

Mr. Smith asked the number of families that live on this street.

Mr. McGinnis stated that at this time there are four, and there is a total of about 10 to 12 houses.

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Mr. Kelley asked how far this is from the nearest beauty shop.

Mr. McGinnis stated that it is about 3 blocks from the home beauty shop on Shreve Road.

Mr. Kelley asked why Mrs. Salgado's clients could not go to Mr. Salgado's beauty shop.

Mr. McGinnis stated that Mrs. Salgado has worked with her husband for a number of years. Her husband is going to continue to operate the business shop. Mrs. Salgado feels the need to be at home with the small boys. Mrs. Salgado's clients like the way that she has been doing their hair, and they wish to continue to go to Mrs. Salgado to have their hair done.

Mr. Barnes told Mr. McGinnis that this section of the ordinance was put there years ago and perhaps it should be taken out. It was put there a long time ago where there were rural areas and it was difficult to get to a beauty salon and it was where the majority of the community wanted or needed this type of thing. Those times are gone. Shopping center are nearby to almost all the residences in Fairfax County.

Mr. Baker asked the ages of Mrs. Salgado's two boys.

Mr. McGinnis stated that they were 9 and 10.

Mr. Baker asked if they were both in school.

Mr. McGinnis stated that they were.

Mr. Wayne Hopkins, 2542 Kirkland Street, Falls Church, spoke in favor of this application. His address is 2542 Kirkland Street, three or four blocks away from this use. He stated that he is not related to the applicant and does not have an interest in this use. He is a member of the Shrevewood Citizens Association. He has a wife who uses Mrs. Salgado's services. He stated that there is a lady who operates a beauty shop in her home about one-half a day per week and the women in that area look kindly towards a place where they can walk. He stated that his wife had been going to Mrs. Salgado for a long time and they have watched the family and they are a very high type individuals and they see no problem in her doing this type of thing in her home as far as it affecting the economic value of the surrounding area. There is a transportation problem today and women for eight to ten blocks could come in and use her services.

Mr. Kelley stated that what is happening is they are turning the residential area into a business area.

Mrs. Leonard Cheek, 2717 Pioneer Lane, spoke in opposition to the application. She stated that her house is only 25' from the place where they are planning to have the beauty shop. This is 25' from her bedroom window. She stated that she is a Registered Nurse and has to work nights. Because of her arthritis she cannot have air conditioning and when Mrs. Salgado does these women's hair, they will probably bring their children who will play right outside the door, which is right under her bedroom window where she is trying to sleep.

Mrs. Cheek stated that there are 17 houses in this new subdivision, not ten or twelve as Mr. McGinnis stated and only four families are living. She stated that she did not feel it was fair to let this type of use go in without the families who have purchased these houses, or who have contracts on their houses, know about it.

Shrevewood Citizens Association is on the other side of Shreve Road and would not be affected by this use. They have never done anything for their area to her knowledge. There are 7 older homes in this area and 17 new ones.

Mr. Smith read a letter from Mr. John J. Bibb, Jr. 2711 Westford Court, Falls Church, dated March 19, 1973. Mr. Bibb lives in the new subdivision and had looked a long time to find this house on a quiet cul-de-sac which would be safe for their children. Now they are very concerned about this beauty shop going in as it will increase the traffic and the road will no longer be safe. He stated that they are one of the three families that live in this new subdivision where this application is being sought. They stated that they object to this use because of the traffic hazards it will bring, the noise it will bring and it will also affect the values of their property.

Mr. McGinnis spoke in rebuttal to the opposition. He stated that this is not going to be a store front commercial use, nor will there be a glaring sign. Neither will they have a parking lot. He stated that the family that lives immediately across the street are in favor of it, and signed the Petition supporting this use. They do not anticipate any more than one customer at any one time and they do not feel there will be any additional noise and very little traffic.

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 SALGADO (continued)

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Mr. McGinnis stated that if they are denied this, it will create a very definite hardship.

Mr. Smith stated that financial hardship is not a factor when considering these cases.

Mr. Kelley stated that it seemed that the demand for Mrs. Salgado's services is the same as when her children are in school, therefore, if there is a question of hardship, Mrs. Salgado could go back into her husband's shop and work there during the day.

In application No. S-24-73, application by Joyce R. Salgado, under Sec. 30-7.2.6.1.5 of the Zoning Ordinance, to permit a beauty shop on property located at 7923 Landing Lane, Providence District, also known as tax map 49-2((23)) 4, Co. of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local paper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 21st day of March 1973.

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 13,111 sq. ft.
4. That Site Plan approval is required.
5. That compliance with all county and state codes is required.

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

1. That the applicant has not presented adequate testimony for Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr. Baker seconded the motion and the motion passed unanimously.

Mr. Smith stated that the Board had just received a communication from Supervisor Scott's office who called to say that the President of the surrounding citizen association in the vicinity had communicated with them to say that Raymond's Hairstylist shop would be moved to this location.

Mr. Smith stated that this is contrary to the testimony that was given by the applicant, but the hearing is over and the decision has been made to deny the application.

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WARREN R. NELLIS, app. under Sec. 30-6.6 of Ord. to permit construction of house closer to side property line than allowed, 6563 Braddock Road, 71-4((8))56B, Annandale Dist., (RE-0.5), V-25-73

Mr. Nellis represented himself before the Board.

Notices to property owners were in order.

Mr. Nellis stated that he has unusual topographic features on his lot and there is also existing construction on the lot. He stated that he feels his proposed location of the house would be the best utilization of the land and he had noted that in his letter of justification that is in the file. He stated that he had also discussed this with his neighbors and they have no objection. He has owned the property for one year last August. He lives in the house next door to this, therefore, the property that would be the most affected by this variance is his. He read his letter into the record. It stated that to the rear of the proposed dwelling there is a very steep hill which is comprised primarily of fill put there in the early 1900's. In addition, there is a lovely patio at the crest of this hill on the north side of the proposed dwelling which was constructed in the 1930's that would be unwise to remove, as it serves as an excellent and necessary hill retaining system. If it were necessary to remove this existing concrete patio to construct the proposed dwelling, the hill would be in danger of serious erosion. The existing driveway on the property also permits the best use of the land because the orienting of the dwelling generally east and west on the lot eliminates the need to disturb now existing curbs and gutters. The natural topography of the land can

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NELLIS (continued)

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be maintained and very little final grading to maintain the flow of surface water properly will be required. Only two trees on the property will have to be removed; one of which is an old apple tree and the other a medium sized oak.

Mr. Al Herricks, 6623 Pine Road, at the corner of Birch and Pine, Lot 22, spoke in favor of the application. He stated that he had reviewed the property and brought this up for discussion at the Braddock Citizens Association meeting and they saw no reason why they should oppose this.

There was no opposition.

In application No. V-25-73, application by Warren R. Nellis, under Section 30-6.6 of the Zoning Ordinance, to permit construction of a house closer to side property line than allowed on property located at 6563 Braddock Rd., Annandale District, also known as tax map 71-4((8)) 56B, County of Fairfax, Virginia, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 21st day of March, 1973, and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is Re-0.5 .
3. That the area of the lot is 18,516 sq. ft.

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

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
 - (a) exceptional topographic problems of the land.

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Baker seconded the motion.

The motion passed unanimously.

CLARENDON BANK AND TRUST AND LEASCO REALTY, INC., app. under Section 30-6.6 of Ord. to permit construction of temporary building height variance, 1 block west of International Drive on Chain Bridge Road, 29-4(1) part parcel 64, Dranesville District (C-OH), V-27-73

Mr. Doug Fahl, from Dewberry & Davis, Engineers, testified on behalf of the applicant.

Mr. Fahl stated that Clarendon Bank and Trust propose to locate a temporary bank on this location while they are building their high rise building on the same property.

Notices to property owners were in order.

Mr. Fahl stated that the temporary building would be a modular building and they propose to have it on the site for three and one-half years during the construction of the high rise facility immediately to the rear.

Mr. Smith stated that the Board has a limit on temporary structures.

Mr. Fahl stated that there was a case of the Bank of Virginia over on Route 7 that the Board granted a height variance for a temporary building on back in 1968. This has been extended twice since that time.

Mr. Smith stated that he questioned whether or not the Board has the authority to grant a height variance, but the Board can grant a temporary building. He stated that the Bank of Virginia application must have been two applications.

Mr. Fahl stated that it was two applications, one in 1968 and one in September, 1971 when the Board extended the time.

Mr. Fahl stated that they have reviewed the County Code and feel it appropriate and proper for this variance to come before this Board when it is a temporary height variance to permit construction of a building 12' in height in lieu of the 90' height requirement in C-OH. For their permanent structure, they intend to fully comply with the zoning requirements of the height requirement. The site plan has been submitted to the County and they expect that it will be approved within three months. However, it takes approximately 18 to 24 months to build a high rise building with 13 to 14 stories and that would put them in December of 1975 or June of 1976 at the latest. That is the basis on which they request the Board to consider favorably the temporary building with a height variance. Of the 6 total acres, 7/10 will be required for the mini-bank. They expect to have eight employees there.

Mr. Fahl submitted a rendering to the Board of how the mini-bank would look. He submitted also a temporary site plan showing the bank within the overall six acres. Then he showing the site plan of the permanent building showing that the permanent building and parking could be constructed without disruption of the temporary structure. After the permanent structure is completed, the temporary building will be removed and the area where the bank building was will be resodded and become part of the landscape of the site. The County has waived the site plan requirements for this temporary building pending the decision of the Board of Zoning Appeals.

Mr. Fahl stated that one thing he would like the Board to keep in mind is that Clarendon Bank and Trust's present existing administrative headquarters are being taken by Metro down in Clarendon. They are moving their headquarters down to the Route 1 corridor. Recently Clarendon Trust merged with Woodlawn Bank and that means no Clarendon Trust banks will not be located in the entire northern one-half of Fairfax County. Therefore, they are very anxious to locate a bank in this area to serve the people who have been served in the Clarendon area in the past. They are not requesting a defacto rezoning by requesting a permanent variance to height.

Mr. Smith stated that it still concerns him that they are requesting a height variance. He asked Mr. Fahl to explain the specific part of the ordinance that he feels this would come under.

Mr. Fahl stated that the Vice President of Clarendon Trust is present and would like to speak to that.

He came forward and Mr. Smith asked him whether or not they had the approval of the Banking Commission.

He stated that they have verbal approval and they expect written confirmation within a few days.

Mr. Smith stated that he felt they must have that approval before the Board can act on this application after the Board determines that it is a proper application.

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Mr. Fahl stated that they feel they do have unusual circumstances with something fringing on physical.

Mr. Smith stated that if they didn't have the height problem, they wouldn't have a problem at all.

Mr. Eric Ursey, Vice President of the bank, 2644 North Ohio Street, Arlington, Virginia again spoke to the Board. He too explained the circumstances of the headquarters in Clarendon being taken by Metro. He stated that when they applied for this merger with the Commission they stated that they would apply for a bank at Tyson's Corners that would be their regional headquarters. When the State authorities approved the merger they said that they would grant approval of the Tyson's bank. The headquarters building will have a bank in the interior. The one story temporary structure will only house banking facilities in the interim period of construction.

There was no opposition.

Mr. Smith stated that he felt it was an excellent use of the land, it is just the method by which they are accomplishing this.

Mr. Ursey stated that this modular building is something that is used primarily for temporary buildings. They are not interested in having a temporary bank in a trailer. Neither do they feel Fairfax County officials would like them using a trailer when this is much more attractive. This building will be put on the site on a truck and will be removed by a truck.

Mr. Dewberry from Dewberry & David spoke to the Board. He stated that he was on the Board of Directors of Clarendon Bank & Trust and his firm also did the engineering. He stated that his address is 4527 North 39th Street, Arlington. He asked for an explanation of what was going on here.

Mr. Smith explained stated that the Board is trying to find a solution within the framework of the Ordinance.

Mr. Dewberry stated that what is confusing is that they were told that they didn't need a variance, so they submitted their temporary site plan asking for a waiver back in January. After it had been processed, certain officials discovered that they would have to come before this Board as they did not have the authority to issue the Site Plan because the temporary building was lower than the C-OH zoning requirement. In February they were told they would have to get a variance from this Board.

Mr. Smith stated that it is his feeling that if this is a temporary structure, it wouldn't have to conform to the height.

Mr. Covington stated that the ordinance does not have any provisions for a temporary structure. It is treated as a permanent structure regardless of its mobility. Any commercial building is treated as a permanent structure.

Mr. Runyon stated that he saw no reason not to allow this temporary structure -- non-conforming as to height with the understanding that they remove it at a specified time. He stated that the Board does have the power to give relief in a hardship which this is. He stated that he felt the Board should wait until approval is given from the State Banking Commission and that will give the Board some time to analyse the situation.

Mr. Dewberry stated that they do have verbal agreement. He stated that the building has already been ordered and should come in within the next few weeks and during that time they could be pouring the foundation for the building.

Mr. Kelley stated that he agreed that the Board should try to work out the problem as it relates to the ordinance, and as he sees it, the ordinance does give the Board of Zoning Appeals authority to grant this type of variance. He read from Section 30-6.6 of the Ordinance. He stated that he believed that section gave the Board the power to do this.

Mr. Kelley asked if they would be able to get sewer for this structure.

Mr. Dewberry stated that they will be give temporary taps for a temporary structure as soon as they make application.

Mr. Steve Reynolds confirmed that they could grant the site plan waiver if this variance is granted.

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In application No. V-27-73, application by Clarendon Bank and Trust, under Section 30-6.6 of the Zoning Ordinance, to permit construction of temporary building, non-conforming as to height, on property located at 1 block west of International Drive on Chain Bridge Road, also known as tax map 29-4((1)) pt. par. 64, County of Fairfax, Virginia, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 21st day of March, 1973, and

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

1. That the owner of the subject property is Leasco Realty, Inc.
2. That the present zoning is C-OH.
3. That the area of the lot is 0.689 acres.
4. That the use is temporary.
5. That site plan approval is required for the entire site that indicates removal of the proposed building after completion of the permanent building.

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

1. That the applicant has satisfied the Board that the conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land.

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. This variance will expire in total in 3 years.
4. This variance conditional on approval of bank location by the state banking commission.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Baker seconded the motion. The motion passed 4 to 1.
Mr. Smith voted No.

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THOMAS G. HAMP, app. under Sec. 30-6.6 of Ord. to permit enclosure of carport closer to side property line than allowed, 3074 Hazelton Street, 51-3((11))73, Mason District (R-12.5), V-28-73

Notices were in order. The contiguous owners were Richard W. Chatterton, 3100 Hazelton Street, Falls Church and Francis Stein, 3072 Hazelton Street, Falls Church, Virginia.

Mr. Hamp represented himself before the Board. He stated that he had written a justification which is in the file.

Mr. Barnes asked if this was going to be a permanent structure.

Mr. Hamp stated that it was. He planned to use the same materials as is in the existing building. He has lived in the house for four years last November and plans to continue to live there.

He stated that the land slopes very steeply back to the side and there is also a storm drainage easement on the property and the property is very narrow.

In application No. V-28-73, application by Thomas G. Hamp, under Section 30-6.6 of the Zoning Ordinance, to permit enclosure of carport closer to side property line than allowed by Ordinance, on property located at 3074 Hazelton St., Mason District, also known as tax map 51-3((11))73, County of Fairfax, Virginia, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 21st day of March, 1973 and

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

1. That the owner of the subject property is Mr. & Mrs. Thomas G. Hamp.
2. That the present zoning is R-12.5.
3. That the area of the lot is 11,585 sq. ft.
4. That the request is for a minimum variance.

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

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:

1. exceptionally narrow lot.
2. exceptional topographic problems of the land.

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. Architecture and materials to be used in proposed building shall be compatible with existing dwelling.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, Non-Residential Use Permit, and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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DEFERRED CASES:

Sonderling Broadcasting Corp., app. under Sec. 30-7.2.2.1.3 of Ord. to permit an erection of a one story building, addition to existing radio transmitter site facility, 7330 Ronald Street, Tower Heights, 50-1((12))2, Providence District (R-10), S-146-72 (Deferred from January 24, 1973 for maximum of 60 days for new plats and in order for applicant to repair tower).

The applicant was not present when this case was called; however, this case was not given a specific time. The Board moved to continue with the After Agenda Items and perhaps the applicant's representative would come in a little later.

After the After Agenda Item were heard it was around 1:00 P.M. and the applicants still had not appeared.

Mr. Barnes stated that since the applicants were not notified of a specific time, that this case should be deferred until April 11, 1973 and the Clerk should write to the applicant with a Registered letter with Return Receipt Requested stating that the applicant is to be heard on April 11, 1973 at a specified time. The applicant should have the necessary plats and a report on the repair of the tower. The Board will be forced to take action on that date.

Mr. Baker seconded the motion

The motion passed unanimously.

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AFTER AGENDA ITEMS:

GULF OIL COMPANY, S-29-72 and V-30-72 (Request for extension)

Mr. Smith read a letter from John L. Hanson, Jr. requesting a six-month extension in order for them to obtain concurrence from Fairfax County for acquisition of abandoned right-of-way for Route 642, obtaining quit claim deed from RF&P Railroad and difficulty in obtaining from Virginia State Department of Highways acceptance of entrance plan.

Mr. Baker moved that a 6 month extension be granted from March 22, 1973.

Mr. Barnes seconded the motion.

The motion passed unanimously.

Mr. Smith asked the Clerk to so notify the applicant.

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YOUNG WOMEN'S CHRISTIAN ASSOCIATION OF THE NATIONAL CAPITAL AREA, INC., Granted Use Permit May 17, 1972. (Request for an extension)

Mr. Smith read a letter from the above applicants requesting a six month extension of this permit. Because of the slow pace of fund raising and because construction costs are running above their budget estimates, they are behind schedule.

Mr. Baker moved that the Board grant this request for a six month extension.

Mr. Kelley seconded the motion.

The motion passed unanimously.

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CHARLES J. HUNTLEY ASSOC. & FOSTER BROS. INC., Application To permit garage to remain closer to side property line than allowed (Request for Out Of Turn Hearing)

Mr. Smith read a letter Mr. Charles J. Huntley, Engineer, requesting this out of turn hearing. The error was made and went unnoticed until the final location survey was made which indicated a garage instead of the assumed carport. Because of the pending settlement on the property that is now held in jeopardy, they requested the out of turn hearing.

Mr. Baker moved that this request be granted and this case be scheduled for April 11, 1973, instead of May 9, 1973, which is the normal scheduling date at this time.

Mr. Barnes seconded the motion and the motion passed unanimously.

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March 21, 1973

FORD LEASING AND DEVELOPMENT COMPANY (Continuation of discussion from previous week regarding whether or not a body and paint shop was permitted in a new car dealership-- Mr. Knowlton has asked for a determination by the Board on this question and that this determination should be made in a formal resolution)

Mr. Smith stated that with regard to Ford Leasing, the people on Route 236 were promised that there would be no body and paint shop there.

Mr. Covington stated that it was not a condition of the Use Permit.

Mr. Smith stated that that has always been the position of the Board.

Mr. Covington stated that apparently that position was not upheld when the Board heard Ralph Louf's case several weeks ago, Koons Chevrolet, because the Board granted that application knowing that he planned to have a body shop in it.

Mr. Baker stated that he saw no reason why it could not go into a new car dealership.

Mr. Covington stated that the feeling of the Zoning Administrator is that this is an allied use. We do need a stand from the Board of Zoning Appeals, Mr. Covington stated.

Mr. Smith stated that he was not going to change his position on this.

Mr. Covington restated that there was nothing in the motion for either Ford Leasing or Koons Chevrolet that stated that they could not have a body shop.

Mr. Barnes stated that then they could have it.

Mr. Smith stated that if the Zoning Administrator interprets the resolution and the ordinance so as to allow it, the Board will stay out of it.

Mr. Kelley stated that this is the third time this has been brought up. He stated that he made the motion and he would make it again today because he feels that it states in the motion that all county codes is required and Mr. Knowlton stated during the hearing that the ordinance didn't allow it. All County Codes would be required. He stated that he feels that this is an accessory use to a new car dealership and he wrote the motion and he would write it again the same way. The motion passed. Mr. Knowlton interprets the ordinance.

Mr. Covington stated that again the Board is taking two positions, part of the Board is saying that it is allowed and part of the Board is saying that it isn't. We have to have a vote.

Mr. Kelley stated that it was his understanding that the policy of the Board when Mr. Woodson was here, was that it wasn't allowed.

Mr. Smith stated that that was the position then and the Board backed him up.

Mr. Smith stated that the Chair would entertain a new motion relative to this.

Mr. Kelley moved that based on the ordinance, he felt body shops is an accessory use to new car dealerships and this be the policy of the Board.

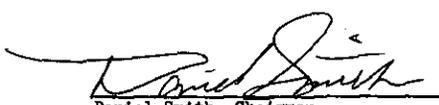
Mr. Barnes seconded the motion.

The motion passed 4 to 1. Mr. Smith voted No.

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The meeting adjourned at 1:27 P.M.

By Jane C. Kelsey
Clerk


Daniel Smith, Chairman

Approved April 11, 1973
Date

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The Regular Meeting of the Board of Zoning Appeals Was Held on Wednesday, March 28, 1973, in the Board Room of the Massey Building. Present: Daniel Smith, Chairman; Loy Kelley, Vice-Chairman; Joseph Baker, George Barnes and Charles Runyon.

The meeting was opened with a prayer by Mr. Barnes.

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MY STAFF, INC., app. under Section 30-7.2.2.1.3 of Ord. to permit radio station facilities, 2455 Fox Mill Road, 25 ((1))76C, Centreville District (RE-1), S-21-73

MY STAFF, INC., app. under Section 30-6.6 of Ord. to permit radio station tower closer to property line than allowed, 2455 Fox Mill Road, 25((1))76C, Centreville District (RE-1), V-42-73

Mr. Ralph Louk, 4101 Chain Bridge Road, Fairfax, attorney for the applicant, testified on their behalf before the Board.

Notices to property owners were in order. Contiguous owners were Sheldon Kilby, Jr., on Lot 76A and Robert Brent, 2449 Fox Mill Road, Herndon, Virginia.

Mr. Louk stated that Mr. Jimmy Bealty is the President of the Corporation. He bought out the original applicant in 1971. This is a new corporation. There are none of the old officers in the present corporation. My Staff, Inc. owns the 14 acres under the original use permit. Mr. Louk stated that when the original Special Use Permit was granted back in 1962, Mr. Smith made the motion granting it. Mr. Louk stated that there are very few changes taking place other than change of name. There has been no change in the tower except the applicant in the original permit did not specify the tower height and when it was constructed, it was constructed to 209' for an FM broadcasting tower. That is the second reason for this new application. The Engineers Long and Rinker have now surveyed this entire tract and found that there is a need for a variance because of the height regulations. This variance is only needed on one tower. The other two towers are to remain the same height as they are now. The tower actually is 201' and the signal at the top is 1'. There will, of course, be no construction in this pipe line easement.

Mr. Louk stated that the third reason for the application is to request the Board to reduce this site to an area of 10.94 acres. There is no need for this land for these towers and for this Use Permit.

Mr. Smith asked if this would not be needed in case the owner wished to expand at a future time.

Mr. Louk stated that they had considered that angle, but the owners wishes to go this route.

Mr. Smith asked Mr. Louk if he was aware of the electrical defects found by the inspection made by the Electrical Inspection Department. Mr. Smith read the report which stated:

"Please be advised that on 2-12-73 an electrical inspection was made at the above-mentioned location by Inspector Raymond Kidwell, at which time the following defects and/or violations were found:
Light fixtures missing
Open outlet and/or junction boxes
Extensive use of extension cords
It was also determined at this time that the electrical system was found to be in fair condition."

Mr. Louk stated that he was not aware of these defects, but he would give the list to his client and have him clear that up.

Mr. Kelley asked if they were willing to dedicate 45' from the existing center line of the right-of-way.

Mr. Louk stated that he has discussed this with his client and he will cooperate in the dedication of the land as far as Fox Mill Road is concerned, but they are not agreeable to the dedication of land for the Outer Beltway.

Mr. Smith stated that the Planning Commission recommended approval in accordance with the Staff recommendation and part of that recommendation has to do with the dedication.

Mr. Louk stated that he felt there is a park going in on the land dedicated for Outer Beltway uses by the adjacent subdivision and he feels it is unreasonable to ask the applicant to dedicate land to something that will never come into being.

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Mr. Runyon stated that the Board of Supervisors certainly have been adamant about removing that from all the plans.

Mr. Smith stated that the Outer Beltway certainly has moved around a lot and it is ten years behind schedule at this point.

Mr. Smith asked Mr. Steve Reynolds, from Preliminary Engineering Branch of County Development, if he had any comments on this report requesting the dedication.

Mr. Reynolds stated that he wished to point out something on the map. There is presently a subdivision located adjacent to this property which is R-17 zoning. The subdivision is called Reston West. They have another subdivision proposed under the RE-0.5 zoning category. Both these subdivisions have dedicated land for the proposed Outer Beltway. The Outer Beltway has been removed from the Upper Potomac Master Plan north of this property, but not in this location. For this reason, the County Preliminary Engineering Branch is requesting that the Board consider the addition of the dedication of one of the conditions of the Use Permit.

Mr. Smith asked if, after this is dedicated, this would have to be used for Outer Beltway purposes, or if it was not used would it revert back to the original owner who dedicated.

Mr. Reynolds stated that if it was dedicated it would be dedicated to the Board of Supervisors and would be up to them as to what it would be used for, should it not be used for the Outer Beltway.

Mr. Kelley stated that he realized that sometimes it is hard to get this dedicated property off the map. He asked Mr. Louk if, in his legal opinion, there was anyway to have this land reverted back to the owner before dedication.

Mr. Louk stated that fee simple title goes to the Board of Supervisors and the Board of Supervisors gets the land. The only way there is to get the land back is to vacate the land and in order to vacate the land is to have the Board of Supervisors vacate it. They will not allow it to go back to the original owner automatically. Neither is it so simple to get the land vacated. The Board of Supervisors in the last year has been saying 'why should we give the applicant the land back'. They have that type of attitude, because they feel this dedication is a gift. If it is vacated one-half goes to one side of the road dedication and one side goes to the other. That is under the State statute. That is what is going to happen to the land dedicated for the Outer Beltway. It will be used for horse trails. As it is surrounded by homeowners, it will then go to the homeowners association, therefore, the homeowners will not be losing their land. "We would be losing our land," he stated.

Mr. Louk stated that there is no funds to build this road. They have no bridge to construct this road over when they get it to the District line, even if there were funds. What you have, he stated, is a road that hasn't yet been taken off the plans. It goes nowhere. He stated that he feels it is very unreasonable to ask for dedication and further, he does not feel the Courts would uphold this requirement.

Mr. Smith stated that he feels the dedication on Fox Mill Road is very legal and one the applicant should be required to dedicate. The roads are to serve the entire area and if dedication has taken place through these subdivisions, then someone has given up some land and he feels this applicant should too. This is a commercial use and it should be required to adhere to the same requirements as the residential land.

Mr. Kelley stated that the Staff has recommended this, but he is not in agreement.

Mr. Covington stated that this was not presented to the Planning Commission as part of the Staff recommendation and the Planning Commission had no knowledge of this dedication requirement.

Mr. Harvey Mitchell, Associate Planner, confirmed this.

Mr. Kelley stated that he would like this deferred until he could draft a proper motion. He stated that he felt the dedication could be required at such time as the Outer Beltway was construction, and then they would not have to dedicate until such time as that happened and it might never happen. He asked Mr. Louk for his comments.

Mr. Louk stated that if it is done that way with no specific place for this dedication to go, then at the time the State gets ready to do this, they could take the land directly underneath their towers. This would be like putting the land on a public utilities map, where you never get it off. It becomes very offensive to the owner of the property and is detrimental to the sale of the property. He stated that the Staff

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is obligated to make this request as long as the road remains on the plans, but he stated that he did not feel it was proper or reasonable for them to have to do this. He stated that you can't even get on the proposed Outer Beltway from this site.

Mr. Smith then read the variance request. He stated that the testimony for the variance was given at the same time as the request for the special use permit. No Board members had any questions on this case. The applicant stated he would stand on his previous testimony.

There was no opposition to either case.

Mr. Barnes stated that he did not feel the applicant should have to dedicate for the Outer Beltway.

In application No. S-21-73, application by My Staff, Inc. under section 30-7.2.2.1.3, of the Zoning Ordinance, to permit radio station facilities, on property located at 2455 Fox Mill Road, Centreville Dist., also known

as tax map 25 ((1)) 76 C, Co. of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 28th day of March 1973.

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 14.0167 Ac. (Site Area: 10.94 Ac.)
4. ~~That Site Plan approval is required.~~ *subject to compliance with Section 30-7.2.2.1.3*
5. That the Fairfax County Planning Commission on March 20, 1973, unanimously recommended to the B.Z.A. that the subject application be approved in accordance w/staff recommendations.
6. That the existing facility has been operating under S.U.P. #11083, granted October 9, 1962.

*Changed by BZA
5-20-74, Long
of applicant.*

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

1. That the applicant has presented testimony indicating compliance with (Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance.)

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Certificate on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping, screening, planting, and/or fencing shall be as approved by Director of County Development.
7. The owner is to dedicate to 45 ft. from center line of R/W, for the full frontage on Fox Mill Road, for future road widening.

Mr. Barnes seconded the motion and motion passed unanimously with Mr. Smith abstaining.

In application No. V-42-73, application by My Staff, Inc. under section 30-6.6 of the Zoning Ordinance, to permit radio tower closer to property line than allowed, on property located at 2455 Fox Mill Road, Centreville District, also known as tax map 25 ((1)), 76C, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 14.0167 Ac. (Site Area: 10.94 Ac.)
4. That Site Plan approval is required.
5. That the request is for a minimum variance.

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

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, Non-Residential Use Permit, and the like through the established procedures.

Mr. Barnes seconded the motion. The motion passed 4 to 0, with Mr. Smith abstaining.

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JAMES E. GUIRARD, app. under Section 30-6.6 of Ord. to permit enclosure of carport closer to side property line than allowed, 1129 Cameron Road, 102-2((12))pt. 55& 56, Mt. Vernon District (RE-O.5), V-29-73

Mr. Guirard, the applicant, represented himself before the Board.

Notices to property owners were in order. The contiguous owners were Mr. J. B. Stover 1131 Cameron Road and Mr. and Mrs. Wright, 1144 Westmoreland Road.

Mr. Guirard stated that they needed a 1' variance. The roofline of the structure would not be changed, they would merely be enclosing what is there already. He stated that the Board has in the file a letter from the neighbors stating that they not only consent to this, but they feel it would be an improvement to the property and the neighborhood. They have not come across anyone in the area who objects to this. This is a substandard size lot. He stated that he does plan to continue to reside there and this is for his family's use, not for resale purposes. The enclosure will be glass and aluminum siding. It will be compatible with the existing structure.

He had submitted a sketch of how the enclosure will look when it is finished.

Mr. Covington, Assistant Zoning Administrator, stated that the zoning would call for a 20' setback, but since all the lots in the area are of substandard width, they can have a 15 percent exception and this would lower the setback requirement to 11'. Eleven feet is the established setback, because this is a substandard subdivision in its entirety. It was established in 1937. The earliest building permit that could be found for that subdivision was in 1956 and none of the lots meet the side yard requirements. He stated that they had made an extensive search and there is no record of a building permit in the files.

Mr. Smith asked if this would be in keeping with the rest of the neighborhood.

Mr. Covington stated that it would be should the Board decide to grant it.

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In application No. V-29-73, application by James E. Guirard, under Section 30-6.6 of the Zoning Ordinance, to permit enclosure of carport closer to side property line than allowed, with a 1.04' sideyard, on property located at 1129 Cameron Road, Mount Vernon District, also known as tax map 102-2 ((12))pt. 55 & 56, County of Fairfax, Virginia, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 28th day of March, 1973, and

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

1. That the owner of the subject property is James E. Guirard, Jr.
2. That the present zoning is RE-0.5
3. That the area of the lot is 10,500 square feet.

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

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and buildings involved:
 - (a) exceptionally narrow lot
 - (b) unusual condition of the location of existing buildings, in a substandard subdivision.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. The architectural design will be in conformance with the existing house.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy, and the like through the established procedures.

Mr. Baker seconded the motion.

The motion passed unanimously.

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ARTHUR E. GLAZIER, app. under Sec. 30-7.2.6.1.7 of Ord. to have antique shop in home, 5300 Ox Road, 68-3(1)6A, Springfield District (RE-1), S-30-73

Mrs. Glazier represented Arthur E. Glazier before the Board. Mr. Glazier also testified.

Notices to property owners were in order. The contiguous owners were Elizabeth Hamill Long Island, New York and Fairfax Country Club, Ox Road, Fairfax.

Mrs. Glazier stated that they purchased the house in September and they felt at that time and still feel that this would make a good location for a small antique shop. They intend to keep the house and property in good shape and it will never be a junk type shop. They paid quite a lot of money for this house because they love it. The Fairfax Country Club has stated as the Board members can see from the letter in the file that they have no objection to this use as long as they keep the property like it is at the present time. They do live at this location now and intend to continue to live there. One room of the house will be used to show the antiques. There has been no opposition from the homeowners in the area. She stated that she had gone all the way down on Popes Head Road and talked with the people and no one has stated any objection. They actually have no people in sight of the house.

Mr. Barnes stated that the only thing that bothers him is the entrance way.

Mrs. Glazier stated that they plan to change that. She stated that they have a drawing of how they wish to change the entrance. Mr. Glazier brought the drawings forward.

Mr. Kelley stated that the drawings had no dimensions on it. He asked if the driveway would be concrete.

Mr. Glazier stated that it would be gravel as it is now. He stated that the fence will have to be low enough so there will be no sight distance problem. They have now a hedge all along their property line and about 20' of that will have to come out. At the present the driveway is a little bit blind and in the past there was only one or two cars out of there per day. The people who owned the house previously did not want to cut the hedge.

Mr. Kelley stated that he had viewed the property two times and the plans that he had just shown do not give dimensions for the driveway and entrance way.

Mr. Glazier stated that it will have to be widened.

Mr. Kelley stated that when he was there there were skid marks on Route 123 which alarmed him. He asked if they were familiar with the comments from Preliminary Engineering regarding this which stated:

"This use will be under site plan control. It is suggested that the owner dedicate to 86' from the existing centerline of R/W for future road widening curb, gutter, service road and sidewalk. The 'special planting' shown on the plat submitted should be identified as to size, type and spacing."

Mr. Glazier stated that by fanning the entrance in the way he showed it in the drawing, you eliminate some of the site distance problem. It will also give the person coming into the driveway or going out of the driveway a change to get out. He asked what the 86' dedication meant.

Mr. Runyon stated that that would be 71' as 86' was from the center line of the highway. The house is 92' from the property line, therefore, that would be 25' left in front of the house.

Mr. Smith stated that the road right next to the house would be a service drive. There is a service drive across the street from there.

Mrs. Glazier stated that the Planning Commission was out there and they seemed to think that this would be a good use for the next few years. She asked if they did not dedicate the land if the State would buy it.

Mr. Kelley stated that the State would buy it if they could, or it would go to condemnation.

Mr. Smith read the memorandum from the Planning Commission recommending with a 6-1 vote with one abstention that this application be granted for a period of five years in accordance with the Staff recommendations.

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Mr. Smith stated that going back to the previous application, the Planning Commission recommendation does not include the report from Preliminary Engineering.

Mr. Mitchell stated that when the Planning Commission makes reference to the Staff Report, they are not talking about the report from Preliminary Engineering's report, because that report does not go into the Staff Report that is sent to the Planning Commission.

Mr. Smith read the entire Staff Report that went to the Planning Commission which can be found in the file. This report did not incorporate the report from Preliminary Engineering regarding the road dedication.

Mr. Smith read the letter from Elizabeth S. David, Operations Branch, Office of Planning addressed to the Planning Commission and the Board of Zoning Appeals which stated:

"Mrs. Mary Fahringer, Chairman of the Fairfax County History Commission has asked me to convey to you the opinion of the Commission on Mrs. Arthur Glazier's request for a permit to allow an antique shop in the house known as Stafford Landing located on Ox Road. The structure is listed on the County's Inventory of Historic Sites and the Commission is very much interested in its preservation. In an old structure such as this, an antique shop seems to be a fine adaptive use. Care should be taken, however, to preserve the basic structure of the house, and also to preserve its exterior appearance. Of primary concern is that the front yard and porch should not be used as display areas. Under these conditions, the Commission would have no objection to the granting of this permit."

Mr. Smith then read a letter from Stephen L. Best, secretary for the Country Club of Fairfax, P.O. Box 398, Fairfax, Virginia. The letter stated that the Club has no objection to an antique shop being operated in Mrs. Glazier's home provided the following conditions are observed:

1. Adequate screening, preferably in the form of a stockade fence, is furnished along the common property line.
2. The area outside the house is not used for display of antiques, so that the attractive appearance of the general area is maintained.
3. Adequate parking is furnished.

Mrs. Glazier stated that one of the members of the Planning Commission stated that they felt that this is a special case as they are not sitting in a community of people and the Country Club has agreed that they do not mind and all the neighbors who live in the general area have no objections either.

Mr. Smith stated that he felt it was an excellent use of this older structure.

Mr. Glazier stated that he had been sitting there thinking about the skid marks on the highway. ^{that Mr. Keller had mentioned} Cars come and go from the station across the street, but they have never had any difficulty with someone pulling up behind them as they are entering or leaving their driveway. They do move out from that gasoline station across the street pretty fast sometimes, he stated.

Mr. George Hamill, resident of the City of Fairfax, spoke on behalf of his mother who lives in Long Island, New York. She was one of the contiguous owners notified. Mrs. Elizabeth Hamill owns nineteen (19) acres that adjoin this property in question to the south and west. This property was her home until his father died. Generally, the development of the residences in this area has been of a very high quality. To the west of his mother's property there are homes that are worth one quarter of a million dollars. This is the last remaining piece of land held by an individual as opposed to land speculators and he stated that he felt its best development would be in high quality homes. He stated that he felt that letting down the bars on this property and permitting a commercial operation would be detrimental to the land that his mother owns.

Mr. Smith asked Mr. Hamill to be more specific as to how this would affect land values.

Mr. Hamill stated that he was speaking generally. He stated that he feels that generally when a special use permit of this type is granted, the land is in a transition state from residential to commercial. The proposed amendment to the ordinance relating to antique shops seems to support this view in that it will be required that antique shops be on a larger piece of land and an older home and front on a primary highway. Frequently, he said, conditions on use permits are not abided by.

Mr. Smith asked Mr. Hamill to explain what he meant by that.

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Mr. Hamill cited the filling station across the street which is zoned C-N. He stated that that permit was granted back in the late 40's. It became very rundown.

Mr. Smith stated that a new permit was granted for that location not too long ago.

Mr. Hamill stated that the original commercial use was by a permit granted by this Board and that property did deteriorate to a point where the Board of Supervisors changed it from a use permit to a rezoning in order to get the property cleared up.

Mr. Hamill stated that this building of Mr. and Mrs. Glazier's is a good sound structure built in the 1890's and based on the sales price of it, there is no reason why it can not be maintained as a residence and used solely for a residence. It has been placed on the County's list of historic places and it seemed to him that it should be required that this use be restricted to residential. Therefore, for these reasons and on behalf of his mother, they asked that the Board of Zoning Appeals deny this Special Use Permit.

Mr. Smith asked Mr. Hamill when his mother sold the house.

Mr. Hamill stated that it has been about six years. This is the third set of owners he believes.

In application No. S-30-73, application by Arthur E. Glazier, under Sec. 30-7.2.6.1.7 of the Zoning Ordinance to permit antique shop in home, on property located at 5300 Ox Road, Springfield District, also known as tax map 68-3(1)6A, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 28th day of March, 1973.

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

1. That the owner of the subject property is Arthur E. & Julia M. Glazier.
2. That the present zoning is RE-1.
3. That the area of the lot is 1.22 acres.
4. That Site Plan approval is required.
5. That compliance with all County Codes is required.
6. The Planning Commission recommended approval for five years.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the building and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN A NON RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.

(Over)

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GLAZIER (continued)

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit in a conspicuous place along with the Business License, etc. on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. Hours of operation shall be 10:00 A.M. to 8:00 P.M., Monday through Saturday with no more than one client at any one time.
7. Adequate screening shall be provided.
8. 50' deceleration lane 12' wide shall be provided along Route 123 and widening of the existing entrance to 22' feet shall also be provided.
9. Permit is to expire in five (5) years.
10. No outside display is permitted.
11. Adequate parking and turnaround shall be provided on site.

Mr. Baker seconded the motion.

The motion passed 4 to 1. Mr. Kelley voted No.

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March 28, 1973

CROWN CENTRAL PETROLEUM CORP., app. under Section 30-7.2.10.3.1 of Ord. to permit gas station and Section 30-7.10.3.7 of Ord. to permit auto laundry (no repairs) 5500 Franconia Road, northwest intersection of Franconia Road and Old Rolling Road, 81-4((1)) 71C, Lee District (C-D), 8-31-73

Mr. Charles L. Shumate, attorney for the applicant, represented them before the Board.

Mr. Shumate stated that about two weeks ago, their firm was contacted by Mr. Yaremchuk, Director of County Development, and by Supervisor Joseph Alexander, Supervisor for the Mt. Vernon District, who requested that they consider a continuance of this application today in order that Mr. Alexander might be present to present to the Board the citizens position on this case.

Mr. Smith asked if there was anyone present who was interested in this case. There was no one.

Notices to property owners were in order. The contiguous owners were John A. Kelly, 6225 Bernard Street, owner of Lot 5510 Franconia Road, the cleaning establishment and Mr. Wood, Trustee, 5412 Franconia Road.

Mr. Baker moved that this case be deferred until April 11, 1973 for the reasons stated by Mr. Shumate.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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March 28, 1973, Page 67
CHURCH OF THE ASSUMPTION, app. under Section 30-7.2.6.1.11 of Ord. to permit church use, approximately 70 members, 10310 Vale Road, 37-2((11))15, Centreville District (RE-1), 8-32-73

David Feldman, attorney for the applicant, represented them before the Board.

Notices to property owners were in order. The contiguous owners were Mr. and Mrs. Martin Rayman and Carol J. Schoepe.

Mr. Feldman stated that this church was formed in August, 1972. At the time of its formation, there were twenty-five families which originally joined this church. They

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came out of another group which had been formed three years ago. This church is a church of the Roman Catholic faith. There is no difference from this Roman Catholic Church and any other Roman Catholic Church except they believe in the Latin Mass. The parish has its own priest who has been there three years. At present the families that are now members of the Church are approximately the same as they started out with. The members come from all over Northern Virginia. It is not a social type church. It doesn't have bands, nor do they do any rolling. They need a permanent type church in a permanent location in order that every Sunday morning they do not have to bring all their religious artifacts out and transport them from one place to another. Major Fry spend a considerable amount of time trying to find a suitable location for a church site. They need a place to worship and the priest needs a rectory. The search turned out to be futile, because used churches are hard to come by. The contract for this building was entered into in September, 1972. At the time it was entered into, there was no ordinance requiring a Church to get a Special Use Permit. The only thing in the contract that had a contingency was the waiver of the site plan approval. He stated that he made several investigations of this and it was found that the Staff and the Board of Supervisors when you are talking about a temporary use will waive the site plan. Major Fry after consultations agreed to eliminate the contingency because it was determined that the waiver would not be very much of a problem. At about that time they found that there was some opposition in the community. The citizens were concerned about the impact of the church upon their community. At that time a decision had to be made as to whether or not to go to settlement. If they did not go to settlement, they would lose their deposit and perhaps have a breach of contract suit. They felt that the worse thing that could happen would be that they could not get a site plan waiver and they would have to go through that, which would be an added expense. However, they felt they could take that risk and in the early part of November they went to settlement on this property. They, therefore, incurred an obligation and a mortgage. This church was approved by the Circuit Court of Fairfax County, as all churches have to be. Approximately ten days after settlement was when the Board of Supervisors put the emergency ordinance into effect which said that all church must come before this Board and get a Special Use Permit before they can begin.

Mr. Smith stated that this has been under consideration for several years in the County. It all started four or five years ago on a church on Edsal Road on which the Board granted a variance in order for them to construct.

Mr. Feldman stated that the problem is that on the 15th of November one could build a church regardless of the size as long as it complied with setback requirements, height requirements, etc. and this could be done by right. Ten days later we have to come before this Board for a Special Use Permit. This has created a grave hardship not of the applicant's doing. The applicant has acted in good faith.

Mr. Feldman stated that with regard to impact, they are willing to have the Board put on a condition to the Special Use Permit specifying the times they wish to use the church. They plan to have Mass at 8:00 A.M., 10:00 A.M., and 12:00 Noon. They anticipate approximately ten to twelve cars present at each Mass. A Mass lasts forty-five minutes. That gives the people plenty of time to leave before the next group comes in for the next Mass. There will be no overlap. There is one Mass during the week, but only one or two people come to that. Only about twenty-five per cent of the people live in the vicinity of the Church. This Church should not have any more of a traffic impact than a single family residence. There are five bedrooms in this house and if you have a normal family living there with two cars, at least, there would be as much traffic as this church will produce. They do expect the church to grow and they plan to continue to look for a more permanent structure as they do grow. They realize a small church of this size could not handle a midnight Mass or a Christmas Mass, therefore, they have already rented the Holiday Inn for that purpose. He stated that within five years, they plan to be out of here.

Mr. Feldman stated that they do not plan to alter the building in any way, except for the changes that are necessary to comply with the Team Inspection Report. The Health Department did check the septic tank out and o.k.ed it for this use.

Mr. Feldman stated that this church is contiguous to cluster zoning and the Park Authority.

Mr. Feldman stated that this is not on a subdivision street. It is on a major thoroughfare. In fact it is on two major thoroughfares. Vale Road and Hunter Mill Road.

Mr. Cy Phillips, 1115 Briar Court in Vienna, came forward to speak on behalf of the applicant, but he wished to consult with the attorney first. The Board recessed for five minutes and when they returned, Mr. Phillips stated that after discussing this with the attorney, he had nothing more to add to the testimony.

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069

Dr. Tom Curry, representing the Kemper Park Civic Association, 2403 Beekay Court, spoke in opposition to this application. He stated that he is President of this Association. This association represented 55 homes in the wooded area west of the Vienna City limits. Their membership voted unanimously to come before this Board and speak in opposition to this use at this location. He stated that with him to speak in opposition are Dr. Morton M. Rayman, whose property directly adjoins the corner lot under discussion and Mrs. Matland, whose home is two doors away from the subject property.

He stated that there are three churches within a radius of one-half mile of the property in question. The residents are active in these and other churches in the area. In each of these churches, however, the church facilities were carefully planned on sizeable pieces of property, with adequate facilities for the uses intended. He stated that this lot contains less than 35,000 square feet. The church would have to have a paved area in the front and the rear to accommodate the parking. This is one of the more dangerous intersections in the county. The records of the Fairfax County Police Department show that eight accidents occurred at Vale Road and Hunter Mill Road during the year 1972.

Mr. Curry further stated that the continuing increase in housing density to the north, south, east and west cause traffic to get worse, not better. The addition of this church at this location is certain to endanger the lives of the worshippers and residents of the community.

Another aspect is the long-range planning standpoint. The impact on the neighborhood when this church decides to move on. Once the front and back yards have been paved, it would be extremely difficult for this property to revert to single family use again.

Dr. Rayman, 10308 Vale Road, spoke in opposition. He stated that he has a water flow problem. Water is draining onto his land and he is able to control it at the present time, but he feels that if this Special Use Permit is granted and the church paves over much of the land that the water will no longer be controllable. Vale Road now gets flooded when there is a heavy rain. The children naturally play in this water and it is very dangerous. If they remove much of the trees for parking and replace the screening with pines, it will take years for them to grow to any height. In five years they may be out of the property, but he stated that he is in his 60's and those pines will never grow in his lifetime.

Mrs. Collins, 2411 Beekay Court, spoke in opposition to this use. She also read a letter from Mrs. David Wickins of the Hunter Valley Development nearby who could not stay and requested that she read the letter for her. Mrs. Wickins was also in opposition.

Mrs. Wickins letter stated that she was in opposition to this use at this location as it will create further traffic congestion on Hunter Mill Road, already very heavily travelled by traffic to and from Reston, the Dulles Access Road and Vale Road. Both roads are narrow two-lane roads with no shoulders and no parking spaces whatsoever on the road sides. Also there are already three churches within one-half mile and a fourth authorized. This is also a dangerous intersection. On Vale Road coming from the East, there is a slight slope and a STOP sign on Hunter Mill Road. From this point, it is very difficult to see traffic approaching up a steep hill on Hunter Mill Road to the left, or along a slope to the right. She stated that she had lived on Hunter Mill Road for thirty seven years.

Mrs. Collins stated that she objects to this use at this locations for the same reasons.

Mr. Smith stated that the Board has also received a letter from Sandra S. Batsel setting forth several point of objections that have already been discussed here today.

Mr. Feldman, attorney for the applicant, spoke in rebuttal to the opposition's testimony. He stated that as far as the drainage problem, he did not know of any drainage problem there. The small amount of paved area that they will have for parking will be no more than a tennis court at a single family home. He stated that he felt this use would be better here located on major thoroughfares, than on residential streets in a subdivision. This use will be in harmony with the rest of the residential character of the neighborhood and they are not planning any changes to the house inside or outside to change the appearance from a single family residence. They are only asking for a temporary use permit.

Mr. Kelley read the Staff comments on this case.

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STAFF COMMENTS:

"This is an application for a Special Use Permit for a church to have Sunday services in an existing single-family dwelling located at the northeast corner of the northern junction of Vale Road and Hunter Mill Road, in Kemper Park Subdivision, Centreville District.

While the application indicates that the church has approximately 70 members, and the plat indicates a proposed 60 members, the Staff has been advised verbally that there are presently more than 100 members, but that a maximum of 60 would be in attendance at any one time. The Staff has also been advised verbally that the applicant intends that this site would be used as proposed for a temporary period --perhaps three years - until the church could develop more suitable facilities elsewhere.

The Staff considers that the proposed use is not in the best interest of the church itself, of the Kemper Park Community, or of public safety along Vale and Hunter Mill Roads in this area.

From the standpoint of the church's interest, using a dwelling for worship services on a regular basis for any extended period of time would surely be considered less than desirable. Aside from that, however, the subject lot is so small that the minimum required parking spaces for the maximum number of members in attendance at any one time can barely be fitted onto it. In such circumstances, if the use permit were granted it would have the effect of limiting, if it did not expressly so limit, the congregation to its present size, and such limitation would negate a presumed basic function of the church.

With respect to Kemper Park community, it is a developed subdivision of single-family homes, of which the subject property is an integral part. Conversion of the subject lot and single family dwelling to church use, as proposed, would unavoidably alter the residential character of the lot itself and the Kemper Park community as well.

Finally, the Staff doubts that the church could effectively police its membership in such fashion that automobile parking on site would be accommodated at all times. In the absence of any designated alternate site for congregational parking, overflow parking would probably occur along the shoulders of Vale and Hunter Mill Roads. Considering the present width of those roads and heavy volume of traffic along them, the Staff feels that any such overflow parking would constitute a hazard to the traveling public in the area.

STAFF RECOMMENDATION:
That S-32-73 be denied."

Mr. Smith read the Planning Commission report.

"The Fairfax County Planning Commission on March 20, 1973, under provisions of Section 30-6.13 of the County Code, unanimously (with 3 abstentions) recommended to the Board of Zoning Appeals that the subject application be denied in accordance with the staff recommendations attached hereto.

The Commission felt that this is an intense use for the size lot in keeping with the character of the present neighborhood. The Commission felt that if the property were larger in area, the density or intensification of this usage would not be detrimental to the neighborhood and that further the traffic impact would be severe and from a planning standpoint this was not an appropriate application."

071

In application No. S-32-73, application by Church of the Assumption, under Section 30-7.2.6.1.11, of the Zoning Ordinance, to permit church use, approximately 70 members, on property located at 10310 Vale Road, Centreville District, also known as tax map 37-2((11))15, County of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and,

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 28th day of March, 1973.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact

1. That the owner of the subject property is Trustees of Church of the Assumption.
2. That the present zoning is RE-1(C)
3. That the area of the lot is 34,906 square feet.
4. That the Fairfax County Planning Commission at its regular meeting on March 20, 1973, unanimously (with 3 abstentions) recommended to the B.Z.A. that the above subject application be denied in accordance with staff recommendations.

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

1. That the applicant has not presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr. Barnes seconded the motion
The motion passed unanimously.

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EPIPHANY OF OUR LORD BYZANTINE CATHOLIC CHURCH, app. under Sec. 30-7.2.6.1.11 of Ord. to permit construction of temporary classroom for Sunday morning religious instruction, 3410 Woodburn Road, Woodburn Village, 59-1((1))21, Providence Dist., (RE-0.5), S-44-73

Mr. Robert P. Hudock, attorney for the applicant, 7900 West Park Drive, McLean, Virginia, testified before the Board.

Notices to property owners were in order. The contiguous owners were Mr. and Mrs. James R. Walker, 8311 Tobin Road, Annandale, Virginia and Mr. Samuel A. Braunstein 8302 Hayden Lane, Annandale, Virginia.

Mr. Hudock stated that their first question is whether or not they really need a Special Use Permit.

Mr. Kelley stated that they do need a Special Use Permit as any church or any addition to a church needs a Special Use Permit.

Mr. Hudock stated that this structures is 30' x 60'. It allows for up to ten classrooms depending on how the walls are set up. This will only be used on Sunday. It is a manufactured building that is put together on the site on a foundation. This will be removed when their buildings are completed. They have now almost completed phase 1 of the building program. When the church grows a little larger, the 2nd phase will be attached to the present church they are now building. At that time they will remove this building from the property. They are now on public sewer and water. They have submitted for the file a sketch of how the temporary structure will look. The dedication of the present building will be completed on April 29.

Mr. Baker asked how many children will be in this temporary structure.

Mr. Hudock stated that there would be about ninety children. These will be children of members of the church, therefore, they will not need additional parking.

072

Mr. Hudock stated that Phase 2 of the church will not be completed for about three years. The plans call for a new rectory, removing the existing house that is on the property. When this is expanded they realize they will have to come back before this Board.

Mr. Kelley stated that it looked as though this structure that they are now putting on the property that they call temporary will not be so temporary if it will be there for five years.

Mr. Kelley stated that the Board could grant this for three years, but he did not feel the Board could grant a temporary structure for a longer period of time.

Mr. Hudock stated that it is very difficult to estimate the length of time they will need this temporary structure.

Mr. Kelley asked them if they realized that they must park on the property of the church. There can be no parking on Ox Road.

Mr. Hudock stated that they do realize this. The plans for the church show parking on the church property

Mr. Barnes stated that they must see the Zoning Administrator and obtain a Non-Residential Use Permit prior to occupying any dwelling on the property.

Mr. Kelley stated that if parking is not confined to the property of the church, this Special Use Permit can be revoked.

Mr. Frank Cefola, 3416 Knox Road, Annandale, one of the nearby property owners, spoke to the Board on this case.

He stated that he represents Woodburn Citizens Association, an association of single family homes surrounding the area of the church site. There was a meeting of their association regarding this application and it was their general agreement not to oppose the construction of the temporary classroom as they understand it. Their main concern was that this temporary structure be compatible with the neighborhood. They would like to know the height of the structure. They would like to know whether or not they plan to plant shrubs and if there will be a crawl space underneath the structure.

Mr. Kelley stated that it will be under Site Plan control and they will have to put up some shrubbery.

Mr. Cefola stated that they also would like to know the length of time this would be allowed to stay on the property. He stated that sometimes temporary uses have gone on for years and years. They would like to request that a firm time be put on this use.

Mr. Baker stated that he would suggest two years.

Mr. Cefola stated that he also would like a definition of use.

Mr. Kelley stated that the applicant has stated that it will be a Sunday only use.

Mr. Cefola stated that the reason for this concern is because they knew the church had been approached by some people who are interested in renting the balance of the space during the week for a day care center.

Mr. Kelley stated that when they rent out the space for another use, they would have to come before this Board for another Special Use Permit for that purpose.

Mr. Kelley asked the applicant if they planned to building this building with a crawl space.

Mr. Cefola and the pastor of the church both stated that one would not be able to see any crawl space. They do plan to landscape and put shrubbery around the building. There will be no open space underneath the structure where a child could crawl under, if that is what Mr. Cefola is referring to.

073

In application No. S-44-73, application by Epiphany of Our Lord Byzantine Catholic Church, under Section 30-7.2.6.1.11, of the Zoning Ordinance, to permit construction of temporary classroom for Sunday morning religious instruction on property located at 3410 Woodburn Road, Woodburn Village, also known as tax map 59-1((1))21, Providence District, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 28th day of March, 1973.

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

1. That the owner of the subject property is Bishop of Passaic, N.J.
2. That the present zoning is RE-0.5.
3. That the area of the lot is 4.78 acres.
4. That Site Plan approval is required.
5. That compliance with all County codes is required.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES FOR NON-RESIDENTIAL USE PERMITS AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. Permit shall be for 3 years with the Zoning Administrator being empowered to grant two one-year extensions.
7. Hours of operation are for Sunday mornings.
8. Landscaping and screening will be required as per site plan control.

Mr. Baker Seconded the motion.

The motion passed 4 to 0.

Mr. Smith was absent.

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074

CATHOLIC WAR VETERANS
BAILEYS CROSSROADS LIONS CLUB & ST. ANTHONY POST #1792, app. under Section 30-7.2.6.1.4
of Ord. to permit carnival for more than two week period, N.W. corner Leesburg Pike and
South Jefferson Street (Korvett's Shopping Center) 62-1((1))16E, Mason Dist., (C-D),
S-36-73 OTH

Mr. Hores, 3324 Garland Drive, Falls Church, Virginia, represented the applicant before
the Board. He stated that he represents both organizations.

Notices to property owners were in order.

Mr. Hores stated that both these organizations are located within the confines of the
general Baileys Crossroads Area. Both use all the funds they realize to carry out
youth activities, etc. They are both non-profit organizations, therefore, they do not come
under the requirements of the State Corporation Commission. He stated that he had
submitted to the file a paper that states that they are a non-profit organization. He
stated that these organizations have been operating a carnival at this location for
several years. He stated that this carnival has ten rides and fifteen booths or concession
stands. They only have one generator. This generator is shut off at night when the
carnival is closed. The latest they have operated the generator is 11:00 P.M. on Friday
or Saturday evening. For the past three years, he stated, that they have had a carnival
at that location. There has also been other carnivals at this location. Two years ago
a permit was granted for two larger carnivals to operate in this area. This carnival
had twenty-five or more rides with fifty or more concession stands. In order to operate
this larger carnival, they had between five and six generators. They carried on
throughout the evening and throughout the night, therefore, they operated the generators
during the night. The droning noise from these generators is carried a great distance.
They now are told by the Zoning Administrator that no one can have a carnival at this
location this year, or any year in the future. They have received a letter from the
Manager of the Korvett Shopping Center giving them permission to have this carnival
here. They also have a statement that this will be the only permit granted at this
location this year. He stated that to his knowledge, there were no complaints when their
smaller carnival was in operation. Their group had nothing to do with the larger carnival.

Mr. Hores stated that this is their organizations' primary activity to raise funds. These
funds are used within the Baileys Crossroads area for youth activities, welfare work and
the like.

Mr. Hores stated that they comply with the Zoning regulations in that all of their booths
are manned by members of their organizations. They handle all of the money at all times
and they count out the money at the end of the night.

Mr. Hores stated that the Korvett Shopping Center has 1,790 parking spaces of which only
1,439 are needed. This is more than is needed for this small carnival. The area of
the carnival will be 200 x 200. This area is not roped off, he said in answer to Mr.
Barnes question, but it is set up in such a way that the booths encircle the area, so
no vehicles will be driving through. Their carnival will be located as far south as
is practical in contrast to the larger carnivals who have been operating on the north
side of the lot. Their hours would be from 7:00 P.M. until 11:00 P.M. at the extreme.
On Saturday and Sunday, they would be open in the afternoon. There will be no people
living in the trailers there. He stated that he knew one of the complaints is that there
were people living in the trailers during these larger carnivals.

There was no one present to speak in favor of this use other than Mr. Hores.

Several people spoke in opposition.

The first speaker was Mr. Frank Barnes, 7705 Falstaff Road in McLean, attorney representing
the opposition. He stated that he represents a number of homeowners in the adjacent area.
He stated that there are a number of things he would like to present to the Board. One is
a Petition that was filed last year opposing these carnivals, a letter from Mr. Barry,
Senior Zoning Inspector, another Petition containing signatures of 100 families.

Mr. Smith accepted these for the record.

Mr. Smith asked Mr. Covington for a brief statement of the facts relating to this case.

Mr. Covington stated that he wished to qualify his position. He stated that he is a member
of the Lions Club, but his position now is on behalf of the County and the citizens of
that area. The traffic in this area is extreme. The Zoning Office has had numerous
complaints in the past few years that these carnivals bothered them. They told the
citizens after the last carnival last year, that the Zoning Office would issue no more
permits for carnivals in this area. In addition, there is new construction in that area.
It was already a heavily congested area, now with the new construction that is going in,
it is getting much worse.

Col. Herman Beaty, retired officer for the Air Force for 80% disability, spoke before the Board. He stated that he lives at 1275 South Jefferson Street, directly across from Korvett's Shopping area in an apartment house there. He has lived there since 1968. He stated that the carnivals are a nuisance from the standpoint of loud noise, loud speakers, the generators that they operate not only from 7:00 P.M. until 11:00 P.M., but all night. The traffic is very extreme in that area. In addition this carnival causes pollution of the air from more traffic into the area and pollution in the way of trash. People live in the trailers that are parked there all the time. They urinate on the parking lot and in the lot that is across the street, they dump their sewerage from the trailers onto the lot there too that is adjacent to the parking lot. They have seen used Kotex dumped in that area. He stated that he did not feel a smaller carnival would alleviate all these problems. They were promised last year by the County officials that there would be no more carnivals, but here they are again this year. He stated that had he known that the County would not keep its word, his family would have applied for an apartment in a different area, but now it is too late. He stated that the Dittmar Company who owns the apartment complex sent around a notice which stated that they had noted that they had had an increase in the reports by tenants of vandalism and noise problems at Wildwood Towers whenever there was a carnival in progress on the lot at the Korvette Shopping Center. They advised the tenants that there was a notice posted on that property by Fairfax County with regard to a hearing scheduled for Wednesday, March 28th at 2:20 PM at the Massey Building pertaining to a use permit for a carnival to be held for a period of more than 2 weeks. They stated that the tenants as citizens may exercise any voice they see fit with the proper authorities regarding this.

Col. Beaty submitted this notice to the Board for the file.

Mr. Schloffer, 1148 S. Harrison Street, Arlington, Virginia (mailing address) in Fairfax County. He stated that they are concerned about all the noise that these carnivals make and about people climbing their fence that is on their property to get down to the carnival. They also object to the employees of the carnivals having beer parties in the middle of the night on the grassy slope nearby. A lot of damage has been done to their property and these things only go on when there is a carnival. One cannot live or sleep in peace when one of these carnivals is going on. They have lived on this property for about one and one-half years. He stated that when he purchased the house, he was not aware of these carnivals going on, otherwise, he would not have purchased the house.

Mr. Guy Brill, 1138 South Harrison Street, Fairfax County, spoke in opposition. He stated that he had lived at this location for fifteen years. When he moved there there were woods all around him. Irvin Payne owned all that property. He stated that he has several gripes about it. All the other people have said is the truth about the noise and the problems. He stated that he has to get up in the morning at 4:30 A.M. to go to work. He hauls gasoline for American Oil tank farm. Sometimes during these carnivals, he only gets from two to three hours of sleep and that isn't enough sleep to go out on the road and drive a dangerous truck like that, but he has no choice. That is his work. Behind his house there is a retaining wall which is 12' high and on top of that is an iron rail. This does not keep people from climbing over. They sit on top of that rail and go back and forth. This has pulled out about 1'. He stated that he does not know who is going to pay for fixing his fence that is right behind this wall, but he isn't. Also someone is going to get hurt and there will be a court suit. He stated that he has called the County and a Mr. Cooper came down and put a 2x4 with a piece of wire to block the south end off and the kids immediately broke that off and it hasn't been fixed yet. Some of the children actually jump off the wall down on the concrete. This carnival is a nuisance. He stated that he lived here before all this came along and he does not feel he should have to put up with it.

Mr. Runyon asked when these carnivals were being held on these lots when they were having all the trouble, where on the lot were they located.

Mr. Brill stated that they are usually up toward Jefferson Street. They have had problems with all the carnivals whether they are small or large. You can hear them from anyplace around there. The children go back and forth to both the small carnivals and large carnivals.

Alice Kaderland, 1075 South Jefferson Street, spoke in opposition. She stated that she wished to speak on that question of whether the small carnivals cause less problems. She stated that they have found that the sound does not sound nearly so loud when one is actually on the parking lot as it sounds when you get back into the subdivisions. It seems to be amplified for some reason. She cited an example. She stated that they too had been assured by the County of Fairfax in 1971 and in 1972 that there would be no more carnivals at this location. The small and large carnivals both cause problems.

Evelyn Williams, 1075 South Jefferson Street, spoke in opposition. She stated that she has lived there three years and she loves her home, but it is a fact that the carnivals do make a very loud noise. The noise is so loud in fact that they cannot sit outside on the balcony and they cannot open the door as it would interfere with the television. She stated that she is a disabled veteran and the Doctor says she must get

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eight hours of sleep per night, but when they do not shut the generator off until the early morning, no one can sleep.

Mrs. Runstel, 1137 S. Forest Street, spoke in opposition. She stated that she lives one and one-half blocks away from these other people who have spoken, but their property is on a piece of very high ground and they can hear the carnival and it doesn't matter whether it is a small carnival or large carnival, they can still hear those generators. Also carnivals are an attractive nuisance to the children. It is very difficult to keep the children at home when one of the carnivals is down there. The children slip away every chance they get.

The Board asked Mr. Covington how many shopping centers in the County there is where they have a similar type problem.

Mr. Covington stated that there is one other area in the County that the impact has disturbed the residents and the Zoning Office will not grant permits.

Mr. Runyon asked if there are other available sites where carnivals of this type could be held.

Mr. Covington stated that there are other available sites, but he did not know whether or not these organizations could make use of them.

In rebuttal, Mr. Hores, again spoke before the Board. He stated that contrary to the testimony of some of the opposition, their carnival only stays open until 11:00 P.M. He stated that he is positive of this as he controls that carnival. He stated that one Friday night, he closed the carnival at 11:00 P.M. even though there were about 100 people on the lot. As far as the oppositions statement that the noise is the same for the small and large carnivals, he would stated that he too has been down there for both type carnivals and there is a great deal of difference. They only have one ride where they use a loudspeaker. He stated that sometimes he wishes that the opposition was correct, but they only seem to get the people who would normally be at the shopping center anyway. This carnival is run by eight to ten people. These people all go home at night when the carnival shuts down. The carnival they plan this year would be further toward Leesburg Pike than it was last year. They are limited as to where they can raise funds. They are limited to the Bailey's Crossroads area. They cannot use the Wards Shopping Center.

Mr. Smith read the Petition from the opposition. There were several pages, one page had 18 signatures, the 2nd page had 25 signatures and the third page dated March of 1973 had about 50 names or more, the 4th page dated March, 1973 had fifteen names and the fifth page stating that they were residents of Arlington County and dated March, 1973, was signed by 35 to 40 people.

Catholic War Veterans
In application No. S-36-73, application by Baileys Crossroads Lions Club &/St. Anthony's Post # 1791 under Section 30-7.2.6.1.4, of the Zoning Ordinance, to permit carnival for more than two week period, on property located at N. W. corner Leesburg Pike and Jefferson St., also known as tax map 62-1((1))16E, Mason District, County of Fairfax, Mr. Barnes moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 28th day of March, 1973.

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

1. That the owner of the subject property is Irving and Clarence Payne.
2. That the present zoning is C-D.
3. That the area of the lot is 40,000 square feet.

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

1. That the applicant has not presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I districts as contained in Section 30-7.1.2 in the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr. Runyon seconded the motion.

The motion passed 4 to 0. Mr. Smith was not present.

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TENNIS WORLD, INC., S-43-72, to permit rigid structure for six enclosed tennis courts, located on Audubon Avenue (formerly Ladson Lane) adjacent to the Audubon Trailer Park, 101-2((1))14 (C-G), granted by the Board of Zoning Appeals on July 12, 1972.

Mr. Gilbert R. Knowlton, Zoning Administrator, came before the Board with questions relative to one of the conditions imposed on the applicant at the time of the granting of this permit.

Mr. Knowlton stated that Audubon Avenue is a public street, but where it ends it becomes a private street going back to the entrance of an apartment complex. The Staff had made a recommendation relative to dedication, however the fact that this is not a public street makes dedication awkward. In the motion it stated that:

6. The applicant shall dedicate 30' from centerline of the right-of-way for future road widening and construct road widening, curb and gutter, and sidewalk.

Actually, Mr. Knowlton, stated, this dedication will become a strip of County property which the County may have to maintain. He stated that he would like to ask the Board to do two things to the motion.

One, require that the applicant still secure the same amount of land into an easement for public access, but not dedicate and second that road construction shall be in accordance with the Site Plan Office.

Mr. Baker moved that the hearing on this case be reopened in order that the Board might change their motion.

Mr. Runyon seconded the motion.

The motion passed unanimously.

Mr. Baker moved that the Board accept Mr. Knowlton's suggestion above as a substitute to Condition No. 6 of the Resolution granting this permit.

Mr. Barnes seconded the motion and the motion passed unanimously with the members present. Mr. Smith was not present.

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CHRISTINE L. JURCA AND JOYCE B. KOVAL, S-15-72, Special Use Permit for Beauty Shop in home granted for 4212 Wadsworth Court, Fairmont Garden Apartments, Annandale District on March 15, 1972.

Mr. Smith read a letter from Mr. C. Douglas Adams, attorney for the applicants, which stated that Joyce B. Koval, one of the partners, has sold her interest in the business to her partner, Christine Lee Jurca, who will continue to operate the business under the same name at the same location.

Mr. Adams stated that it was his understanding that this will not require Mrs. Jurca to apply for a new Use Permit.

Mr. Baker moved that Joyce B. Koval be removed from the Special Use Permit.

Mr. Kelley seconded the motion. The motion passed unanimously with the members present.

Mr. Smith was not present.

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The meeting adjourned at 4:15 P.M.

By Jane C. Kelsey
Clerk


Daniel Smith, Chairman

Approved May 9, 1973
Date

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The Regular Meeting of the Board of Zoning Appeals Was Held on Wednesday, April 11, 1973, in the Board Room of the Massey Building. Present: Daniel Smith, Chairman; Loy Kelley, Vice-Chairman; Joseph Baker; George Barnes and Charles Runyon

The meeting was opened with a prayer by Mr. George Barnes.

DONALD L. BALLARD, app. under Sec. 30-6.6 of Ord. to permit lot subdivision with less frontage than allowed, 7115 Idylwood Road, 40-1((1))24F, Dranesville District, (RE-1), V-33-73

Mr. Donald Ballard represented himself before the Board. He gave his address as 2929 Marshall Street, Falls Church. He stated that he took title to this property on March 23, 1973, but they had been in the process of purchasing this property for quite some time, but one of the people, Mr. Wheelock, was out of town and could not sign the papers.

Notices to property owners were in order. The contiguous owners were Col. and Mrs. Reed, 7111 Idylwood Road, Falls Church and Mr. and Mrs. Jack C. Pleasant, 7127 Idylwood Road, Falls Church, Virginia.

Mr. Ballard stated that the property is presently zoned RE-1 and we have over two acres in the property. The reason why they cannot have the two lots is because of the requirement that they need 150' frontage on Idylwood Road. He stated that he would like to take 150' of the 195' that they have in frontage and use that for Lot LC-A and the 46' frontage that is left and use that to get to the back lot. They decided this would be better than rezoning the land. The property surrounding this property is R-12.5 and R-17, a much higher density than his property, but instead of trying to get more lots in that area, they only wish to get two. He stated that he owns no other property in the area except for his residence. Both lots more than meet the one acre requirement.

Mr. Smith questioned the dedication.

Mr. Runyon stated that dedication would be covered by the Site Plan Office. They have submitted a plan for subdivision approval. The road is 50' now from the center line and apparently this is all right. They have indicated a 100' right of way on Idylwood Road.

Mr. Smith asked if the plan was for an 80' road.

Mr. Runyon stated that the criteria now is for a 90' road.

There was no opposition to this application.

Mr. Smith stated that this is certainly an irregular piece of land and he does have more land than is required.

Mr. Smith read a letter from the Lemon Road Civic Association stating that they approved this variance.

In application No. V-33-73, application by Donald L. Ballard, under Section 30-6.6, of the Zoning Ordinance, to permit lot subdivision with less frontage than allowed, on property located at 7115 Idylwood Road, Dranesville District, also known as tax map 40-1((1))24F, County of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 11th day of April, 1973, and

WHEREAS, the Board of Zoning Appeals had made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 88,917 square feet.
4. That the Pro Rata Share for off-site drainage is required.

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

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary

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hardship that would deprive the user of the reasonable use of the land and/or buildings involved:

- (a) exceptionally irregular shape of the lot,
- (b) exceptional topographic problems of the land,
- (c) unusual condition of the location of existing buildings,

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, non-residential use permits and the like through the established procedures.

Mr. Barnes seconded the motion.
The motion passed 4 to 0. Mr. Runyon abstained as his former partner did the engineering on this case and his name appears on the plat.

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CARL M. JORDAN, app. under Section 30-6.6 of Ord. to permit construction of double garage and extend dining room closer to side property line than allowed by Ord., 6901 Valley Brook Drive, 60-2((30))65, Mason District (RE-0.5), V-34-73

Mr. Jordan represented himself before the Board.

Notices to property owners were in order. The Contiguous owners were Richard C. Griffith, 6905 Valley Brook Drive and Capt. and Mrs. Paul B. Tazo, 3446 Rose Lane.

Mr. Jordan showed a chart showing the topography of the land and the elevations of his property. He stated that approximately one-fifty of the lot area is covered by a drainage easement which covers a great deal of the flat land on the property. Approximately two-thirds of the property is steep. A variance was granted at the time this house was built and he stated that he believed the reason for the necessity for that variance was for the same reasons as he has now. His property is wedge shaped. They also have a problem with the driveway as it is very dangerous to back in and out.

There was no opposition to this use.

Mr. Smith asked Mr. Jordan if he was aware of the existing variance when he purchased the house.

Mr. Jordan stated that he was not aware that the builder had to have a variance when he purchased the house. He had to get a variance in order to build the house within 32.8' of the property line in 1955 when the house was built, but he didn't know this until he came in to get a permit to build his addition.

Mr. Jordan stated that the house is now 32.8' from the side property line and after his addition is finished, it will be 22' from the property line at the closest point.

In application No. V-34-73, application by Carl M. Jordan, under Section 30-6.6 of The Zoning Ordinance, to permit construction of double garage and extend dining room 22' from front line, on property located at 6901 Valley Brook Drive, also known as tax map 60-2((30))65, Mason District, County of Fairfax, Virginia, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby

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property owners, and a public hearing by the Board of Zoning Appeals held on the 11th day of April, 1973, and

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

1. That the owner of the subject property is Carl M. & Ellen E. Jordan.
2. That the present zoning is RE-0.5
3. That the area of the lot is 26,768 square feet.

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

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and buildings involved:

- (a) exceptional topographic problems of the land
- (b) unusual condition of the location of existing buildings.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, residential use permits and the like through the established procedures.

Mr. Baker seconded the motion.
The motion passed unanimously.

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CHARLES J. HUNTLEY & ASSOC. & FOSTER BROS., INC., app. under Sec. 30-6.5 of Ord. to permit garage to house to remain closer to side property line than allowed in Ordinance, 5412 Earps Corner Place, Middleridge Subdivision, 68-3((5))217 (R-12.5 Cluster) Springfield District, V-61-73 -- Out Of Turn Hearing

Mr. Runyon was excused to present this case as Mr. Huntley was ill today and Mr. Runyon was Mr. Huntley's former business partner and was familiar with this case.

Notices to property owners were in order. The contiguous owners were Charles Shumate and Lowell Jones.

Mr. Runyon stated that according to the Ordinance you are allowed to encroach 5' into a setback on a carport that is open. At the time this was computed, the firm of Huntley and Runyon was in operation. At that time the gentleman who was working on this particular case was under the impression that this was a home with a carport. As it turned out, a garage was ordered and planned for this house. This was not caught until the building was completed and a wall check was done. It was an error on the part of the firm of Huntley and Runyon, Engineers. Rather than make Foster Bros. tear the garage down off the house, they have applied for a variance under the mistake section of the ordinance.

Mr. Barnes stated that that particular lot is 16,000 square feet when most of the other lots are in the 13,000 square feet area.

Mr. Smith stated that it is also an irregular shaped lot.

Mr. Smith asked what the state of construction is at the present time.

Mr. Runyon stated that the house and garage are complete, but the contract purchasers are awaiting the outcome of this hearing. Settlement is contingent upon an approval of this variance.

There was no opposition.

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In application No. V-61-73, application by Charles J. Huntley & Associates and Foster Brothers, Inc., under Section 30-6.5 of the Zoning Ordinance, to permit garage to house to remain closer to side property line than allowed by the ordinance, on property located at 5412 Earps Corner Place, Middleridge subdivision, also known as tax map 68-3((5))217, Springfield District, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 11th day of April, 1973, and

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

1. That the owner of the subject property is Foster Brothers, Inc.
 2. That the present zoning is R-12.5 cluster.
 3. That the area of the lot is 16,718 square feet.
 4. That the minimum sideyard setback required by the Ordinance is 8 feet
- so applicants are requesting a variance of 1 foot to that requirement.

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

1. That the Board has found that non-compliance was the result of an error in the location of the building subsequent to the issuance of a building permit, and
2. That the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted.

Mr. Barnes seconded the motion

The motion passed 4 to 0.

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COVINGTON HOMES ASSOC., INC., app. under Section 30-7.2.6.1.1 of Ordinance to permit swimming pool, 9022 Arlington Blvd., 48-4((1))22A, Providence District (RTC-10) S-35-73

Mr. Donald C. Stevens, attorney for the applicant, P.O. Box 547, Fairfax City, represented them before the Board.

Notices to property owners were in order. Mr. Stevens stated that there was actually only one contiguous property owner, Lot 37. This is owned by Walton C. Thompson and Mary L. Curtis.

Mr. Stevens stated that the next nearest property owner is on Lot 20 by the name of Putnam. That is immediately across the street.

Mr. Stevens stated that Covington Homes community will have 416 townhouse units. This proposed recreational facility is one of the two that is proposed for this development. The community building on this site will be the principal community building. There will

be no restriction imposed stating that these people have to go to either one or the other pool. The Association may later wish to impose some restriction as to this.

Mr. Smith asked if this permit they were requesting today was only for one pool.

Mr. Stevens stated that it was. He indicated on the map where the other pool would be located. He stated that Section One is being constructed at present and the other pool would be over in the other Section.

He submitted a colored rendering to show how the pool relates to the townhouses surrounding it. The pool is in the middle of the townhouses. He stated that he wished to comment on several of the points that the Staff has raised.

1. The principal point that was discussed with the Staff is that there are only four parking spaces. There is room to provide a lot more parking. He stated that they are asking the Board to consider that this pool is being developed in the middle of this area to enable them to preserve the green area as it will be within easy walking distance. If parking spaces are provided, even the people who live within a couple of blocks might tend to get in their automobile and ride, but if there are no parking spaces, they will have to walk. They are trying to encourage walking. This is not a single family subdivision. This also makes it safer for the kids that ride their bikes to the pool.

Mr. Smith stated that he would be in favor of this as long as this pool does not have swim metes where they invite other pools to participate.

Mr. Stevens stated that due to the configuration of this pool, swim metes would not be possible.

Mr. Barnes asked about a space where emergency vehicles could have easy access to the pool. The service trucks also will need to get to the pool.

Mr. Stevens stated that this pool is very near the street and the men from the emergency vehicle would not take the patient to the truck, but would take the respirator to the pool side where they could use it on the patient. These respirators can be hand carried. The chlorine trucks have hoses and they pump the chlorine from the trucks to the pool area by hoses.

Mr. Smith stated that in the past, the Board has required a space where the emergency vehicle can get into the pool area.

Mr. Runyon stated that he felt it would be sufficient if the walkway that is shown was widened a little bit. He stated that it would only be about ten paces from the pool to the street.

Mr. Smith asked if the Health Department had approved this plan.

Mr. Stevens stated that they had not approved it, but he knew of quite a few pools in the County that are licensed that do not have emergency access, but they will put it in if it is a requirement. He stated that if they do this, they are talking about less landscaping and more lawn. In addition, there is another control problem as there will be another gate.

Mr. Smith asked the number of bike racks.

Mr. Stevens stated that there are two racks proposed with 25 spaces each.

Mr. Smith stated that he felt there should be 100 spaces, since they were not going to have parking spaces.

They then discussed at length the number of people who probably would be using the pool.

Mr. Kelley stated that he did not feel this pool is large enough for 208 family memberships.

Mr. Stevens stated that he did not have the ordinance relating to swimming pools.

Mr. Smith stated that this should be cleared up before this Special Use Permit is granted.

Mr. Stevens asked the Board not to defer this for more than one week.

Mr. Kelley asked Mr. Stevens if he had read the comments from Preliminary Engineering.

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In application No. V-37-73, application by Combined Properties Corp. and Chantilly Plaza, Inc. under Section 30-16.8.3 of the Zoning Ordinance, to permit signs to be erected on separate walls in front of shopping center, on property located at S.W. corner of Galesbury Lane and Route #50, also known as tax map 44-2((1))pt. parcel 9, Centreville District, County of Fairfax, Virginia, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and,

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 11th day of April, 1973, and

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

- 1. That the owner of the subject property is the applicant.
- 2. That the present zoning is C-D.
- 3. That the area of the lot is 8.265 acres.

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

- 1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
 - (a) unusual design of existing buildings.

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

- 1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to otherland or to other structures on the same land.
- 2. That the signs shall not exceed the allowable space allotted said shopping center as set forth in the County Sign Ordinance.
- 3. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, non-residential use permits and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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TYSONS-BRIAR, INC., app. under Section 30-7.2.6.1.1 of Ord. to permit lighting of two of five existing tennis courts, 9117 Westerholme Way, 28-4((1))45A, Centreville District, (RE-1), S-38-73

Mr. Myers, President of the Tysons-Briar, Inc. Association, 1638 Irwin Street, Vienna, Virginia, testified before the Board.

Notices to property owners were in order. The contiguous owners were Jean M. Becker, and William B. Becker, 1756 Creek Crossing Road, Vienna, Virginia and Hobart McDowell, 9129 Old Court House Road.

Mr. Myers stated that this association has been in operation for 6 years. They have classified the tennis courts as 1, 2, 3, 4 and 5 and they would like to light no. 2 and 3. They have 5.69 acres of ground and they wish to light the two center courts. These courts abut the wooded areas. Since the plans were submitted for the file, a new scheme

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are nine stores in the interior court of the mall. This court cannot be seen from any of the roads or from any part of the shopping center itself. They are requesting that this Board grant in accordance with Section 30-16.8. of the Ordinance. He read this Section of the Ordinance. He stated that they are not requesting a larger amount of sign coverage. They do not expect to use a greater amount of this outside wall for signs, than could be used inside on the building. They feel it will be less than one-half to one. They are not asking for an exception to that. They would like to put signs for the interior stores on the three outside walls. These walls are not attached to the building in its entirety, but they are constructed to hide the air conditioning units of the buildings. The wall is an integral part of the mall and is used for decoration purposes.

Mr. Barnes stated that he had been by this location and one could hardly see the stores from Route 50. He stated that he wondered why they built it so far back.

Mr. Fagelson stated that had they had a choice they would not have set the ^{shopping} center so far back.

Mr. Smith stated that this is actually not a request for a variance from the sign ordinance, it is just a relocation of the signs.

Mr. Harvey Mitchell stated that he felt this is for the relocation of the sign as the sign ordinance recognizes that it may be located anywhere on the surface of the building and may project therefrom not more than 18". This is the specific requirement that the applicant is appealing for a variance.

Mr. Smith stated that the sign location should be shown on the plats.

Mr. Runyon agreed. He stated that they should show the location of the wall on the plats.

Mr. Smith stated that this should also be under Section 30-16.8.3 of the Ordinance rather than 30-6.6. The other Board members agreed. Mr. Fagelson requested the application be changed accordingly.

Mr. Smith also asked if Combined Properties Corp. have a nominee corporation in this case.

Mr. Fagelson stated that he did not know, but he would find out.

The hearing recessed until Mr. Fagelson could take the plats to the Engineer and have him revise them to show the location of the wall that the signs would be on and bring them back later in the day.

The Board reconvened this hearing at 1:00 P.M.

Mr. Fagelson submitted the revised plats to the Board.

Mr. Fagelson stated that Chantilly Plaza, Inc. is a wholly owned subsidiary of Combined Properties, Corp. and Chantilly Plaza, Inc. should be included in the application as a co-applicant.

Mr. Runyon asked if this wall sits 5' from the building if this makes this a free standing sign.

Mr. Smith stated that this is actually a wall to hide the air conditioning equipment and is the entrance to the mall. It is a part of the building as a screen.

Mr. Baker stated that this wall was not built with the purpose of advertising, but to hide and screen the air conditioning equipment and hide the doors. It makes it more aesthetic.

Mr. Smith asked Mr. Mitchell if he would comment on this.

Mr. Mitchell stated that he would not attempt to interpret the ordinance, but he knew that Mr. Covington, the Assistant Zoning Administrator, had mentioned when he was preparing the report that this was something that was within the power of the Board to grant and he felt it was a necessary part of the building.

Mr. Smith asked Mr. Fagelson if this would be similar to the Yorktown Shopping Center.

Mr. Fagelson stated that it would be.

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In application No. V-37-73, application by Combined Properties Corp. and Chantilly Plaza, Inc. under Section 30-16.8.3 of the Zoning Ordinance, to permit signs to be erected on separate walls in front of shopping center, on property located at S.W. corner of Galesbury Lane and Route #50, also known as tax map 44-2(1)pt. parcel 9, Centreville District, County of Fairfax, Virginia, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and,

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 11th day of April, 1973, and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is C-D.
3. That the area of the lot is 8.265 acres.

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

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:

- (a) unusual design of existing buildings.

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to otherland or to other structures on the same land.
2. That the signs shall not exceed the allowable space allotted said shopping center as set forth in the County Sign Ordinance.
3. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, non-residential use permits and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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TYSONS-BRIAR, INC., app. under Section 30-7.2.6.1.1 of Ord. to permit lighting of two of five existing tennis courts, 9117 Westerholme Way, 28-4(1)45A, Centreville District, (RE-1), S-38-73

Mr. Myers, President of the Tysons-Briar, Inc. Association, 1638 Irwin Street, Vienna, Virginia, testified before the Board.

Notices to property owners were in order. The contiguous owners were Jean M. Becker, and William B. Becker, 1756 Creek Crossing Road, Vienna, Virginia and Hobart McDowell, 9129 Old Court House Road.

Mr. Myers stated that this association has been in operation for 6 years. They have classified the tennis courts as 1, 2, 3, 4 and 5 and they would like to light no. 2 and 3. They have 5.69 acres of ground and they wish to light the two center courts. These courts abut the wooded areas. Since the plans were submitted for the file, a new scheme

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has come on the market for the lighting of tennis courts. It has florescent tubes. It is much more advanced. The cost is much greater to install, however, but they are willing to do this. He submitted a brochure of these lights to the Board. They stated that these lights would be placed on each side and in the middle of the courts.

Mr. Runyon stated that the Board would need up-to-date plans showing the type of lights that they plan to use if this is granted.

Mr. Smith stated that they would have to change the plats before the decision takes place.

Mr. Myers stated that there are no other changes to take place.

He submitted a letter from William B. Becker, one of the contiguous property owners stating that they own one of the larger properties immediately adjoining the Cardinal Hill Swim and Racquet Club, 1756 Creek Crossing Road, and they have no objection to whatever change in use is required in order to permit the Club to install lights on tennis courts number 2 and 3, or should they desire to do so on all 5 tennis courts of that Club and they endorse the idea.

Mr. Smith accepted the letter for the record.

Mr. Kelley asked if they have loudspeakers in the tennis court area.

Mr. Myers stated that they have loudspeakers, but only for emergency use. The public address system that they have now is for around the swimming facility to make announcements as to clearing of the pool and breaks and to announce actual emergencies. This would not go beyond the area of the swimming facility itself.

Mr. Kelley asked the Board if they felt this would be a good time to question them as to whether or not they have after hours parties.

Mr. Myers stated that they are requesting that this lighted tennis facility be open until 10:30 P.M. and the pool hours to remain the same. They have had only a few after hours parties and they have been limited to 4 per year.

Mr. Smith stated that they have to have special permission from the Zoning Administrator in order to have an after hours party and if there are any complaints on these, they would not be allowed to have any more parties for the remainder of the season.

Mr. Smith asked Mr. Mitchell if there had been any complaints about this pool.

Mr. Mitchell stated that there had been no complaints to his knowledge.

Mrs. Betsy Callahan, 501 Creek Crossing Road, Vienna, Virginia, stated that she was speaking for about 20 other ladies who were taking their children to the doctor, or something like that. They want to have lights because they feel guilty that they can play all day and the men have to work all day and by the time they get home from work, the courts are closed.

Mr. Eugene Stubbs, 1738 Kilarney Court, Vienna, spoke in opposition to this use.

Mr. Stubbs stated that he is not in the immediate area of the tennis courts, but he is close to it. He is on Lot 21 on the map. It would be approximately 500' from the courts. It is a high point in the community. He stated that he wished to address the Board with two faces, one as the President of the community association and the other as a property owner in the area. He spoke as President of the community association first. He stated that at the last regular meeting in February their association took no position one way or the other as to the lighting with the exception that they would agree to support those members whose property immediately abuts the property in question.

As a property owner he stated that he would like to speak to Mrs. Callahan's remarks about the husbands who wished to play tennis after work. Some men would like to come home from work and relax rather than have the additional traffic in and out of this facility. The other objection is that of the intensity of the lights on the courts. Since his property is on a high point in the area, the trees and shrubbery surrounding the courts will not shield the lights. He brought up the question as to whether or not these new lights had met the approval of the majority of the Club members.

Mr. Myers stated that neither plan had been approved by the majority of the Club members, but he has been charged with the responsibility of going ahead with lights, period.

Mr. Stubbs stated that this new scheme would be an improvement over the old system.

Mr. Stubbs stated that the only access is Westerholm Way which runs through the center of the subdivision and they are concerned about the young children in the neighborhood and the hazard this additional traffic will cause. The additional hours are an objection to some of the people adjacent to this facility.

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TYSONS BRIAR (continued)

Mr. Stubbs stated that they were also concerned about the increase in the time these courts would be in use. They knew that the pool opens at 9:00 and closes at 9:00 P.M. and they are very concerned that this is planned to be open until 10:30 P.M.

Mr. Runyon asked if they would still object if they put a limitation of 10:00 P.M. on the use.

Mr. Stubbs stated that they would not object as strongly as long as the general intensity of the lights do not project into the neighbors windows.

Leah Nash, 9114 Westerholm Way, adjacent to the Racquet Club spoke in opposition. She stated that they had investigated lights on other tennis courts and they have come to the conclusion that their house is placed in such a manner that regardless of the placement of the lights on the courts, there is no way they can keep the lights from penetrating into their home, primarily their family room and two bedrooms.

Mr. Smith asked if she realized that lights could be kept on the property by the direction of those lights and shielding them in a proper manner.

Mrs. Nash stated that they are opposed to these lights as they feel this will not be the case. They have no complaints in the summer session, however in the off season the association has failed to maintain surveillance and young people can come and go as they like. They have had real problems with this and the police has been called numerous times. There is no fence between the association's property and their property. Therefore, there is no way to prevent the entrance of automobiles to the parking lot. At one time they did put up a chain across the entrance, but it became broken or stolen and now there is nothing. Then they had a guard come down with a dog to guard the place. This didn't last too long.

Mr. Smith asked if she would still object if they limit the hours to 10:00 P.M.
She stated that she would.

Mrs. Weitz, 9115 Westerhold Way, Lot 27, directly across the street from the association spoke in opposition to the use. She stated that they are concerned about the lights and the additional traffic this use will generate. In the summer, they are unable to get any peace and quiet until after the last cars leave at 9:00 P.M., now they will have to wait until after 10:30 P.M. before there is any quiet in the neighborhood.

Another lady spoke in objection who lives at 9111 Westerholm Way. She stated that they live two houses up from the Weitz's on the same side of the street. Her main objection from their location would be the traffic. She also complained about the noise and disturbance from the teenagers after hours.

Mr. Kelley asked if they had complained previously to the Zoning Administrator.
She stated that they had not. They did complain to the association's directors.

Mr. Kelley stated that they should have complained to the Zoning Administrator as there is no way to know the problems unless someone complains about them.

Mr. Myers in rebuttal stated that they investigated the possibility of putting a fence up, but the Fire Department did not want them to.

Mr. Smith stated that there is no law against putting up a fence or a gate and if this Board directs them to do so, they will have to do it.

He stated that he felt the people who have lived next to the pool area and has had these problems are being very reasonable and apparently the association has tried to remedy the situation, but still nothing has been accomplished.

Mr. Myers stated that they hired the guard and dog because of vandalism on the property.

The Board recessed the hearing and told the applicant that if they could get new plats showing the lighting system that they now plan to use the Board will take this up later today.

Mr. Molther, 908 Country Club Drive, Vienna, was also present to represent the Association.

This case came back before the Board at 12:00 Noon. The new plats were submitted to the Board showing the new lighting scheme and how the lights would be place on the courts.

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In application No. S-38-73, application by Tysons - Briar, Inc. trading as Cardinal Hill Swimming and Racquet Club, under Sec. 30-7.2.6.1.1, of the Zoning Ordinance, to permit lighting of two (2) of five (5) tennis courts, on property located at 9117 Westerholme Way, Centreville District, Also known as tax map 28-4(1)45A, County of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 11th day of April, 1973.

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 5.696 acres
4. That Site Plan Approval is required.
5. That compliance with all County Codes is required.
6. That the Club is operating under a Special Use Permit granted December 5, 1967, and amended in 1971 to allow construction of a tennis shelter on the property.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The hours of operation for the tennis courts shall be 9 A.M. until 10 P.M.
7. All loud speakers, Public address systems, lights and noise shall be directed to tennis and pool area and confined to said site.
8. All other conditions, provisions and/or restrictions set forth in existing special use permit shall remain in force.

Mr. Barnes seconded the motion.

The motion passed unanimously

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JAMES A. BROUGH, app. under Sec. 30-7.2.8.1.1 of Ord. to permit continuation of kennel for twenty (20) dogs, 10616 Hunter Station Road, 27-1((1))3, Centreville District (RE-1), S-39-73

Mr. James Brough, 10616 Hunter Station Road, represented himself before the Board.

He stated that his wife has been operating this kennel for almost thirteen years now under a Special Use Permit granted by this Board. It is a question of extending the present permit now that he would like the Board to decide favorably on.

Notices to the property owners were in order. The contiguous owners were Mrs. D. W. Markham, 10711 Hunter Station Road, Vienna and Gregory Barnhart, 10600 Hunter Station Road, Vienna, Virginia.

Mr. Smith asked if he intended to sell any of the land.

Mr. Brough stated that he did not.

There were letters in the file from Mr. Barry, Zoning Inspector, who stated that this kennel was well run and in good order.

In application No. S-39-73, application by James A. Brough, under Section 30-7.2.8.1.1 of the Zoning Ordinance to permit continuation of kennel for 20 dogs, on property located at 10616 Hunter Station Road, Centreville District, also known as tax map 27-1((1))3, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 11th day of April, 1973.

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 11.46614 acres.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments

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of the County of Fairfax during the hours of operation of the permitted use.
6. Permit is for 3 years from March 14, 1973 with the Zoning Administrator being empowered to extend for 3 1-year periods.

Mr. Baker seconded the motion.

The motion passed unanimously.

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SONDERLING BROADCASTING CORP., app. under Sec. 30-7.2.2.1.3 of Ord. to permit an erection of a one story building, addition to existing radio transmitter site facility, 7330 Ronald Street, Tower Heights, 50-1((12))2, Providence District (R-10), S-146-72 (Deferred from January 24, 1973 for maximum of 60 days for new plats and in order for applicant to repair tower -- Deferred again from 3-14-73 as applicant was not present when case was called.)

Mr. Howard Silberberg, North Kenwood Street, Arlington, attorney for the applicant, represented the applicant before the Board.

He submitted to the Board a Certificate from Matthew J. Vlissides, P.E., Structural Consultant, dated March 21, 1973 which stated that in accordance with the statement of performance issued by Cosmos Engineers, Inc., and periodic visual inspections, it is his understanding that all the above-mentioned improvements have been properly effected. He stated that the certificate does not cover the following: 1. Obstruction Lighting System; 2. Lightning Protection System and 3. Obstruction Painting.

Mr. Silberberg then submitted to the Board booklets for their proposal of the building that they wish to put on the property. He stated that they had talked with all the contiguous and nearby neighbors in the area concerning the building they would like to build and they (the neighbors) have agreed that they oppose the plan that the BZA wishes the applicant to build, the one that is the exact size of the existing building, but they like the proposed WMOD's plan. He submitted artist's sketches of the way each building will look when completed.

Mr. Allen Hammer, Executive Vice President, 85 Elliott Lane, Stamford, Connecticut, also spoke to the Board on this new proposal.

The Petition from the nearby property owners was submitted to the Board for the record. It was signed by fifteen different families.

Mr. Barnes stated that he felt WMOD's proposed plan is far better than the other one. He asked if it would be landscaped just as it looks in the sketch.

Mr. Silberberg answered that it would be. He stated that they plan to make some of the open space available to the neighbors also.

Mr. Smith told him that under a Special Use Permit, they have to be careful what they do.

Mr. Silberberg stated that he felt the property is more than adequate to handle this size building.

Mr. Smith stated that this is under an existing Special Use Permit. This is just for additional construction here in the form of a building. All the small buildings that are on the property now will be removed at the time of the construction of the new building, or after the new building is construction, at least within 30 days thereafter. He asked that this be confirmed by the applicant.

Mr. Silberberg stated that they had hoped to use one of the smaller building for garden supplies.

Mr. Smith stated that that would not be permitted if the Board grants permission to build the larger building.

Mr. Smith stated that it should be noted that the reduction in the amount of property that the tower had originally took place prior to this present applicant acquiring the property. Therefore, this is a nonconforming tower, but this tower has been inspected and is now in a safe condition. All the problems that existed at the time the applicant came in for this additional building have been corrected.

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In application No. 2-146-72, application by Sonderling Broadcasting Corp. under Section 30-7.2.2.1.3 of the Zoning Ordinance, to permit an erection of a one-story building, addition to existing facilities, on property located at 7330 Ronald Street, Tower Heights, Providence District, also known as tax map 50-1((12))2, County of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals on the 11th day of April, 1973.

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-10.
3. That the area of the lot is 14,912 square feet.
4. That compliance with site plan ordinance is required.
5. That compliance with County Codes is required.
6. The original use permit for the existing radio facility was granted in 1947, and apparently the tower antedates the subdivision which surrounds the site.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The Applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMITS AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping, screening and/or fencing shall be as approved by the Director of County Development.
7. The construction shall be of brick construction compatible with the surrounding property.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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GREENBROOK CREATIVE DAY SCHOOL, app. under Section 30-7.2.6.1.3 of Ord. to permit nursery school, 12410 Lee Jackson Highway, 45-4((1))9, Centreville District (RE-1) 60 students, 9:00 A.M. to 12:00 Noon, S-17-73 (Deferred from March 14 for decision only to allow applicant to submit.

The applicant had submitted a lease for the file.

In application No. S-17-73, application by Greenbrook Creative Day School under Sec. 30-7.2.6.1.3 of the Zoning Ordinance, to permit nursery school, 60 students, on property located at 12410 Lee Jackson Hwy., also known as tax map 45-4((1))9, Centreville District, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 11th day of April, 1973.

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

- 1. That the owner of the subject property is Presbyterian Church.
- 2. That the present zoning is RE-1.
- 3. That the area of the lot is 6.5955 acres.
- 4. That compliance with all County and State Codes is required.
- 5. That Site Plan approval is required.
- 6. That the applicant has been operating a nursery school for a maximum of 40 children in Christ Presbyterian Church, located on the north side of Lee Jackson Hwy., Rt. #50, about one-half mile west of its intersection with West Ox Road, in Centreville District, under Special Use Permit granted July 8, 1969, S-134-69.

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

- 1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
- 2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
- 3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
- 4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMITS AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
- 5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
- 6. The maximum number of children shall be 60, age 3 to 5 years.
- 7. The hours of operation shall be 8:00 A.M. to 1:00 P.M., Monday through Friday, during the school months.
- 8. The operation shall be subject to compliance with the inspection report, the requirements of the Fairfax County Health Department, the State Department of Welfare and Institutions, and the obtaining of a Non-Residential Use Permit.
- 9. All buses and/or vehicles transporting students shall comply with State and Fairfax County School Board standards in color and light requirements.
- 10. No parking spaces are to be used for this special use permit use that are within 25 feet of the property line.
- 11. Landscaping, screening and/or fencing shall be as approved by the Director of County Development.

This permit is granted for a period of five (5) years.

Mr. Baker seconded the motion and the motion passed unanimously.

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Mr. Baker seconded the motion.

The motion passed unanimously.

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SCHOOL FOR CONTEMPORARY EDUCATION, app. under Section 30-7.2.6.1.3 of Ord. to permit preschool, 8120 Leesburg Pike, 39-2((1))1A, Dranesville District (RE-1), S-23-73 (Deferred from March 14, 1973, to allow applicant to properly notify property owners in accordance with the Code)

Dr. Williams, testified before the Board.

Notices to property owners were in order.

Dr. Williams stated that the contract to lease runs through December of this year when they anticipate they will be in the building on Kirby Road. This location in the church is just a temporary location.

He stated that he had submitted a written statement to the Board at the initial meeting giving the detailed information about this use. To summarize that statement, the School for Contemporary Education is a private, non-profit, non-stock organization incorporated in the State of Virginia for the purposes of providing education and treatment for children between the ages of 2 and 20 years who require special attention. In addition, SCE is an affiliate of George Washington University. SCE recently (November 15 and 22, 1972) appeared before the Board and was awarded a special use permit for the purpose of constructing a building at 1700 Kirby Road, and they are now in the blue printing stage with the expectation of occupancy of the new building no later than January, 1974. Most of the units of the school currently reside in various churches in the area. The present request is for the use of an additional church on a temporary basis until such time that their own building is completed. This church will house the Preschool.

Dr. Williams stated that the children would be enrolled in the project no longer than 3 hours per day, 5 days per week, with no hot meals being served. The project would use only the first floor of the education plant. The staff of the project includes 5 administrative persons and a teaching staff of 6. This project is intended to serve 12 children during its first year and a maximum of 25 beginning in September, 1973. The school is asking for use for a maximum of 50 children.

There was no opposition.

In application No. S-23-73, application by School for Contemporary Education under Section 30-7.2.6.1.3 of the Zoning Ordinance, to permit preschool on property located at 8120 Leesburg Pike, also known as tax map 39-2((1))1A, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 11th day of April, 1973.

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

1. That the owner of the subject property is Providence Baptist Church.
2. That the present zoning is RE-1.
3. That the area of the lot is 2.7159 acres.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, change in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

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School for Contemporary Education (continued)

4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMITS AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the NON-RESIDENTIAL USE PERMIT on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. The maximum number of children shall be 50, ages from 2 to 5 years.

7. The hours of operation shall be 9 A.M. to 4 P.M., 5 days per week.

8. Screening, landscaping, planting, and parking shall be as approved by the Department of County Development.

9. This permit shall run until December 31, 1973, with the Zoning Administrator being empowered to grant a 3 months extension if sufficient lease papers are presented.

Mr. Baker seconded the motion.

The motion passed unanimously.

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CROWN CENTRAL PETROLEUM (

CROWN CENTRAL PETROLEUM CORP., app. under Sec. 30-7.2.10.3.1 of Ord. to permit gas station and Sec. 30-7.2.10.3.7, to permit auto laundry (no repairs) 5500 Franconia Road, N.W. intersection of Franconia Road and Old Rolling Road, 81-4((1)) 71C, Lee District (C-D), S-31-73 (Deferred from March 28, 1973 in order for Mr. Joseph Alexander to appear and speak on behalf of the citizens in that area)

Mr. Runyon stated that he would refrain from participation in this because his firm prepared the engineering for this project.

Mr. Charles Shumate, attorney for the applicant, 10523 Main Street, Fairfax, testified before the Board on behalf of the applicant.

He had submitted proper notices at the previous hearing.

He submitted before the Board a series of maps that outline Franconia Road in the area in question. He stated that he wished to restate that there will be no repair in this station.

Mr. Smith stated that first he would like to clarify a question that has come up. There is a letter in the file from Mr. James Burkhardt, Trustee, stating that it had come to his attention that Gulf Oil Co. has submitted an application for site plan approval and a special use permit for a gasoline station on Franconia Road near Old Rolling Road. This site plan includes approximately 20,000 square feet of land titled in his name as Trustee. He stated that Gulf Oil Co. has no contract with him and has submitted the application without his approval or authority, therefore, he requested

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that no consideration be given Gulf Oil Co. involving his property.

Mr. Shumate explained that at the Planning Commission hearing a representative of Gulf Oil appeared in opposition to this particular proposal. It has come to their attention that Gulf desires to extend their use and it has also come to their attention that there is a possibility that a site plan has been submitted. This letter is to state that if there is such a case, it is without the authority of the proper owners.

Mr. Smith asked if the Gulf Oil Representative is present today.

No one in the room answered.

Mr. Shumate stated that theirs is not a routine station as this is a gasoline dispensing station but no repairs are conducted on the premises, there will be no changing of tires and no storage facilities. The gasoline is sold at a reasonable price, 2 to 5 cents below other gas stations in the area (per gallon). There will be no free car washes. It is a coin operated car wash which will cost \$1.00 regardless of the amount of gasoline one buys. This station will create no noise, air or visual pollution.

He stated that the Staff Report ignores the facts.

Mr. Smith then read the Planning Commission report and the Staff Report.

The Planning Commission report stated:

"The Fairfax County Planning Commission, under provisions of Section 30-6.13 of the County Code, unanimously recommended to the Board of Zoning Appeals that the above subject application be denied in accordance with the recommendations of the staff report attached hereto.

The Commission further felt that this total tract should not be developed in a piecemeal manner as proposed as it would effectively hinder the unified development of the remainder of the C-D acreage."

the Staff Comments stated:

"This is an application for a Special Use Permit for a filling station and automatic car wash to be located at the northwest corner of Franconia Road and Old Rolling Road, in the general vicinity of Edison High School in Lee District.

The subject site is a relatively small corner portion of an area of approximately 7 1/2 acres which has been zoned for a number of years for a designed shopping center. Existing commercial activities in this C-D area include two service stations and a dry cleaning business, located side by side in a strip fronting on Franconia Road. The back portion of the C-D area is undeveloped.

Aside from its feelings that a third gasoline station in this C-D area would constitute a serious overload of that type of use in this general vicinity and, more particularly, for any designed shopping center which might develop on the overall 7 1/2 acres, the Staff feels that the proposed development of the corner lot would leave only pipestem access to the undeveloped rear portion of the C-D area, effectively precluding reasonable commercial development there."

Mr. Shumate stated that this is not the case and stepped to the series of maps in front of the Board to show that in the area of 5 and 1/4 miles from Franconia Road to its intersection with Telegraph Road there were 7 gas stations. He pointed to the various points on the maps where the stations were located. Nowhere in this area do you have an automatic car wash. Therefore, he stated that this is not an impacted area. He stated that he feels it is better to cluster the stations together rather than spreading them out all over Franconia Road. This way people would have a selection. He submitted that the BEA back in 1965 did not feel there were a sufficient number of stations, as they granted a Special Use Permit to the American Oil Station across the street. It has been twice renewed for one year periods, but it has now expired. They had storm sewer problems which have now been corrected. Therefore, that eliminates one gasoline station. Finally, he stated that if the Board of Supervisors felt that this is an impacted area, then they would have made this a highway corridor.

Mr. Shumate stated that further the Staff has based its recommendation of denial on the fact that they desire to see this property developed as a C-D shopping center. He submitted to the Board that the remainder of this property is insufficient to be developed. The Staff ignored the fact that there is a skating rink access here. The skating rink is in the back of the property.

Mr. Smith asked if they planned to develop the remaining two acres.

Mr. Lee Opie, representing the owners of this property, spoke before the Board to answer this question.

Mr. Opie, stated that this 2.5 acres includes the pipestem portion that leads back to the skating rink. It is used as access. This land also abuts residential land, therefore, by the time one setbacks the required amount, there is very little land left.

Mr. Smith asked how long the skating rink has been there.

Mr. Opie stated that it had been there for about five months.

Mr. Shumate stated that the two gasoline stations that now exist between Telegraph Road and what is commonly referred to as "Alexander's Corner", a distance of 3.8 miles are the Gulf station and Exxon station. The Exxon station is only 150' in the front by 125 depth. When the road is widened, that station will be wiped out.

Mr. Shumate stated that Wards' Corner has been in continuous commercial use since 1936. The subject property was in use at that time as a combination general store and had gas pumps. In 1960, it was destroyed by fire.

He submitted photographs of the site taken from across the street. He stated that this area has been used as a fruit stand in the summer months in the past.

He stated that the applicant has no other representative sites in the area as other oil companies do and as he stated before, this station is unlike any station in that area.

In summary, he stated that he felt the proposed use has physical and functional characteristics far more desirable than certain uses permitted as a matter of right in a C-D district. The proposed use is not inherently dangerous, is not a nuisance per se, and does not "generate" traffic but rather receives secondary stoppers, and is aesthetically pleasing. Moreover, he stated, this use would offer citizens a beneficial and much needed service at a reduced cost.

He then submitted the architectural rendering of the proposed use.

Mr. Kelley stated that in looking at the plats, he feels the stacking lane are not adequate.

Mr. Dwight McCurdy, Engineer for Crown, 1 North Charles Street, Baltimore, Maryland, spoke before the Board regarding the stacking lanes. He stated that it has been developed by their consultant and he stated, their consultant did not have sufficient knowledge of the Crown operation at the time he drew the plans. He stated that they have since prepared a plan that is more applicable to their typical car wash operation. He submitted that plan to the Board.

Mr. Kelley stated that he felt the traffic was worse at this place than any other along this road. He personally drove down there and tried to park in this area.

Mr. Shumate stated that it would only take two minutes at the most to go through this car wash. There is one vacuum station and that is out of the traffic pattern. The gasoline dispensing units are left free for the sale of gas only.

Mr. Kelley stated that it is surprising to him that the owner of the property did not work out some overall site plan before all this went in. He asked if the water is recycled.

Mr. Shumate stated that none of the water would be recycled. This system is available, but they feel it is not as efficient.

Mr. Joseph Alexander, 6107 Craft Road in Fairfax, spoke before the Board. He stated that he is the Fairfax County Supervisor for the Lee District and he is present before this Board not only representing the citizens in the area, but also the business people in the area, including the service station owners, with the exception of the American Oil site. He stated that he does not normally come before this Board, but this is a very problem piece of property. This piece of land has caused a number of difficulties for him and for the people who live there.

First he stated he would like to comment on the fact that his father who owns a hardware store has two pumps in front of his store, which have been there from 25 to 30 years. They will be taken out this coming fall. Therefore, he has no personal interest in this case from that point of view.

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CROWN CENTRAL PETROLEUM (continued)

Mr. Alexandria went to the series of maps before the Board. He stated that contrary to Mr. Shumate's count, if you take the section from Franconia Road and Old Rollin Road up to what he referred to as Alexander's Corner at Grove Dale Road, and count the gas stations, including the pumps at his father's place, there are nine service stations. Actually there are eight (8) gasoline stations in about 1.2 miles roughly. He stated that this station may be different, but it still pumps gas, therefore, you have to call it a gas station. The applicant is under contract to purchase this piece of property, but the owner has cut it up to such a degree that there is not much left to do anything with. First he put in McDonald's and then the skating rink which has an interior location, but has access here at this location.

Mr. Smith stated that the Board has never used the number of existing stations in an area to deny a station. He stated that he realized that there are areas where the use is overpopulated in some degree, but they cannot use that as criteria for granting or denying.

Mr. Alexander stated that there are other factors here such as traffic. He submitted pictures to the Board to show the traffic on a normal day. He stated that it takes about 20 minutes to travel about a mile from his home to his place of business. They feel this is an impacted area and the addition of this service station - car wash will impact it even more. They would like to develop the area in an orderly manner and they feel it could be developed in a reasonable commercial use. There are a number of office facilities and banks that have been looking for a place to locate. Mr. Shumate mentioned that there is a house on the property that is delapidated, but the owner has allowed that house to become that way in the last six months. Also there is no sewer available in this watershed for this purpose. He stated that he feels this will bring additional noise, fumes, lights, etc. to the area. He suggested that the Board refer to the requirement of the Ordinance regarding Special Use Permits and see if it passes the test.

Mrs. Gladys Keating, 5911 Brookview Drive, Alexandria, spoke in opposition.

She stated that she represents the Brookland Estates Citizens Association which is directly behind this property. She stated that to get out of this subdivision they must use this road. Old Rollin Road would be an alternative route, but primarily this road is used. They are aware of the commercial zoning and they have no objection to a reasonable use. For instance, they have only one large grocery store and only two doctors offices. They feel these things should be taken into consideration.

She stated that primarily their objection is the impact this station will cause on an already overly impacted area. Secondly, they should consider the lights and the additional automobile noise.

She stated that this is indeed a very dangerous intersection. Since the skating rink opened the traffic has, of course, been much worse. The road in front of the area is very bad. Perhaps a gasoline station does not in itself create traffic, but a car wash does, therefore, they request that this application be denied.

She submitted that the Petition that Mr. Shumate submitted to the Board of people who were not opposed to this use, were from an area that would not be adversely affected by this use. She asked Mr. Smith to read the address of the people who signed it.

Mr. Smith read some of the addresses: Fordson Road, Beulah Street, Frenchmans Drive, Gene Street, Bangor Drive, Arco Drive, Farrington Avenue, Americana Drive, Old Telegraph Road, Freeport Avenue, and Jean Paul Drive.

Mrs. Keating stated that she wouldn't mind if they put a station over on Beulah Street either as it would not affect her at all. It was quite far away.

Mr. Shumate stated in Rebuttal that the opposition is trying to control competition. The other gas stations probably would be adversely affected by this station. Mrs. Keating mentioned that this is a dangerous intersection, they submit that from an engineering standpoint, they have proper site distance from a traffic and safety standpoint. The American Station that everyone includes as one of the service station sites in the area will not be put there. That Special Use Permit has expired, and they do not wish to pursue it any further. The Gulf station was mentioned as a new station is going to have problems going in if the owner of the land is against it which the letter in the file from Mr. Burkhardt will show.

Mr. Smith stated that the Board has no application pending for a Gulf station in this area to his knowledge. He asked the Clerk if there was an application pending.

She stated that at the present time there is no application pending for a Gulf station at this location.

Mr. Shumate stated that Mrs. Keating stated that they have no objection to a reasonable use and he submits that this is a reasonable use. She also admitted the fact that residential development came after this use was long established.

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He stated that this Board in December of 1970 approved an American Oil Station at the northeast corner of Valley View Drive and Franconia Road. The attorney was Til Hazel and he represented the applicant. The owner of the land who was trying to sell the land was Milton Alexander, the father of Joseph Alexander, the man who spoke in opposition today. Evidently, the Board did not feel at that time that there were too many gasoline stations in the area. He stated that he feels that Mr. Alexander is representing his father and not the citizens of the area. He submitted a copy of the minutes of that meeting to the Board.

Mr. Baker moved that this case be deferred for decision only for one week to allow the members of the Board to view the property.

Mr. Barnes seconded the motion. The motion passed unanimously with the members present and voting. Mr. Runyon was abstaining from the discussion and was out of the room.

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AFTER AGENDA ITEMS:

TUCKAHOE RECREATION ASSOCIATION -- Out Of Turn Hearing Request

Mr. Smith read a letter from the association requesting that they be granted this out of turn hearing based on the fact that they have to redo their wading pool in order that it comply with Health Department regulations. Since they have to redo this pool, they would like to also enlarge it and make other improvements to their pool area.

Mr. Baker moved that this request be granted for May 9 at 2:20, or whatever time was suitable with the Clerk.

Mr. Barnes seconded the motion and the motion passed unanimously.

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JAMISON, Variance -- Out of Turn Hearing Request

Mr. Jamison stated that he was building a new house to fit his needs as he is crippled and is getting much worse.

Mr. Baker moved that this request be granted for May 9 at 2:40 P.M.

Mr. Barnes seconded the motion and the motion passed unanimously.

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SKALA, S-192-72, Granted January, 1973. Mr. Stevens, attorney for the applicant, requested the Board revise their motion to include School of General Education and Day Care Center instead of just Day Care Center as it presently read. He stated that they had included both in the application and also had discussed both at the hearing. Primarily, they wish to have the School of General Education.

The Clerk apologized for having made that error and not including both in the advertising.

Mr. Smith stated that both had been discussed at the public hearing.

Mr. Runyon who made the original motion to grant moved that the resolution be amended to include School of General Education.

Mr. Baker who originally seconded the motion, seconded this amendment.

The amendment passed unanimously.

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VOLLSTEDT, S-172-71 and V-215-71. Mr. Smith read a letter from Mr. David A. Sutherland, attorney for the applicant, Ronald Vollstedt, requesting a six month extension of the Special Use Permit and Variance that was granted April 12, 1972, because of the inflated cost of building costs, they have been delayed.

Mr. Baker moved that the extension be granted. Mr. Barnes seconded the motion and the motion passed unanimously.

Mr. Smith stated that the Clerk should inform the applicant that this is the only extension that can be granted.

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MR. & MRS. RAJ MALLICK (CEDAR KNOLL INN) -- Filed under Mildred Linster

This is an old case dating back to 1946 and granted to Mildred Linster. Since it was not granted to the applicant only, Mr. and Mrs. Mallick purchased the property. However, they did not come back and ask the Board to issue this to them, therefore, the file is still under the name of MILDRED LINSTER. Mr. and Mrs. Mallick were issued a Revocation Notice (See previous minutes Page 507, January 17, 1973), but under the Ordinance the applicant can within 10 days request a hearing on this Revocation Notice. Mr. and Mrs. Mallick did request the hearing and the Board requested them to submit certain items to the Board and then the Board would set the hearing date.

Mr. Gilbert Knowlton, Zoning Administrator, spoke to the Board about this and stated that plats and photographs ^{had been submitted} and he felt this was all that was necessary since it was the Board that initiated the action and not the applicant. He stated that he had reviewed the Ordinance thoroughly on this subject.

Mr. Baker stated that they now have a stage and a dinner theater down there and he questioned whether or not they would be able to have this.

Mr. Smith stated that if it was the Zoning Administrator's interpretation that Mr. and Mrs. Mallick have complied, then the Board would set the hearing date.

Mr. Baker moved that the Board hear this case on June 13, 1973, the first meeting in June.

Mr. Runyon seconded the motion and the motion passed unanimously.

Mr. Smith stated that the Clerk should then notify by registered mail ten (10) property owners in the nearby area that the meeting of the Board of Zoning Appeals on the Revocation Notice of Mr. and Mrs. Mallick will be held on June 13, 1973, at 10:00 A.M. Two of these property owners must be contiguous property owners. This case will also have to be advertised and the property posted in accordance with the regular procedure and the Fairfax County Zoning Ordinance.

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Mr. Baker moved that the minutes for March 14, 1973 and March 21, 1973 be approved with minor corrections.

Mr. Runyon seconded the motion and the motion passed unanimously.

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The hearing adjourned at 5:30 P.M.

By Jane C. Kelsey
Clerk


DANIEL SMITH, CHAIRMAN

DATE APPROVED May 9, 1973

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The Regular Meeting of the Board of Zoning Appeals Was Held on Wednesday, April 18, 1973, in the Board Room of the Massey Building. Present: Daniel Smith, Chairman; Loy Kelley, Vice-Chairman; Joseph Baker; George Barnes and Charles Runyon

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The meeting was opened with a prayer by Mr. George Barnes.

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HOWARD A & LESTINA H. CUSHMAN, app. under Section 30-6.5 of Ord. to permit *structure to remain closer to side property line than allowed, 6415 Olmi Landrith Drive, 83-3(13)(F)8, Mt. Vernon District (R-10), V-41-73
*adv. carport
Mr. Cushman, 6415 Olmi Landrith Drive, represented himself before the Board.

Notices to property owners were in order.

He stated that he had lived on this property since 1960 and plans to continue to reside there. He stated that according to the zoning regulations he is entitled to go 5' into the side yard setback for a carport and he has 5.5' at the nearest point.

Mr. Mitchell, Associate Planner, stated that what is involved here is probably a misunderstanding as far as terminology is concerned. Mr. Cushman got a building permit for a carport and he built a carport, but he also extended the entire second floor of the house over the carport. A carport is permitted to encroach, but the second floor is in violation.

Mr. Cushman stated that when he built the carport he had to extend the roofline out over the carport and he thought that he had it approved since he had the building permit and at the time he got the building permit, he submitted a plat showing where he would construct this addition and he also had with him the building plans which the man from the building inspection office looked at.

Mr. Smith stated that the building permit was dated December 4, 1972. He stated that the plan that was submitted with the application just showed the carport and nothing else. That is the plan the Zoning Office goes by when they issue a building permit.

Mr. Smith asked Mr. Cushman if he was a builder.

Mr. Cushman stated that he was a general contractor. He stated that he had had a license for approximately eight years. At the time he applied for a building permit this space above the carport was not going to be used for living quarters. He stated that he did just as Mr. Barry, the Zoning Inspector, told him to do.

Mr. Barnes asked him if this construction was for resale purposes.

Mr. Cushman stated that this was for his family's own use and not for resale purposes.

Mr. Kelley suggested that they change the word "carport" to "structure" and put it under the mistake section of the ordinance 30-6.5.

Mr. Runyon stated that the new addition certainly looks better than a plain carport would.

Mr. Ben Snap, 6416 Olmi Landrith Drive, spoke in favor of the application. He stated that he lives directly across the street from Mr. Cushman and he thinks this addition is very attractive and actually looks good for the neighborhood. It, not only, looks a whole lot better than any of the other houses in the neighborhood, but in the long run will increase the value of the other houses in the area.

There was no opposition.

Mr. Kelley moved that the Board change the word "carport" to "structure" and put this under the mistake section of the ordinance.

Mr. Baker seconded the motion.

The motion passed unanimously.

At that point Mr. Kelley made the following motion to grant.

In application No. V-41-73, application by Howard A. & Lestina H. Cushman under Section 30-6.5 of the Zoning Ordinance, to permit structure to remain closer to side property line than allowed by Ordinance, on property located at 6415 Olmi Landrith Drive, Mount Vernon District, also known as tax map 83-3((13))(F)8, County of Fairfax, Virginia, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 18th day of April, 1973, and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-10.
3. That the area of the lot is 7,299 square feet.
4. That the subject property is a pre-1959 recorded lot of substandard width.

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

1. That the Board has found that non-compliance was the result of an error in the location of the building subsequent to the issuance of a building permit, and
2. That the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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ELIZABETH S. COLLINS, app. under Section 30-7.2.6.1.3 of Ord. to permit nursery school, 43 children, 7:00 A.M. to 6:00 P.M., 6396 Lincolnia Road, Lincolnia Heights, 72-1((7)) 3, 4, 19, Mason District (R-12.5), S-43-73

Mrs. Collins testified before the Board.

Notices to property owners were in order.

Mrs. Collins stated that she has operated a nursery school in Annandale, but she has just been leasing the property. Now she would like to purchase this property as this property has plenty of space. She stated that she had canvassed the immediate area and has nine letters signed by homeowners in the surrounding area supporting this application. The building she is in now is deteriorating and since she does not own the property, she cannot afford to make all the necessary repairs. In the application she had requested 57 children, but the State would only approve 43, therefore, she wishes to amend the application to read 43 children. Their ages would be from 2 to 5 and the hours would be from 7:00 A.M. until 6:00 P.M., five days per week, Monday through Friday. The children are transported by private car. No busses are used. This property is adjacent to a commercial service station on the corner. It is zoned C-N.

Mr. Kelley questioned her about the fruit stand that is now located there in that area.

She stated that the part of the stand that is on her property will have to be removed. She stated that she plans to put in a chain link fence around the property.

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 COLLINS (continued)

Mr. Kelley questioned the number of parking spaces she had shown, but she said that she would only have 6 teachers there at any one time and she will provide six parking spaces. There is a drive around drive in the front for the parents to drop the children off and pick them up.

There was no opposition to this use.

In application No. S-43-73, application by Elizabeth S. Collings under Section 30-7.2.6.1.3 of the Zoning Ordinance, to permit nursery school, 57 children, 7 A.M. to 6 P.M., on property located at 6396 Lincolnia Road, Lincolnia Heights, also known as tax map 72-1((7))3, 4, 19 County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following (Mason resolution: Dist.)

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 18th day of April, 1973.

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

1. That the owner of the subject property is Fred and Buford Baker.
2. That the present zoning is R-12.5.
3. That the area of the lot is 33,825 square feet.

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

1. That the applicant has present testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Residential Use Permit on the property of the use and be made available to all Department of the County of Fairfax during the hours of operation of the permitted use.
6. The maximum number of children shall be 43, ages 2 to 5 years.
7. The hours of operation shall be 7:00 A.M. to 6:00 P.M., Monday thru Friday.
8. Parking, screening and fencing shall be as per the plats submitted and dated February 15, 1972.
9. The operation shall be in conformance with the inspection report and the requirements of the Fairfax County Health Department and the State Department of Welfare and Institutions.

Mr. Baker seconded the motion.

The motion passed unanimously.

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THOMAS R. MEADOWS AND HOMES OIL REALTY CO., INC., application under Section 30-6.6 of Ordinance to permit construction of building closer to rear property line than allowed, 7419 Richmond Highway, 92-4(1)94, Lee District, (C-G), V-45-73

Lt. Col. Meadows spoke before the Board.

Notices to property owners were in order.

In answer to Mr. Smith's question Col. Meadows stated that he has a long term lease on this property, 21 years with an option to renew for five more years after that. This lease is contingent upon this Special Use Permit. He intends to locate a Millex Center on this property. This is new to the Washington area. Currently one shop has been opened recently on Chain Bridge Road near Tyson's Corner. Later this month a shop will open in Lanham, Maryland and his will be the third shop of this type. It is an automobile tune-up center with an electronic diagnosis center. They would fix ignition systems, electrical systems, air conditioning systems and in some cases, brakes. None of these repairs are considered heavy repairs. His building will have six bays. He stated that the reason he is before this Board is because he needs a variance to the rear setback. The ordinance requires a setback of 20' from other commercial property. The purpose of this requirement is to provide an emergency service area for the use of fire trucks.

The ordinance requires a 20' setback to the rear property line. If two properties backed up to each other in the rear each would have to setback 20' for a total of 40', however, this property backs up to the side of the contiguous properties. Therefore, neither of these properties that abut this property would have to set back 20'. They could build right on the property line. Both the property in the back and the property on the side is much deeper than the Homes property. The reason this variance is needed is to allow room for all the highway improvements. 8' of the 18,000 square feet has been taken off the front for the highway renewal. Also they will take 27' for a service drive and 5' for a walkway. These are all County requirements. By pushing the proposed building within 12" of the rear property, it will leave approximately 36' available to maneuver automobiles in and out of the service bays. The distance required to do this was the judgement of himself and Millex engineers. Because of the service drive requirements and the highway departments taking and the size of the property, most any business that would be located on this property would need to have a variance.

Mr. Smith asked if there was any contiguous Homes property.

Col. Meadows stated that Homes does not own any contiguous property.

Mr. Smith asked if this is for the use that he has indicated and no other use.

Col. Meadows confirmed this.

Mr. Smith asked what the building materials would be.

Col. Meadows stated that it will either be convention construction or it will be a metal type building.

Mr. Smith stated that he felt the brick would be more attractive than the metal.

Col. Meadows stated that he has been working with two different contractors, one conventional and one for the metal building. There is no difference in price. The metal contractor mixes brick and metal. He stated that is a metal building that is very attractive in Fairfax City that was built for Lawn Doctor.

Mr. Kelley stated that his concern is going from a 20' setback to 12".

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Mr. Smith stated that this does join commercial property and he does not see how anyone could construct anything on this property without a variance.

Mr. Baker stated that they could use something like this down there. It is a good business.

Mr. Smith stated that the building has to be this large and have six bays in order for this to be economically feasible.

Mr. Kelley asked him if he was aware of the comments from Preliminary Engineering.

Col. Meadows stated that he was just handed this paper before the hearing and had not had time to study it.

Mr. E. A. Prichard, attorney at law, 4085 Chain Bridge Road, Fairfax, spoke before the Board in opposition to this use on behalf of Wills & Van Metre, Inc. the owner of the property to the rear and on one side of this property in question. Wills & Van Metre have about two acres which they wish to develop as a shopping center.

He stated that it occurred to him that the hardship is self created. The Homes property was once a part of the same six and one-half acre tract. Mr. Homes sold off all the land around him except this small parcel which he kept for himself. At the time he sold off the rest of the property and kept this small piece, he would not have had any problem in developing it. There has been a highway take all along Route 1. He stated that he is not aware of the amount of the take, but he thinks it is 8'. The Staff is calling for a dedication of 67' from the center line. He stated that he questioned whether or not the Board of Zoning Appeals has the power to grant this variance. Mr. Homes put himself in this situation. When Route 1 came along and took the 8', he was duly compensated for it or he will be when the pending cases are heard. Col. Meadows has no hardship at all since he is only the leasee in this situation.

He also pointed out that this is in the highway corridor which does not permit service stations. Service is given here for automobiles.

Mr. Smith stated that this is not a gasoline service station.

Mr. Prichard stated that the amendment on the highway corridor does not specify gasoline service station, but says service station.

Mr. Smith stated that this could be built by right if he did not need the variance. He stated that if this is the way that the amendment is interpreted, then they could not put in automobile dealerships either.

They continued to discuss this point at some length.

Mr. John Duncan, real estate broker in this case, spoke before the Board to clarify a point that was raised by Mr. Prichard. He stated that he had worked on this property for eight years for Mr. Homes. He has tried to come up with uses for this particular piece of property and this is the only practical use that he could come up with. The problem is not so much the amount of land taken by the Highway Department, but the amount of land taken for the service road requirement that the County asks for. There is no compensation for this land. It has been about fourteen (14) years since Mr. Homes sold off the other part of this property that Mr. Wills is now on.

Mr. Smith thanked Mr. Duncan for his testimony as it cleared up a very good point.

Mr. Kelley stated that he felt that Mr. Prichard's testimony was well taken as he feels that condemnation proceedings would compensate the owner for the land that he lost.

Mr. Kelley moved that this case V-45-73 be deferred until April 25, 1973 for decision only.

Mr. Barnes seconded the motion and the motion passed unanimously.

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LITTLE RIVER RACKET CLUB, INC., app. under Section 30-7.2.6.1.1 of Ord. to permit private tennis club with indoor and outdoor courts, dining facilities and swimming pool, north side of Little River Turnpike, west of Pineland Street, 58-4((1))68 and pt. 65; 59-3((1))6, Annandale District, (RE-1), S-47-73

Mr. William Hansbarger, 10523 Main Street, Fairfax, Virginia, attorney for the applicant represented them before the Board.

Notices to property owners were in order.

Mr. Hansbarger stated that the owner of the property is William Lewis, Trustee, and he leases it to Curtis International Management, Inc. and in turn they lease it to Little River Racket Club.

Mr. Smith stated that they should be included in the application.

Mr. Hansbarger located the property on the map. The property on the west is C-M and Pineland Street is zoned CGL and there is a bank building in the process of completion also in that area. The residential property is zoned R-12.5 just having been rezoned from RE-1. Commonwealth Christian School also adjoins the property and the Fairfax Nursery is nearby.

Mr. Hansbarger stated that they propose a recreational area comparable with a country club with the main sport here tennis where the main sport at a country club is usually golf. They have 10.55 acres of land here where they intend to construct private tennis courts to be operated for the members. This will not be for gain, but will be a non-profit organization. The hours of operation will be from 8:00 A.M. until 12:00 Midnight. Of course, during the winter months the activities would be confined to the enclosed area. The Club hopes to attain a membership of 1200, but they may not reach that goal. They have checked with the County as far as parking requirements and have indicated them on the plats. They have also met with the people in the area to determine what their position and attitude would be and while they felt the people were not opposed at the meeting, they find out now that they do have some objections. The people had indicated that they did not want Leroy Place used for traffic in and out of this area. They agreed and they can tell the Board now that the area will be fenced off from Leroy Place so that the traffic will not go through the residential streets. Their access will be directly to Route 236.

Mr. Smith asked if part of the Commonwealth Christian School/^{property} is being leased to this organization.

Mr. Hansbarger stated that it was. He stated that they checked with the Zoning Administrator and was told that he felt that the Board would not amend that use permit for the school unless the Board felt this application was in order. There is no use to amend the school application unless this application is granted. They intend, if the Board grants this use permit to come back in to amend the Boyett application.

Mr. Smith stated that he feels the Board will have to delete the land area from the other Special Use Permit use for the school before they can grant this Special Use Permit on the same, or part of the same, land area. The Commonwealth Christian School has quite a large operation. The County has a new ordinance now relating to private schools and they must have a certain amount of land area for the amount of students, therefore, if some of that land is cut away, it could make it impossible for them to continue to operate the school.

Mr. Smith then asked about the dining facilities that would be in the facility.

Mr. Michaels, architect for the Little River Racket Club, spoke before the Board. He stated that one room in the Club house would be used for the dining room.

Mr. Smith stated that the Board requires one to three parking spaces. That is the ratio they use.

Mr. Michael stated that he did not know there were any specific requirements in the Ordinance.

Mr. Smith stated that a good example of not enough parking is the tennis facility at Merrifield. During the last tennis tournament people were parking two blocks down Lee Highway.

Mr. Hansbarger stated that they do not plan to have tournaments.

Mr. Michaels stated that with regard to the parking, they submitted a justification based on the use of the facility rather than area and square footage or number of members. They used the number of tennis courts that they would have available at any one time. Tennis can only be played by four people and they have 22 courts and that adds up to 88 people. They have provided for 15 employees for the facility. This is assuming that everyone

will drive a separate automobile. Therefore they came up with 191 automobile parking spaces and they feel that this is more than adequate. The seating capacity for the dining room will be for 60 people he stated, in answer to Mr. Smith's question. They also have a lounge for people who are waiting to play tennis. They will also have a bar just like any country club does. They plan to have a swimming pool for the same membership so the wife and children of the man who might be playing tennis can come to the Club too. They want this to be a family type club. He stated that he feels these people will already be at the Club and therefore, there will be no additional automobiles coming in and out for these purposes.

Mr. Kelley asked if the 1200 members would come from the community around there.

Mr. Hansbarger stated that with the development that was just zoned, there certainly will be enough people in the area to have that many members.

Mr. Smith asked the size of the pool.

Mr. Hansbarger stated that it would be 60 x 40 and would have 2,400 square feet.

Mr. Smith asked if they were aware that the Health Department requires 27 square feet for each person.

Mr. Hansbarger stated they would just have to limit the number of people using the pool then.

Mr. Smith then asked about the roadway leading into this property. He asked if the County would not require it to be 50' wide to accommodate traffic coming in and out.

Mr. Hansbarger stated that they may under Site Plan, he didn't know.

Mr. Smith stated that it seemed to him that this is commercial recreation as all the people have to drive to it and there are no members at present.

Mr. Dennis on the Bd. of Dir., Ex Police Youth Club/ lives at 9308 Hamilton Place Mantua Subdivision. He was in favor of this use as he had talked with Peter Curtis and he had agreed to give instructions to children in the Fairfax Police Youth Club. He stated that this is an opportunity to utilize a very good low cost sport and it is an opportunity to give these children some guidance with a man who is very knowledgable.

Mr. Smith reminded him that Mr. Peter Curtis is not the final person to say whether this would be allowed as there are many more people involved.

Mr. Dennis stated that he was aware of that.

Several people indicated that they wished to speak in opposition. Two spoke to the Board and the others stood to indicate that they were in concurrence with the two speakers. There were 10 people who stood up and they indicated that they were all within one block from the property in question. They submitted a Petition to the Board outlining the reasons why they were in opposition. This Petition was signed by 14 families and can be found in the file. The Petition read as follows:

"The undersigned residents of the Little River Pines community urgently request that Fairfax County Board of Zoning Appeals deny the request for Special Use Permit S-47-73. This permit would allow the development of the Little River Racket Club, Inc., in an area adjacent to our community. Some of our basic reasons for opposing this action are:

- a. We are specifically opposed because of the total lack of consideration for the present and future residents as evidenced by:
 1. No provision for any restrictive access barriers around the property. The minimum acceptable should not be less than 8' brick wall around the perimeters of that property which is adjacent to Pineland Street and LeRoy Place. This wall should be erected prior to start of construction.
 2. The proposed 25 feet of natural area around the perimeter of the property is not adequate to screen the surrounding residences from the noises, lights, views and other nuisances which will result from the proposed facility. The present forest must be retained.
 3. There is no assurance that all outside lighting will be of low density and shielded to retain the glare within the confines of the facility.

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4. There is no assurance that the facility will not be used for public tournaments and/or exhibitions which would tend to increase the noise, traffic and pollution of the area; and, could result in overflow parking on Route 236 and neighboring residential areas.
 5. The hours of operation are not in consonance with residential areas. As is the case of other neighborhood facilities, the activities should not be permitted to extend outside the hours of 9 A.M. and 10 P.M. daily. This is especially true of the swimming pool which tends to generate the highest noise levels.
 6. There is no assurance that the architectural features of the constructed facilities will be of the quality and appearance shown in the artist's rendering presented to this civic association; nor that the quality of appearance shown will be, in fact, achieved prior to the opening of the facility.
 7. The posting of a sufficient bond to insure compliance with these provisions.
- b. The present master plan calls for residential development in the area to be absorbed by the proposed special use. However, the proposed establishment is of commercial nature, in that charges will be made for services, facilities, food and beverages.
 - c. Nearby residential properties will be adversely impacted by a use that by its nature, operates at times (planned 8 A.M. to 12 P.M. daily) that conflict with residential living; together with the lights, glare, traffic, and noises associated with the proposed activity.
 - d. The spreading of a character along Route 236 which will discourage future residential developments and other uses specified by the Master Plan.
 - e. The possibility that the proposed facility will result in a marginal operation which could create pressures for rezoning for full public use or abandonment; thus degrading the environment and creating a form of urban blight, becoming warehouses in a RE-1 area.
 - f. The proposed special use is not in consonance with the existing ecology; for examples several areas of existing natural woodlands will be converted to a parking lot. This includes a large grove of beautiful hardwood trees well over 100 years old. All surrounding areas of the proposed site would suffer with the absence of birds which control insects and the cooling temperatures and natural air pollution control that large trees and forest affords. The entire land area of the proposed site would be defaced and so would there be an absolute loss of all other existing wildlife which nest in ground areas and have given pleasure and value to our community. The natural spring-fed pond would have to be disturbed.
 - g. Increased traffic along Route 236. The Fairfax County Board of Supervisors staff has often used this reason for recommending against commercial facilities along Route 236.
 - h. The proponents of the special usage have not shown an over-riding civic need for the proposed facility which would warrant deviation from currently planned uses.
 - i. It will not be a neighborhood facility, therefore, the residents will have no influence upon its operating policies.

In summary, the undersigned are opposed to the special use of this area by an activity which is not in consonance with residential living. Further, the proponents of this request for a special use permit have not guaranteed any special remedies to minimize the adverse impacts upon residential areas."

Mr. Hansbarger spoke in rebuttal. He stated that he was under the impression that they had applied under the correct section of the ordinance. This is a community use and is not for gain. At the meeting with the people in the community, they seemed to be afraid that this use would be the forerunner of a commercial use. This is not true. This can go in with a special use permits and has been put in in other areas of the county with a special use permit. There are two Special Use Permit operations in the area already. They have agreed not to use Leroy Place, therefore, there will be no traffic impact on these people. If the developer went ahead and developed the property as R-12.5, single family homes, then Leroy Place would be a through street and there were be more traffic on it than this use would cause if they were to use Leroy Place, which they are not. The opposition talk about the lovely woods, but the woods are not lovely now. People have used them for a dumping area. There is a great deal of pinewood there.

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LITTLE RIVER RACKET CLUB, ET ALS (continued)

Mr. Kelley stated that this use is right in the middle of a residential area. He stated that he did not see how it could go in any category other than commercial.

Mr. Barnes stated that he would like to straighten this out.

Mr. Smith stated that there is no community membership involved in this operation.

Mr. Barnes stated that that is not to say that there won't be some later on.

Mr. Smith stated that they should have formed the community club prior to coming before this Board.

Mr. Hansbarger stated that he had done that once before and that had caused all sorts of trouble as the Board might recall.

Mr. Barnes stated that he would move to defer this case for decision only and try to find out a little more about it.

Mr. Baker seconded the motion.

Mr. Smith stated that it is up to the Board to define what category this should be under.

Mr. Barnes stated that he would withdraw his motion and ask that it be put to a vote whether or not this is a commercial use or a community use.

Mr. Baker seconded the motion, and withdrew his second on the previous motion.
Mr. Smith stated that the Board would vote on whether this is a community use, Group VI, first.
Mr. Baker stated that he didn't feel he was prepared to vote on that,
as to community use

The vote was 2 for the motion and 2 against the motion, therefore the motion died for lack of a majority, therefore, Mr. Smith stated that this was then a commercial use under Group VII.

Mr. Hansbarger stated that if the Board defines this as a commercial use he would like leave to amend the application to bring back a site plan in accordance with the Group VII requirements for that section of the ordinance and he asked the Board to defer this case until they can do this.

Mr. Smith stated that the Board would then vote on whether or not to defer this case for thirty days.

Mr. Baker moved that the Board defer this case for thirty days, which would be May 16, 1973.

Mr. Barnes seconded the motion and the motion passed unanimously.

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WALTER T. SETTLE, app. under Section 30-6.6 of Ord. to permit less lot area than allowed, north side of Alpine Drive, 71-2((5))87, Mason District, (R-17), V-48-73

Mr. Settle represented himself before the Board.

Mr. Smith asked him if he was aware of the Staff report which stated that it has been determined that the subdivision proposed in this case can be administratively approved pursuant to Sec. 30-3.4.9 of the Ordinance, and a variance is not needed. This information was not available at the time the Preliminary Engineering Branch Report was written.

Mr. Runyon stated that he was the engineer working on this case and at the time he submitted the plans the Staff told him that he would need a variance before they could approve the final plans. He stated that he would suggest that the applicant not withdraw the case, but defer it until he was absolutely sure that everything could be worked out.

Mr. Smith stated that the Board would defer this case until May 16, 1973, thirty days, and the applicant could communicate with the Board prior to that time telling them whether or not he wished to withdraw it.

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JOHN G. ALMASSY, app. under Sec. 30-6.6 of Ord. to permit construction of addition closer to side property line than allowed, 3402 Hemlock Drive, 59-2((8))(2)13, Providence Dist., (R-12.5), V-49-73

Mrs. Almassy testified before the Board.

Notices to property owners were in order. Mrs. Sohl, 3404 Hemlock Drive and Ray Schleicher, 7803 Sycamore Drive were the contiguous property owners.

Mrs. Almassy stated that their house is located on the lot at an angle in relation to the property line and it would be almost impossible to build any place else on the lot. They are only going over the restriction line just a little bit. They do plan to continue to live here. They have owned the property for four or five years. They plan to make this addition into a master bedroom and utility room and family room. They are adding another addition, but it does not need a variance.

There was no opposition.

In application No. V-49-73, application by John G. Almassy, under Section 30-6.6 of the Zoning Ordinance, to permit construction of addition 7.48 feet from side property line on property located at 3402 Hemlock Drive, Annandale District, also known as tax map 59-2((8))(2)6, County of Fairfax, Virginia, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 18th day of April, 1973, and

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

- 1. That the owner of the subject property is the applicant.
- 2. That the present zoning is R-12.5.
- 3. That the area of the lot is 7,299 square feet.

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

- 1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
 - a. Unusual condition of the location of existing buildings.

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

- 1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
- 2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
- 3. Construction to be in architectural conformance with existing construction.

FURTHERMORE, the applicant shall be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Kelley seconded the motion.

The motion passed unanimously.

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B.P. OIL CORP., app. under Section 30-6.2.10.3.1 of Ord. to permit 3 bay automobile service station, northwest corner of Lee Jackson Highway and Galesbury Lane, 44-2((1))part parcel 9, Centreville District (C-D), S-50-73 This was the advertised 12:00 case which came up at 2:15 P.M.

Donald C. Stevens, P.O. Box 547, Fairfax, Virginia, attorney for the applicant, testified before the Board.

Notices to property owners were in order.

Mr. Stevens stated that this property has been under two Use Permits, but those companies have not carried through to purchase the property.

Mr. Smith asked if the Use Permit had expired for this last company.

Mr. Stevens stated that he believed that it will expire on April 19, 1973.

Mr. Smith stated that he should have gotten a release if the permit was still valid.

Mr. Stevens stated that this station will have a similar layout to the previous Sibarco station. They went over the plat.

Mr. Stevens submitted a colored rendering of how the service station will look.

Mr. Smith stated the Preliminary Engineering stated that they felt one of the entrances should be shut off on the service drive onto Lee Jackson Highway.

Mr. Stevens stated that they oppose that as it would cause some confusion in traffic movement because an island will be place in the center of Galesbury Lane and this would prevent exit onto Galesbury Lane.

Mr. Kelley asked of what ^{materials} would the building be constructed.

Mr. Stevens stated that it would be brick with a mansard roof, standard design. The brick will be buff colored.

Mr. John Wood on Bancroft Street spoke in opposition to this use. He stated that he lives about a block from the proposed service station. He stated that he was not actually in opposition to the use, but he felt the people in the area had not been properly notified because of the placement of the signs.

The Board discussed this in detail. They then ruled that the notification was in order. The property had been posted in two places rather than one, the case had been advertised property and the applicant had properly notified property owners in the nearby area.

Mr. Michael Sanli another nearby property owner spoke before the Board. He stated that he lives directly across from the proposed service station. He stated that he felt he should have been notified.

Mr. Smith explained the procedure to him. He stated that the notices were in order.

Mr. Smith asked him how long he had owned his property.

Mr. Sanli stated that he had owned the property for almost a year.

Mr. Smith read the memo from Preliminary Engineering which stated that the development plan that was presented to the Board of Supervisors at the rezoning showed a service station at this location. He stated that there has also been a Special Use Permit on a gasoline station at this location for about two years, therefore this is not a change in use on this property. It is just a change in name.

Mr. Smith stated that the Board had received a letter signed by two people in the area of the station objection to this use. Their names were Evans, 4013 Galesbury Lane and Gallo, 4011 Galesbury Lane.

Mr. Kelley again brought up the Preliminary Engineering Report which stated that the eastern entrance from this site to the service drive is not necessary to achieve a flow through movement through the station. It is not desirable to have too many entrances near an intersection such as the one created by Galesbury Lane, Lee Jackson Memorial Highway and the service drive. He stated that he could not see closing off this entrance.

B.P. OIL (continued)

Mr. Steve Reynolds from Preliminary Engineering stated that if they can take some of the turning movements away from these entrances then they can reduce the traffic congestion. This is the basis on which they made the statement to eliminate one of the entrances. At the time of the rezoning, there was only one entrance shown. They realize the need for this additional entrance.

Mr. Stevens stated that he felt that Mr. Reynolds has a good concern about people trying to by-pass the traffic light to make a right turn on Galesbury Lane, but it could happen here whether or not there are any entrances to the service station.

In application No. S-50-73, application by B. P. Oil Corp., under Section 30-6.2.10.3.1 of the Zoning Ordinance, to permit 3 bay automobile service station, on property located at N.W. corner Lee Jackson Highway and Galesbury Lane, also known as tax map 44-2((1))pt. par. 9., Centreville District, County of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 18th day of April, 1973.

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

1. That the owner of the subject property is Dodge, West & Miller, Trs.
2. That the present zoning is C-D.
3. That the area of the lot is 28,900 square feet.
4. That site plan approval is required.
5. That compliance with all County Codes is required.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I districts as contained in Section 30-7.1.2 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

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

2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.

3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMITS AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during hours of operations of the permitted use.

6. There shall not be any storing, rental, sale or leasing of automobiles, trucks, recreational equipment, or trailers on these premises.

7. There shall not be any free standing sign on said premises for this use.

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B. P. Oil Corporation continued:
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8. Landscaping, screening, fencing and/or planting shall be as approved by the Director of County Development

Mr. Barnes seconded the motion.

The motion passed unanimously.

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ORNDORFF, GRACE & ERNEST, app. under Sec. 30-6.6 of Ord. to permit subdivision of lots with less frontage than allowed by Ord., northside Ridge Road, east of Gambrill Road, 89-3(1)40A, Springfield District (RE-1), V-51-73

Mr. Whitford W. Chesten, 3985 Chain Bridge Road, Fairfax, attorney for the applicant, testified before the Board.

Notices to property owners were in order.

Mr. Chesten stated that this property has been in the family for one hundred years. The applicant is a fourth generation resident of Fairfax County. The applicant inherited this property from her mother last year and she wishes to build her home on this property. It is not a question of her trying to sell it for speculative purposes as this is not the case. The lots are divided evenly with 144.61' frontage on each lot.

Mr. Runyon asked if they would be able to construct without any variances.

Mr. Chesten stated that they would. The proposed house has been staked out. The family acquired this tract of land in 1916.

There was no opposition.

In application No. V-51-73, application by Grace and Ernest Orndorff, under Section 30-6.6 of the Zoning Ordinance, to permit subdivision of lots with less frontage than required by ordinance, on property located at North side Ridge Road, east of Gambrill Road, also known as tax map 89-3(1)40A, Springfield District, County of Fairfax, Virginia, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 18th day of April, 1973, and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-1
3. That the area of the lot is 2.2951 acres.

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

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

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific lots indicated in the plats included with this application only, and is not transferable to other land.

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 Grace & Ernest Orndorff continued:
 April 18, 1973

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2. This variance shall expire one year from this date unless final plat has been recorded or unless renewed by action of this Board prior to date of expiration.

3. No other variance is required.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, residential use permits, and the like through the established procedures.

Mr. Baker seconded the motion.

The motion passed unanimously.

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COVINGTON HOMES ASSOC., INC., app. under Sec. 30-7.2.6.1.1 of Ord. to permit swimming pool, 9022 Arlington Blvd., 48-4((1))22A, Providence Dist., (RTC-10) S-35-73 (Deferred from 4-11-73 for decision only and for new plats showing emergency entrance)

Mr. Donald Stevens, attorney for the applicant, P.O. Box 547, had submitted new plats showing the emergency entrance to the Staff. He stated that they had talked with the Health Department concerning the number of people they could have in the pool at any one time and came up with no firm answer.

from the Health Department

Mr. Kelley stated that he had talked with Mr. Bowman/also and they used the ratio of 27 square feet per person. Therefore, using that criteria, Covington Homes could only have 120 people in the pool at any one time. They also use the ratio of 3.5 members per family in a townhouse area and there are approximately 208 families that will use this pool according to the testimony at the previous hearing, therefore there would be around 728 people who would be using the pool and the pool can only accomodate 120 people.

Mr. Stevens stated that they would just have to limit the number of people who would be in the pool at any one time.

The Board continued to discuss this point.

In application S-35-73, application by Covington Homes Association, Inc., under Section 30-7.2.6.1.1 of the Zoning Ordinance, to permit swimming pool on property located at 9022 Arlington Blvd., Providence District, also known as tax map 48-4((1))22A, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 11th day of April, 1973.

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

1. That the owner of the subject property is Miller and Smith.
2. That the present zoning is RTC-10.
3. That the area of the lot is 32,188 square feet.
4. That Site Plan approval is required.
5. That compliance with all county codes is required.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

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

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 Covington Homes Assoc., Inc. continued:
 April 18, 1973

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indicated in the application and is not transferable to other land.

2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.

3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to OBTAIN NON-RESIDENTIAL USE PERMITS AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. The maximum number using the pool shall be 120 at anytime, which shall be residents of the area included in the site plan submitted with this application, i.e. residents of "Covington", and no interpool metes permitted.

7. The hours of operation shall be 9 A.M. until 9 P.M.

8. Landscaping, screening, plantings and fencing shall be as approved by the Director of County Development.

9. All loud speakers, noise and lights shall be directed to the pool area and confined to said site. No after hours party shall be allowed unless a permit is obtained from the Zoning Administrator, prior to date of party, and such parties shall be limited to 5 per year.

10. A 12' emergency lane shall be provided to the pool.

11. 100 spaces for bicycles shall be provided.

Mr. Baker seconded the motion.

The motion passed unanimously.

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CROWN CENTRAL PETROLEUM CORPORATION, application under Section 30-7.2.10.3.1 of the Zoning Ordinance to permit gas station and Section 30-7.2.10.3.7 of the Ordinance to permit auto laundry (no repairs) 5500 Franconia Road, northwest intersection of Franconia Road and Old Rolling Road, 81-4((1)) 71C, Lee District (C-D), S-31-73 (Deferred from 3-28-73 for decision only and to allow members to view property)

The attorney for the applicant, Charles Shumate, was present.

The Board members stated that they had viewed the property.

Mr. Barnes stated that he was prepared to make the motion.

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 Crown Central Petroleum Corp. continued:
 April 18, 1973

In application No. S-31-73, application by Crown Central Petroleum Corp., under Section 30-7.2.10.3.1 of the Zoning Ordinance, to permit service station and auto laundry - no repair - on property located at Franconia Road at Rolling Road, also known as tax map 81-4((1))71C, County of Fairfax, Mr. Barnes moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals on the 11th day of April 1973, and deferred to April 18, 1973.

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

1. That the owner of the subject property is J. I. Burkhardt and J. L. Doniphan, Trustees.
2. That the present zoning is C-D.
3. That the area of the lot is 40,765 square feet.
4. That site plan approval is required.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I Districts as contained in Section 30-7.1.2 in the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMITS AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. Screening, planting and parking to be in compliance with the Department of County Development.
7. There shall not be any storing, rental, sales or leasing of automobiles, trucks, recreational equipment or trailers on the premises.
8. There shall not be any free standing sign on said premises.

Mr. Baker seconded the motion.

The motion passed 3 to 1 with Mr. Kelley voting NO and Mr. Runyon abstaining.

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CARL H. HINK & A. E. O'REILLY, app. under Section 30-2.2.2 of Ord. to permit construction of display swimming pool with display office, 7444 Leesburg Pike, Pimmit Hills, 40-1 ((6))(N)7, Dranesville District (C-N) S-16-73 (Deferred from March 14, 1973)

Mr. Smith read a letter from Tom Lawson, attorney for the applicant, requesting that this case be withdrawn without prejudice.

Mr. Baker so moved.

Mr. Barnes seconded the motion and the motion passed unanimously.

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S. J. BELL, S-218-70

Mr. Smith read a letter from Donald Stevens, attorney for S. J. Bell, attaching a copy of a revised site plan for the development of the service station. He requested that the Board confirm to the staff that the two changes in construction detail shown on the revision are within the intent of the Board in granting of the special use permit previously issued and extended. The two proposed changes are:

1. Bays in rear of station proposed to be constructed in the future.
2. Two pump islands have been turned perpendicular to Edsal Road, not parallel as shown in the original site plan and the westernmost pump island is proposed to be constructed in the future.

He stated that these changes in no way affect the impact of the station upon the neighborhood.

Mr. Stevens requested that the Board's records reflect that the operator of the station will be the B.P. Oil Corporation, but the station will be constructed by and will remain in the ownership of S. J. Bell, the applicant to whom the special use permit has been issued.

Mr. Stevens who was present stated that this would reduce the station rather than increase it.

Mr. Barnes moved that this request be granted.

Mr. Baker seconded the motion and the motion passed unanimously.

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LAKE BARCROFT

Mr. Waterval, attorney for the applicant, wrote a letter to the Board requesting that they be allowed to place two tennis courts in the position on the property that previously had a building on it. This would be a temporary use until they had the funds to build the building.

Mr. Stuart David, is an associate of Mr. Watervals and appeared for him. His address is 6316 Castle Place, Suite 2A.

After a lengthy discussion Mr. Baker moved that there be a new hearing and that the applicant file the necessary plats and papers and new notices, etc.

Mr. Barnes seconded the motion.

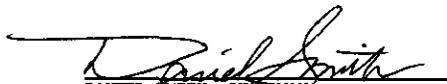
Mr. Barnes stated that if the applicant gets the necessary papers in as soon as possible and requests an out of turn hearings based on a hardship, the Board will try to get to it as soon as possible.

The motion passed unanimously to deny the request of Mr. Waterval to substitute tennis courts for one of the building and require the applicant to come back in with a new application.

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The hearing adjourned at 4:00 P.M.

By Jane C. Kelsey
Clerk


DANIEL SMITH, CHAIRMAN

APPROVED May 16, 1973

Date

The Regular Meeting of the Board of Zoning Appeals Was Held On Wednesday, April 25, 1973, in the Board Room of the Massey Building. Present: Daniel Smith, Chairman; Loy P. Kelley, Vice Chairman; Joseph Baker; and Charles Runyon.

The meeting was opened with a prayer by Mr. Covington.

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B. P. OIL CORP., app. under Sec. 30-7.2.10.2.1 of Ord. to permit service station, 9500 Burke Lake Road and 9501 Burke Road, 78-1((1))pt parcel 25 and pt parcel 26, Springfield District (C-N), S-52-73

Mr. Douglas Adams, 7250 Maple Place, Annandale, Virginia, attorney for the applicant testified before the Board on their behalf.

Notices to property owners were in order. The contiguous owners were Richard Curtis, Trustee, 240 Mowbray Road, Silver Spring, Maryland and the Fire Department, 9501 Burke Lake Road

Mr. Adams stated that this is an unusual application and not at all typical of gas stations. They have here an opportunity to take two properties with separate ownership and put two businesses here which will have an interesting architectural design that will be attractive. He indicated on the plan on the screen who owned which property. Part of the property is owned by the Fair Oaks Corporation and part of it is owned by Paul Lyngood and Mr. Adams himself. There is in existence a 7-11 which is located in an older building. They cannot remodel that building or repair it because it is on a piece of property that is very narrow. They have worked up a plan whereby they will put in a 7-11, a bank and a B.P. Oil station. They propose a commercial convenience center in accordance with the Master Plan. There will be three businesses on a little less than two acres of property. They have intergrated the layout and all three building will be under the same roof. They retained the firm of Ward and Paul in Springfield to work this problem out. Mr. Ward lives nearby and therefore a good plan is also of interest in this respect to him.

Mr. Adams stated that the plan that Mr. Ward worked out ties all these three businesses together with similar architecture and all will have a mansard roof and will have a brick exterior. All the businesses have agreed to a common roofline and a common walkway surrounding the buildings. They will have columns supporting the colonade made of the same brick as the buildings. He submitted for the record a rendering of the building. He stated that they plan to have two pump islands and one is proposed for the future.

Mr. Smith stated that he noticed a free standing sign on the plat, but that would not be allowed. The rendering shows the B.P. signs on the building and that is much better.

Mr. Paul Backus, representative from B.P., 401 Farragot Street, N.W., Washington, D. C. spoke before the Board in relation to the sign problem.

He stated that if they are not allowed a free standing sign, then they will need the signs on the building itself. He asked for an explanation of the type of sign he could use there.

Mr. Covington, Assistant Zoning Administrator, stated that they would be allowed a sign on the building in accordance with the zoning ordinance. He explained the ordinance to them.

Mr. Smith stated that as long as there is no free standing sign, the ordinance sets forth the amount of sign space.

Mr. Adams stated that then as he understood it, there is some flexibility as long as he stays within the ordinance.

Mr. Adams stated that there are no homes immediately adjacent to this site. The land was zoned many many years ago.

Mr. Kelley stated that he is concerned about the comments from Preliminary Engineering which suggested that the owner dedicate land for future road widening to the back of the proposed sidewalk along the full frontage of the property along both Burke Road and Burke Lake Road. It should be noted that the Fairfax County Board of Supervisors approved a 90' wide alignment of the relocation of Burke Road on February 20, 1973. This alignment would pass directly through the subject property."

Mr. Adams stated that he had had a meeting with the County Staff and they had agreed with this proposal.

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 B.P. OIL (continued)

Associate Planner from Zoning Administration

Mr. Mitchell/stated that he did not feel there is any difference in opinion as to the proposed plan and the County Staff. The trouble came about because Preliminary Engineering was not in on the Staff conference, but the Staff recommends through the Planning Commission that if this case were to be approved, the applicant should show that it would be worked out in terms of the actions by the Board of Supervisors. The road is accomodated within what Mr. Adams proposes here.

Mr. Kelley stated that it is hard for him to understand that it has been worked out when the memorandum states otherwise and it is a recent memorandum dated April 19.

Mr. Smith agreed that it is very confusing.

Mr. Mitchell stated that the map that the Board of Supervisors used to mark off this road was not an official cross section plan for the relocation of Burke Lake Road.

Mr. Adams stated that Preliminary Engineering has stated that this will be under Site Plan control, therefore, no site plan will be issued unless it meets the requirements.

Mr. Smith read the Planning Commission recommendation which stated:

"The Fairfax County Planning Commission on April 17, 1973, recommended (by a vote of 4-3 with two absenteeisms) to the Board of Zoning Appeals that the above subject application be approved in accordance with the comments and recommendations of the staff report attached hereto.

The Commission agreed with staff that the applicant also assure the Board of Zoning Appeals that integrated development take place as called for in the Pohick Restudy."

There was no opposition to this use.

In application Number S-52-73, application by B.P. Oil Corp. under Section 30-7.2.10.2.1 of the Zoning Ordinance, to permit service station on property located at 9500 Burke Lake Road and 9501 Burke Road, also known as tax map 78-1((1))pt. parcel 25 and 26, Springfield District, County of Fairfax, Mr. Rayson moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 25th day of April, 1973.

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

1. That the owner of the subject property is Adams & Livengood (Lot 26) Fair Oaks Corp (Lot 25)
2. That the present zoning is C-N.
3. That the area of the lot is 30,991 square feet.
4. That Site Plan approval is required.
5. That the Planning Commission has recommended approval.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I Districts as contained in Section 30-7.1.2 in the Zoning Ordinance, and

NOW THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations;

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

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4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. No free standing sign ... building signs only in accordance with sign ordinance.

7. Architectural design will be in conformance with the design as submitted and layout to be such that the convenience center concept will be preserved.

8. The proposed development shall be in conformance with the commercial development policies of the Pohick Master Plan.

9. No rental or sales of autos, trailers, or other implements shall be permitted on this site.

Mr. Baker seconded the motion.

The motion passed unanimously.

The free standing sign was marked off the plat and initialed by the applicant and the Chairman.

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JOHN O. AND BESS M. HEMPERLEY, application under Section 30-7.2.6.1.3 of Ordinance to permit operation of school of general education, 8608 Pohick Road, 98-1(1)22, Springfield District, (RE-1), S-53-73

Mr. Hemperley represented himself before the Board.

Notices to property owners were in order. The contiguous owners were Mrs. Virginia Green and Rev. John Foster of the Wesleyan Chapel.

Mr. Hemperley stated that they were applying for a Special Use Permit to have a School of General Education for fifty (50) children, between the ages of 4 and 6, 5 days per week from 8:00 A.M. until 4:00 P.M. The house is nearly completed. They plan to live on the second floor and use the first floor for the school. This is not in a subdivision, but is next to Chapel Acres Subdivision. They have a total of 2 acres of property. They want to teach these children respect for their country, God and family. They wish to pattern their school after the Fairfax Christian School. It will not be a play school. He stated that he feels there is a great need for this type of education in this area. He submitted a letter of approval from 100 people who live in Fairfax County supporting this application. He stated that it is also signed by the Pastor of the church next door and their elders.

He asked the people in the audience to stand that were in support of his application. There were 6 people who stood.

Mr. Hemperley stated that they were on septic field now and there is a letter in the file from the Health Department regarding this.

Mr. Smith read the letter which stated that the facility was adequate for fifty students and that the sewage disposal system has been designed to serve the total facility. The recreational area is adequate and meets the requirements.

Mr. Kelley asked if he was aware of the comments from Preliminary Engineering which stated that this would be under Site Plan Control and an area for the on site dispersion of children should be provided. A dustless surface for all driveways and parking areas should also be provided. Also, a 22' minimum entrance road to the parking lot should be provided to allow for 2-way traffic. The Pohick Master Plan shows Pohick Road proposed to be a 120'-160'R/W. It is suggested that the owner dedicate to 60' from the existing centerline of the Pohick Road R/W for the full frontage of the property for future road widening. It is also noted that if the subject permit is granted, this office will investigate whether or not a deceleration lane will be required."

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 April 25, 1973
 HEMPERLEY (continued)

Mr. Hemperley stated that he would like to have all this explained.

Mr. Steve Reynolds from Preliminary Engineering explained this to him. He stated that these are requirements under Site Plan and would have to be complied with. He said that the requested 60' dedication would not interfere with the construction of the house.

Mr. Hemperley asked if this dedication was a gift.

Mr. Smith stated that dedication is the same as a gift. This is a requirement under Site Plan and is required for any use such as this.

Mr. Kelley asked him if he would agree to this dedication.

Mr. Hemperley stated that he was compelled to agreed.

There was no opposition.

In application Number S-53-73, application by John O. Hemperly and Bess M. Hemperly, under Section 30-7.2.6.1.3 of the Zoning Ordinance, to permit operation of school of general education for 50 children, on property located at 8608 Pohick Road, Springfield District, also known as tax map 98-1((1))22, County of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 25th day of April, 1973.

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

1. That the owner of the subject property is John O. & Bess M. Hemperly.
2. That the present zoning is RE-1.
3. That the area of the lot is 2.00082 acres.
4. That Site Plan approval is required.
5. That compliance with all County and State Codes is required.
6. That the application meets the requirements of the school ordinances.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.

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5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. The maximum number of children shall be 50, ages 4 to 6 years.

7. The hours of operation shall be 8:00 A.M. to 4:00 P.M., 5 days per week, Monday through Friday.

8. All buses and/or vehicles used for transporting of students shall comply with Fairfax County School and State standards on color and light requirements.

9. A dustless surface for all driveways and parking areas shall be provided, also a 22 foot minimum entrance road to the parking lot shall be provided to allow(2)two-way traffic.

10. Landscaping, screening and/or fencing shall be as approved by Director of County Development.

11. The owner is to dedicate to 60 feet from the existing centerline of Pohick Road for future road widening for the full frontage of the property.

Mr. Baker seconded the motion.

The motion passed unanimously with the Board members present, Mr Barnes was absent.

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PAUL D. AUSTIN, application under Section 30-7.2.10.5.2 of Ordinance to permit construction of additional building for extension and enlargement of veterinary practice, animal hospital and related service, 7323 Little River Turnpike, 71-1(1)19, Annandale District (C-D), 8-54-73

Mr. Charles Shumate, 10523 Main Street, Fairfax, attorney for the applicant, testified before the Board on behalf of the applicant.

The notices to property owners were in order. There were four contiguous owners and he notified all four of them. Two of the contiguous owners were Mae Cohen, 11235 Oak Leaf Drive, Silver Spring, Maryland and Temple Foundry.

Mr. Shumate stated that this is presently under a use permit granted in 1968. The applicant is requesting this special use permit in order to construct an addition to accommodate his growing veterinary practice. It will be designed in accordance with the existing structure. He stated that he had submitted for the file a rendering of the proposed structure and pictures of the present structure. There will be no outside runs and the building will be soundproofed. There are seven parking spaces and they do not plan to put in any more and the seven that are there are never all in use.

Mr. Kelley stated that he had viewed the site and at the time he was there there was only one car on the premises.

There was no opposition to this use.

Mr. Covington stated that there had been no complaints on this use to his knowledge.

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In application Number S-54-73, application by Paul D. Austin, under Section 30-7.2.10.5.2. of the Zoning Ordinance, to permit construction of additional building for extension and enlargement of veterinary animal hospital and related service, on property located at 7323 Little River Turnpike, also known as tax map 71-1((1))19, Annandale District, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 25th day of April, 1973.

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is C-G.
3. That the area of the lot is 8,700 square feet.
4. That Site Plan approval is required.
5. That compliance with all County Codes is required.
6. That the existing animal hospital is operating pursuant to a S.U.E. granted August 6, 1968, S-890-68.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I Districts as contained in Section 30-7.1.2 in the Zoning Ordinance, and

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

Mr. Baker seconded the motion.

The motion passed unanimously with the members present. Mr. Barnes was absent.

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LORD OF LIFE LUTHERAN CHURCH, application under Section 30-7.2.6.1.11 of Ordinance to permit construction of an addition to existing church facility, normal Sunday use and weekday nursery school, 5114 Twinbrook Road, 69-3(1)17, Springfield District (RE-1), S-55-73

Rev. Christian, 5065 Kohler Drive, testified before the Board. He stated that he is the Pastor of the Church.

Notices to property owners were in order. The contiguous owners were Harold Schutt, 5116 Twinbrook and Janet R. Nash, 5016 Twinbrook.

Rev. Christian stated that he plans to add 1600 square feet to the current 3,000 square feet on the same site. The use of the proposed additbn will be for normal Sunday use and also during the week they plan to have a three hour nursery school in the morning for not more than 30 children to serve the community's needs of Kings Park West. The Health Department has o.k.ed this. These children will be from 3 to 5 years of age.

Rev. Christian stated that the existing sanctuary was built in 1969.

He stated that they would not be transporting any children. The children would come in by parent carpool.

In application No. S-55-73, application by Lord of Life Lutheran Church under Section 30-7.2.6.1.11 of the Zoning Ordinance, to permit construction of an addition to existing church facility for normal Sunday use and weekday nursery school, on property located at 5114 Twinbrook Road, Springfield District, also known as tax map 69-3(1)17, County of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 25th day of April, 1973.

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 3.268 acres.
4. That site plan approval is required.
5. That compliance with all county and state codes is required.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit

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Lord of Life Lutheran Church continued:
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SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. The maximum number of children shall be 30, age 4 to 5 years.
7. The hours of operation shall be 9 A.M. to 12 Noon, 5 days per week, Monday through Friday.
8. The operation shall be subject to compliance with the inspection report, the requirements of the Fairfax County Health Department, the State Department of Welfare and Institutions and the obtaining of a certificate of occupancy.
9. Landscaping, screening and/or fencing shall be as approved by the Director of County Development.

Mr. Baker seconded the motion.

The motion passed unanimously, with the members present. Mr. Barnes was absent.

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DE GROFF ENTERPRISES, INC., app. under Sec. 30-7.2.6.1.1 of Ord. to permit swimming pool, Silas Street, Williamsburg Square, 107((12))145-150 part parcel F, Lee Dist., S=56-73 (RTC-10)

Mr. Hellwig from Springfield Surveys spoke before the Board. His address is 5700 Hanover Avenue, Springfield, Virginia.

Notices to property owners were in order. The contiguous owners were Mr. Murphy, Post Office Box 23, Lorton, Virginia and Mr. Shepard, 7811 Silas Street, Lorton, Virginia.

Mr. Hellwig stated that construction is being completed on 166 townhouse units. This pool is to be used by the residents of this development. The pool size is 31x50. This pool will be turned over to the homeowners association at some time in the future. They have provided no parking facilities since all the people in the development are within easy walking distance. They have provided a bike rack for 50 bikes. The distance from the pool to the farthest townhouse is 1520 feet. That is not cutting across yards, but using the sidewalks. There will be no swim metas. He stated that according to the Health Department, 76 can use this pool at any one time.

Mr. Kelley stated that it would have to be limited to that then. The Health Department uses the figure of 3.5 for each dwelling and he had multiplied this by 166 and he had gotten 581 people to be using that pool. That certainly isn't a very large pool for this many people. He asked Mr. Hellwig if he realized that this limit would have to be policed.

Mr. Smith asked for an explanation on the status of the homeowners association.

Mr. Morris from DeGross builders and developers, 112 Tartan Lane, Maryland, spoke before the Board. He stated that as a part of any subdivision now such as this townhouse subdivision, a certain amount of ground is involved and is to be considered common area. In order to put this subdivision on the books he had to have in operation a homeowners association duly recorded with the Site Plan that was approved.

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This homeowners is set up with a Group A and Group B memberships. Group A is the individual purchasers of each house and Group B is owned by him. He has the right of 3 votes and Group A has the right of 1 vote. At such time as these votes from Group A are in favor of the individual homeowners, or when 75% of those townhouses are occupied by the purchasers, it will automatically come under their control and they will elect a Board of Trustees and take over the operation of this association.

Mr. Smith asked if this homeowners association is incorporated.

Mr. Morris stated that it was.

Mr. Smith stated that since the Board does not have any of the papers regarding the corporation, the Board would proceed under the name that the application was filed under. At such time as the homeowners took over, they would have to come back to the Board to have this application amended.

Mr. Shephard, adjacent to the subdivision, spoke in opposition to this use. He stated that his home is on Lot 3 of the Shephard Hills Subdivision. Silas is the drive that comes into his property and while it is a dedicated State street, it is not, nor has it ever been developed as a State street. Shephard Hills belongs to his family and in order to build houses there, the County made them dedicate Silas Street. That pool is directly in front of his house and it is on their drive. That pool is very close to his house. It will create a situation that will certainly be less than desirable. If this pool was in the middle of their area, then he would not object. The way it is now, the noise and traffic will be on the residents of Shephard Hill Subdivision who have nothing to do with the pool. Silas Street is maintained by the four families that live in this subdivision. When Agnes washed it out, they had it built back up. There is a Regional Park down the road and that is where his family go to swim. He stated that he didn't see any reason why these families couldn't go there too.

These lots have been in the family since the end of World War II. They have been owned by he, his brother and his sister. The County made them sign a Petition that they would never ask the State to improve Silas Street or to maintain it. They have been doing this all these years. He stated that he is afraid that the people from the pool area will drive their cars down Silas Street and park them on that street in order to go to the pool as this pool is quite a bit away from the townhouses on the other end.

Another gentleman spoke before the Board in opposition. He stated that he is the husband of the sister who owns part of Shephard Hills Subdivision. He stated that that pool is directly in front of his house. His address is 7812 Silas Street. The pool is exactly 160' from the front of his house. He stated that he had lived at this location for 39 years trying to build a home for retirement. In two more years he wants to retire and he hopes the Board will deny this pool as it is hard to imagine retiring with that in his front yard. He stated that if they would put the pool in the middle of that townhouse subdivision, he would have no objection.

Mr. Hellwig stated that this pool is an after thought. They discussed the possibility of moving it someplace else, but all the footings and storm sewers have been laid, therefore, they cannot move it anyplace else. Originally they had planned this area to be six townhouses, but the people who are buying in there want to have a pool, therefore, the developer agreed to forego the six townhouses in order to build them a pool.

Mr. Kelley stated that he agreed with the people who live there. He stated that he did not feel these people should be penalized by this pool when it could have been built in the middle of their subdivision. He stated that he lives one-half mile from a pool and the lights from that pool still shine in his backyard.

He asked if they plan to improve Silas Street.

Mr. Hellwig stated that they do not plan to improve Silas Street.

Mr. Smith stated that that street would cause some enforcement problems since it was not State developed or maintained, particularly since some of these townhouses are quite a distance away from this pool and no parking is provided at all for the pool.

Mr. Kelley stated that he feels the pool is much too small for that size subdivision.

Mr. Smith stated that he couldn't help wonder how these people would feel about having this pool right in their front door when they weren't even members of that pool.

Mr. Runyon agreed that this is not exactly a walk to pool.

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In application No. S-56-73, application by DeGroff Enterprises, Inc., under Sec. 30-7.2.6.1.1 of the Zoning Ordinance, to permit swimming pool on property located at Silas Street, Williamsburg Square Subd., also known as tax map 107 ((12))145, 150 and part of parcel F, Lee District, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 25th day of April, 1973.

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is RTC-10.
3. That the area of the lot is 0.67789 acres.
4. That Site Plan Approval is required.

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

1. That the applicant has not presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr. Kelley seconded the motion and the motion passed unanimously with the members present.

Mr. Barnes was absent and Mr. Baker was out of the room.

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CLARENCE M. HOHNER, appl. under Sec. 30-6.6 of Ord. to permit enclosure of porch closer to front property line than allowed, 2939 Rosemary Lane, Homecrest Subdivision, 50-3 ((7))2, Providence District (R-10), V-57-73

Mr. Hohner represented himself before the Board.

Notices to property owners were in order. The contiguous owners were Little, 2941 Rosemary Lane and Noble, 2937 Rosemary Lane.

Mr. Hohner stated that the house is approximately eleven yrs. old and the portion in question has been existing as a porch from the day it was constructed. The house requires extensive repairs and they want to enlarge on their house at the same time as they repair it. This will add to the beauty of the home and of the community. They have considered other alternatives, but due to the fire regulations, this is the only place that is feasible.

Mr. Smith stated that this is an extremely narrow lot. He asked Mr. Covington if they have a 45' required setback.

Mr. Covington stated that it is now 45'.

Mr. Smith stated that this was less than 40' when the house was constructed so it must have been a 40' setback at that time.

Mr. Smith asked the applicant if this has a roof on it at the present time.

The applicant stated that the roof has always been over this porch.

The Board then discussed the requirement that the applicant be charged for all paved areas that he was adding. The Board decided that he actually wasn't adding any paved areas.

Mr. Smith stated that this older home when it was constructed could have covered this porch without getting a variance at all. The building requirement setback until 1959 was 30' for this particular zone. Certain cluster zoning today, could be within 30' of the front property line.

There was no opposition.

In application No. V-57-73, application by Clarence M. Hohner, under Section 30-6.6 of the Zoning Ordinance, to permit enclosure of porch closer to front property line than allowed by Ordinance, on property located at 2939 Rosemary Lane, Homecrest Subdivision, also known as tax map 50-3((7))2, Providence District, County of Fairfax, Virginia, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 25th day of April, 1973, and

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

1. That the owner of the subject property is Clarence M. and Loretta R. Hohner.
2. That the present zoning is R-10.
3. That the area of the lot is 7,500 square feet.
4. That the house and existing porch were constructed prior to the adoption of the present zoning ordinance, and are non-conforming.
5. The request is for a minimum variance.

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

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the use of the reasonable use of the land and/or buildings involved:
 - (a) exceptionally narrow lot.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. Architecture and materials shall be compatible with existing dwelling.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, residential use permit and the like through the established procedures.

Mr. Baker seconded the motion.

The motion passed unanimously with the members present. Mr. Barnes was absent.

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April 25, 1973

THOMAS R. MEADOWS & HOMES OIL REALTY CO., INC., app. under Sec. 30-6.6 of Ord. to permit construction of building closer to rear property line than allowed, 7419 Richmond Highway, 92-4((1))94, Lee District (C-G), V-45-73 (Deferred from April 18, 1973, for decision only)

Mr. Smith read a letter from Col. Meadows stating that during the hearing there were three subjects that appeared to have an undesirable impact on his request. He then stated that he would reduce his request for a variance up to 10'. He would construct the building of brick if that is what the Board prefers and he would also dedicate 67' from the centerline of Route 1.

Mr. Smith stated that this property is joined on the side yard by commercial and certainly this request for this variance would not afford any impact.

Mr. Covington stated that the unfair thing about this is that the owner of the property on the other sides could build right on the property line.

Mr. Runyon stated that it would be a good idea to have brick all around if this is granted back to the property line so that it would be compatible with anything that would be constructed next to it.

In application No. V-45-73, application by Thomas R. Meadows and Homes Oil Realty Company, Inc. under Section 30-6.6 of the Zoning Ordinance, to permit construction of building closer to rear property line than allowed by Ordinance, on property located at 7419 Richmond Highway, Lee District, also known as tax map 92-4((1))94, County of Fairfax, Virginia, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 18th day of April, 1973 and deferred to April 25, 1973.

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

- 1. That the owner of the subject property is Homes Oil Realty Company, Inc.
- 2. That the present zoning is C-G.
- 3. That the area of the lot is 18,750 square feet.
- 4. That site plan approval is required.

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

- 1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land involved:
 - a. Exceptionally narrow lot.
 - b. Unusual condition of the location of existing building, dedication of land for future road widening.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

- 1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
- 2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
- 3. Owner to dedicate to 65 feet from centerline of Route #1 for the full frontage of the property for future road widening.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

4. The building shall be constructed of brick.

Mr. Baker seconded the motion. The motion passed 4 to 0. Mr. Runyon abstained as his firm worked on the plans.

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Mr. Smith read a letter from General Cappucci dated April 23, 1973, requesting an out of turn hearing for his variance request to permit construction of pool closer to side property line than allowed, 6712 Valley Brook Drive, Holmes Run Park Subdivision, He stated that this pool is needed for therapeutic reasons as soon as possible. His wife must drive to Bethesda Naval Hospital to use the pool there. This long drive is a hardship. They would like to get the pool finished before warm weather is over. They have already contracted for the pool and any undue delay would cause a financial hardship and loss to them.

Mr. Baker moved that the request be granted.

Mr. Kelley seconded the motion and the motion passed unanimously.

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FOX HUNT SWIM CLUB, S-110-72

Mr. Smith read a letter from Mr. Gregory N. Harney from the law firm of Fried, Fried, Klewans and Lawrence. Mr. Harney stated that since the issuance of these permit for the Fox Hunt Swim Club, they have solicited membership from the geographical area stipulated in the use permit. The available members from this area are not sufficient to support two swimming pools, theirs and the existing Orange Hunt Swim Club. Therefore, they would like to expand their geographical area because of the lack of sufficient financial basis for covering essential contract payments and mortgage amortization. They presently have 132 permanent members out of the allotted 350 members. They would like to expand their area to include two adjacent subdivisions: Section 8A, Section 8B, and Section 8C of Rolling Valley Subdivision, and Section 3, Section 4, and Section 5 of Keene Mill Station Subdivision.

Mr. Runyon moved that this request be granted with the stipulation that future consideration be given to the original geographic area for incoming members.

Mr. Baker seconded the motion and the motion passed unanimously.

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HOLLIN MEADOWS SWIM & TENNIS CLUB, S-100-72

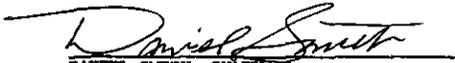
Mr. Smith read a letter from Edward P. Torrey, President of the above-captioned recreation association. Mr. Torrey stated that they were trying to implement the requirements that the Board had placed on their association at the last November meeting. They are scheduled to open on May 26 and all contracts stipulate that work must be done by that time. Drainage and concrete work, which must precede paving, has been delayed by rainy weather. They inquire: 1. Is it a correct interpretation that in November they were granted a temporary operating permit good for one year contingent on initiation of compliance with each and every requirement and 2. At what time should they apply for the three-year permit and what is the procedure for doing so.

Mr. Smith stated that the only question the Board needs to answer is No. 1, the Staff can give him the answer to number 2. The original three year permit will be valid at such time as the as-built site plan is submitted and that should be submitted promptly.

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The hearing adjourned at 1:20 P.M.

By Jane C. Kelsey
Clerk


DANIEL SMITH, CHAIRMAN

APPROVED May 16, 1973
(date)

The Regular Meeting of the Board of Zoning Appeals Was Held On Wednesday, May 9, 1973, in the Board Room of the Massey Building. Present: Daniel Smith, Chairman; Loy P. Kelley, Vice-Chairman; Joseph Baker; George Barnes; and Charles Runyon.

The meeting was opened with a prayer by Mr. Barnes.

10:00 - JERRY BENDER, app. under Section 30-6.6 of Ord. to permit enclosure of carport closer to side property line than allowed, 3051 Sleepy Hollow Road, Sleepy Hollow Manor, 51-3((11))54, Mason District (R-12.5), V-58-73

Mr. Bender represented himself before the Board.

Notices to property owners were in order. The contiguous property owners were Harry Applegate, 3049 Sleepy Hollow Road, owner of Lot 55 and Mr. Frank McCusker, 3068 Hazelton Street, owner of Lot 70.

He stated that he has a carport which is partially enclosed now. It is enclosed part of the way up and then is screened. He would like to enclose the carport to provide more living structure for year around living. The same roofline will service the family room as now exists on the porch. No other neighbors will be affected due to the backyard setbacks. He stated that he has a storm drainage easement on the north side of the lot which prevents him for building another room there. He feel that if he cannot build this enclosed porch from his existing screened porch, he will not be able to utilize the land. He has owned the property since 1967. It was enclosed with screen with he purchased it. He plans to continue to live at this location. This is for his family's use and not for resale purposes. The materials that will be used will be similar to the existing dwelling.

In application No. V-58-73, application by Jerry Bender, under Section 30-6.6 of the Zoning Ordinance, to permit enclosure of carport to closer to side property line than allowed, on property located at 3051 Sleepy Hollow Road, Sleepy Hollow Manor, also know as tax map 51-3((11))54, Mason District, County of Fairfax, Virginia, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 9th day of May, 1973, and

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

1. That the owner of the subject property is Jerry J & Julia D. Bender.
2. That the present zoning is R-12.5.
3. That the area of the lot is 10,933 square feet.
4. That there is a storm drainage easement and a sanitary sewer easement across subject property.

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

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
 - a. Exceptionally narrow lot.
 - b. Exceptional topographic problems of the land.

NOW THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

3. Architecture and materials to be used in proposed addition shall be compatible with existing structure.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, and Non-Residential Use Permit, and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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FELIX R. GUADALUPE, JR., app. under Section 30-6.6 of Ord. to permit subdivision of Lot, 3720 Rugby Road, Murray Farms, 45-2((2))2, Centreville District (RE-1), V-59-73

Mr. Guadalupe represented himself before the Board.

Notices to property owners were in order. The contiguous owners were Joseph G. Hall, 624 Rugby Road, the owner of Lot 2 and Adam Yambers, 3708 Rugby Road, the owner of Lots 27 and 28.

Mr. Guadalupe stated that he had owned the property for three years. He has almost an acre in each lot. Actually it is 1.9388 in each. This is one acre zoning. He has enough lot width, except that in order to make the back portion a separate lot, he must put in an access easement across the front lot, making the front lot a corner lot. He does not have enough frontage for a corner lot, therefore, he would like a variance in order to subdivide this parcel into two lots.

Mr. Knowlton stated that he does have enough land in each lot to qualify under the one acre zoning category. The variance that is required is 40'. The easement is a part of the front property, but is granted to the rear property owners. That will be recorded with the subdivision at the time it is approved. This is handled under subdivision control.

Mr. Guadalupe stated they do plan to develop the front lot. They are already building a house on it. He hopes to build on the back lot in the future.

Mr. Smith asked if they had had a perk test done.

Mr. Guadalupe stated that they had had a perk test on the front portion, but not on the back.

Mr. Runyon stated that this would be covered under subdivision control. They would not be allowed to go through with the subdivision unless they could provide suitable septic facilities.

There was no opposition.

Mr. Smith stated that he felt one of the conditions of the granting should be that prior to the subdivision of the lots, the Health Department approved the septic field on the two separate lots.

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May 9, 1973
GUADALUPE (continued)

In application No. V-59-73, application by Felix R. Guadalupe, Jr. under Section 30-6.6 of the Zoning Ordinance, to permit subdivision of lot, on property located at 3720 Rugby Road, also known as tax map 45-2((2))26, County of Fairfax, Virginia, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 9th day of May, 1973.

WHEREAS, the Board of Zoning Appeals had made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 1.9388 acres.
4. That this division complies with Section 30-3.4.9 of the Zoning Ordinance.

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

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.
 - a. Exceptionally narrow lot.

NOW THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Baker seconded the motion.

The motion passed unanimously.

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IRVING ADLER & JESSIE SPIELMAN, app. under Section 30-6.6 of Ord. to permit house to remain closer to front property line than allowed, 3118 Barley Road, 47-4(1)37, Providence District (RE-0.5), V-62-73

Mr. Tom Mays, 1415 North Court House Road, Arlington, Virginia, represented the applicant, Irving Adler, and also Jessie Spielman before the Board. He stated that Mrs. Jessie Spielman's attorney, John Rust, was present also in case the Board had questions from him. Irving Adler is the contract owner and Jessie Spielman is the record owner.

Notices to property owners were in order.

Mr. Mays stated that the slide on the wall showing the location of the property does not accurately reflect the development of the area. This area surrounding this property has been fully developed and this point is very important in this case. Mrs. Spielman has owned this property since 1937. She also has lived there since 1938. She wants to continue to live there. The contract has a clause in it that provides that she will retain the house and a certain portion of land surrounding it. That portion of land depends in size on the rezoning application that is now pending before the Board of Supervisors and comes up on their Agenda for May 21st. This application passed the Planning Commission unanimously for R-12.5 zoning. They will need the variance whichever zoning is in there. As all the land surrounding this parcel has already been developed, they are having a problem with access. The only access they have is Flintlock Road. If they went ahead with the plans, they would be in violation because of the setback of this house, therefore, they would like to get the variance first so they will not be in violation when they submit the plans to the County Planning Department. It would be a hardship to develop these plans on an 'if' basis.

Mr. Smith stated that he felt they should delete the portion of the land that the house sets on.

Mr. Mays stated that until after the rezoning, they do not know the acreage of this parcel.

Mr. Smith asked if the taking of land for this road would put the house in a nonconforming status and, therefore, would not need a variance.

Mr. Mays stated that it would not unless it has to go through condemnation proceedings. The State could bring the road in there and make the house nonconforming, but Site Plan cannot approve it.

Mr. Mays stated that they do have water and sewer available for the site.

Mr. Smith stated that he felt this is a self-imposed condition.

Mr. Mays stated that this is definitely not a self-imposed condition. This caught them by surprise. This rezoning has been on the shelf, then all of a sudden, they realized that they were landlocked and committed to Flintlock Road. They feel they do qualify for this variance for a number of reasons. If the Board will admit that this is not a self-imposed condition, there is unusual development on adjacent land and there is Flintlock Road. They did not put the road there. They will be deprived of the reasonable use of the land if they are not granted this variance.

Mr. Runyon asked what the status of Barley Road is.

Mr. Mays stated that Barley Road is a private access road. This parcel has no other access.

Mr. Smith asked that Mrs. Jessie Spielman speak to the Board. She gave her address as 3118 Barley Road.

Mr. Smith asked her if she planned to continue to reside in this house in question and if she had, in fact, lived there since 1938.

Mrs. Spielman stated that she does plan to reside in this house as she has since 1938.

There was no opposition.

Mr. Kelley moved that the subject application be deferred until after May 21st, 1973, the date of the hearing before the Board of Supervisors for the rezoning of this property.

Mr. Baker seconded the motion and the motion passed unanimously.

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NORTHERN VIRGINIA CHRISTIAN ACADEMY, app. under Section 30-7.2.6.1.3 of Ord. to permit private school, kindergarten through high school, 4601 West Ox Road, 56-1((1))10, Centreville District (RE-1), S-63-73

Rev. Bond, 4814 Fox Chapel Road, pastor of the Bethlehem Baptist Church, where this school is located, spoke to the Board on subject application.

Notices to property owners were in order. The contiguous owners were Louise Cross, 4623 West Ox Road, Fairfax and Charles Taylor, 4501 May Ann Street, Fairfax, Virginia.

Rev. Bond stated that the church will be the guiding body of the school and it will establish the doctrine and faith taught in the school. It is a subordinate of the church and it will exist because of the church and this relationship must be maintained. The responsibility of the teachers, the disciplinary actions and the operating rules will be that of the church. They hope to add at least one grade per year until they have kindergarten through college. They plan to develop the adjacent tract of land next to the church, but that is not a part of this application today.

The enrollment they hope to start with is 100.

The church facility now exists and they have been working with Mr. Bowman from the Health Department since February trying to work out a system that will take care of 200 students and would also be usable for the future development of the adjacent land. They will have this system completed prior to enrollment of the students.

Mr. Smith stated that he did not understand how they were able to have 1000 children in Sunday School, if the septic system is not adequate for the school that they have planned.

Rev. Bond stated that the Health Department treats the Sunday attendance as if it were present every day and then they add the school attendance onto that figure.

Mr. Paul Black, 4518 Legato Road, in the Centennial Hills Subdivision, represented the Dixie Hills, Legato Acres, Legato Heights and the Centennial Hills Subdivisions before the Board. He stated that they realize that the adjacent property is not coming up today, but it was mentioned and they would like to speak primarily to the church itself, the existing facility. They had several meetings of these civic associations, April 30, May 2, and May 8, where they discussed the problems that might arise from this facility.

Mr. Black also stated that the associations do not oppose the establishment of the school. They have considered the impact of the academy from the community's viewpoint upon the traffic conditions in their community. They have been advised that the main entrance would be from West Ox Road. If they do allow ingress and egress from the back, it will impact the residential community as far as traffic is concerned. They feel this could be avoided if the Board will set a condition that they cannot use the back entrance. They have also considered the drainage problems. They feel that the County's procedures concerning this will insure the best possible drainage system.

They have a Petition which they would like to submit to the Board signed by approximately 130 people. He also asked that the people who were present representing this community be allowed to stand and be counted. The Petition represents 85% of the homeowners in their subdivisions.

They were allowed to stand. There were 13 people present, 14 including Mr. Black. Six of these people indicated that they were from Centennial Hills and six were from Dixie Hills.

Mr. Black indicated that there is another factor that they would like the Board to consider and that is that a densely wooded green buffer zone of at least 100' wide be put in designed to minimize objectionable noise and visual intrusions. This area should be contiguous and continuous along the eastern boundaries of the properties for which the Special Use Permit has been requested. The buffer zone should be used solely for the purpose of separating the institutional use from residential use and not for recreational purposes.

He stated that the future installation of lighting and protective systems should be installed so as not to create a nuisance to adjacent property owners.

Mr. Black stated that they would be opposed to this use, if these conditions were not complied with by the applicant.

Mr. Markweth, 12206 Ruffin Drive, one of the contiguous property owners, spoke regarding this application.

He stated that he does not object to this use as long as the proper conditions are put on it.

Mr. Smith asked if basically what they want is proper screening and no traffic through the subdivision streets.

Mr. Markweth answered that that was correct.

Mary Taylor, another of the contiguous owners spoke before the Board. She was concerned about the adequacy of the septic field as they have a very high water table in that area. She asked if the Board knew whether or not they will be getting a sewer hookup in the near future.

Rev. Bond answered her question. He stated that he had checked on the 8th Floor of the County Building and had found that there are some plans involving a federation of builders for an agreement with the City of Fairfax and they will have sewer down Legato Road toward the City of Fairfax. He stated that the 8th Floor has very little information on this, however.

Mrs. Taylor stated that the reason she is bringing it up is because she knew that some of the land around there does not perk. All the water is very close to the surface. She stated that she has a well that is only 14' deep. If the applicant is going to use this land for an expansion of the use, she stated that they feel this is also a problem that should be given quite a bit of consideration before it is granted.

Rev. Bond spoke in rebuttal. He stated that he felt all of the people's points have merit and he agrees with all of them except the 100' buffer strip. He stated that he felt that this is a bit excessive. He stated he felt 30' would be more reasonable.

Mr. Smith stated that they would be required to setback 25' from the residential.

Mr. Kelley stated that the Board usually leaves the landscaping, screening, etc. up to the Department of County Development.

Mr. Covington stated that the Department of County Development cannot require a 100' buffer zone. The only thing that County Development can require is standard screening and fencing which is 16' and that is included in the 25' setback requirement. Therefore, if the Board wants an additional buffer zone, the Board will have to so indicate.

Mr. Markweth and Mrs. Markweth were asked to speak on this buffer zone as they were the closest neighbors to this facility.

Mr. Markweth stated that the best he could say is that there is an existing service building within 70' of the Waddle property and that makes that service building about 150' from his property and the noise is still noticeable and objectionable. He stated that he objected to this building when they they were going to build it. The noise is disturbing and distracting. They race the motors on the busses, they repair motors there, service the busses, paint them, there is a gasoline storage tank there. The original permit stated that they could change tires and clean the busses and there definitely is a considerable amount of mechanical work going on there too.

Mr. Smith stated that the gasoline pumps would be permissible and the Board could do something about limiting the hours that they are there working on the busses. He stated that he would have Rev. Bond speak to this point.

Mr. Markweth also stated they were also repairing cars in that garage also.

Mr. Kelley stated that they should set hours that they could work on this.

Mr. Smith stated that he was sure that Rev. Bond would agree to limit this.

Rev. Bond stated that he did not know of any work that had been going on until 11:00 P.M. They have voluntary maintenance of the busses. The tire work is done by one of the tire companies in Fairfax who come during the day. Occasionally a tire has to be replaced at night. They have two or three men who have service stations that come in to do maintenance. This building is constructed of brick and is of colonial design compatible with the neighborhood. They have no problem confining the time this building is used if it is a nuisance.

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NORTHERN VIRGINIA CHRISTIAN ACADEMY (continued)

Mr. Smith asked if these busses would be used for the school.

Rev. Bond stated that they would be. He stated that with regard to the use of the entrance to the rear of their property, they would like to continue to use this for Sunday morning services. They have tried to put a baracade up there, but it was torn down. They then put up a chain. The only time they use that entrance is on Sunday. The people from the Dixie Hills and Centennial Subdivisions use that entrance for shortcuts and this is the reason they put up the chain. A large portion of their congregation live back in that area, therefore, the use on that entrance on Sunday does not put additional traffic on that subdivision. They would agree to close it off during the week.

Rev. Bond, in answer to Mr. Runyon's question, stated that the hours for this school would be the same as the Fairfax County public schools.

In application No. S-63-73, application by Northern Virginia Christian Academy, under Section 30-7.2.6.1.3, of the Zoning Ordinance, to permit private school, kindergarten through high school, on property located at 4601 West Ox Road, Centreville District, also known as tax map 56-1((1))10, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 9th day of May, 1973.

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

1. That the owner of the subject property is Trs. for Bethlehem Baptist Church.
2. That the present zoning is RE-1.
3. That the area of the lot is 9.51416 acres.
4. That compliance with all County and State Codes is required.
5. That Site Plan approval is required.
6. That S-166-69 is in operation.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation. TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Certificates of Occupancy on the property of the use and be made available to all Department of the County of Fairfax during the hours of operation of the permitted use.

- 6. The maximum number of students shall be 200.
- 7. The hours of operation shall be 8 A.M. to 5 P.M. 5 days per week, Monday through Friday.
- 8. All buses and/or vehicles used for transporting students shall comply with state and Fairfax County School Board standards in lights and color requirements.
- 9. The operation shall be subject to compliance with the inspection report all requirements of the Fairfax County Health Department, the State Department of Welfare and Institutions, and obtaining a Certificate of Occupancy.
- 10. The recreational area to be in conformance with County and State Codes.
- 11. Screening, fencing, and lighting shall be in conformance with the requirements of the Department of County Development. In addition, a 50 foot buffer strip of natural foliage supplemented with six foot evergreens shall be provided.
- 12. The entrance off Ruffin Drive shall be blocked during school hours, and no use shall be made thereof.

Mr. Baker seconded the motion.

The motion passed unanimously.

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VIRGINIA WESTERN HORSE SHOW ASSOC., app. under Section 30-7.2.6.1.4 of Ord. to permit periodic horse show 2 to 3 times per month, April thru October, 4301 Sully Road, 44-1 ((1))1A, Centreville District (RE-1), S-64-73

Mr. Richard Chess, attorney in Fairfax, represented the applicant before the Board.

Notices to property owners were in order.

Mr. Chess stated that this organization was formed approximately three years ago. They are an off-shoot of another organization which previously held horse shows in Fairfax County. Its sole purpose is to put on horse shows during the year. They have been operating horse shows at this location for approximately three years, but last year the Zoning Administrator told them they would have to get a Special Use Permit from this Board before they could operate there this summer. They have moved the horse show ring back the 100' required and arrangements have also been made for adequate parking. They are also improving the entrance road. This is a non-profit organization and does provide recreation for Fairfax County residents. 90% of the people who participate are Juniors. He submitted a list of dates that they plan to have horse shows at this location. He stated that they have a six year lease, but it can be terminated on a 30 day notice should the owner wish to do so.

Mr. Harvey Helm, 9501 Leesburg Pike, spoke before the Board. He is Vice-President of this Association. He stated that they have had requests from the Appaloosa Association and the 4-H Club to have horse shows at this location. This would require a couple of Sundays each per year.

There was no opposition.

Mr. Runyon requested that the Board strike the part in the motion relating to Site Plan approval being required.

Mr. Smith stated that the Board could not do that as the Board does not have the authority to do that. That Department can waive it if they wish to. The Board of Zoning Appeals is just pointing it out to the applicant that they have that requirement. It is then up to County Development to waive the requirement if they wish to.

In application No. S-64-73, application by Virginia Western Horse Show Association, under Section 30-7.2.6.1.4 of the Zoning Ordinance, to permit periodic horse shows 2 to 3 times per month - April through October, on property located at 4301 Sully Road, Centreville District, also known as tax map 44-1 ((1))1A, County of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 9th day of May, 1973.

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

1. That the owner of the subject property is William H. Scofield and T. Kolankiewics, Trustees.
2. That the present zoning is RE-1.
3. That the area of the lot is 28,388 acres.
4. That site plan approval is required.
5. That compliance with all County Codes is required.

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

1. That the Applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during hours of operation of the permitted use.
6. The hours of operation shall be 7:00 A.M. to 6:00 P.M.
7. This permit is granted for a period of 5 years with the Zoning Administrator being empowered to extend for three (3) one (1) year periods.
8. This shall be limited to 22 shows scheduled between April 1st and October 31st of each year.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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MRS. GRACE R. HERRING, app. under Section 30-7.2.6.1.3 of Ord. to permit day care for 9 children, 7 A.M. to 6 P.M., 8615 Cottage Street, 49-1((9))(K)87, Centreville District, (R-12.5), S-65-73

Mrs. Herring represented herself before the Board.

Notices to property owners were in order. She only had one contiguous owner, Mrs. Beverly Groves. The next closest property owner is Alton Howard, 8613 Cottage Street, Vienna, Virginia.

Mrs. Herring stated that she lives at this location. This has been a school for quite some time and operated by Mrs. Schuman, the owner of the property. She plans to reduce the number of children to nine. The ages of the children will be under five. She plans to operate from 7:00 A.M. to 6:00 P.M. This will be a day care facility. This will be under State Day Care licensing. She stated that she already has her license. There is no lease involved. There is a letter in the file from Mrs. Schuman, her sister, giving her permission to have this school.

Mr. Smith asked if she would be allowed to stay there as long as she wishes.

Mrs. Schuman answered that she would.

Mrs. Herring stated that she has 7 children now, but there is a waiting list. This summer this number will drop to four.

In application No. S-65-73, application by Mrs. Grace R. Herring, under Section 30-7.2.6.1.3 of the Zoning Ordinance, to permit day care center for 9 children - 7 A.M. to 6 P.M., on property located at 8615 Cottage Street, Centreville District, also known as tax map 49-1((9))(K) 87, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 9th day of May, 1973.

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

1. That the owner of the subject property is Marguerite V. Schumann.
2. That the present zoning is RE-12.5
3. That the area of the lot is 16,785 square feet.
4. That site plan approval is required.
5. That the use is presently under permit #S055-61.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plans submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

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 Grace R. Herring continued:
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4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMITS AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. All other requirements of permit 5055-61 shall apply.

Mr. Baker seconded the motion.

The motion passed unanimously.

// (Hearing ended at 2:15 P.M.)

WALTER ROBERT AND JOYCE LUND MEARS, app. under Section 30-6.6 of Ord. to permit addition of garage closer to front property line than allowed, 3206 Amberley Lane, (49-3(18)89A, Providence District (RE-0.5), V-66-73

(Case begun at 2:15 P.M.)

// Notices to property owners were in order. The contiguous owners were Arthur Gatenby, 3133 Chichester Lane, Fairfax and Donald Minini, 3202 Amberley Lane, Fairfax, Virginia.

Mrs. Mears, 3206 Amberley Lane, represented the applicant before the Board.

Mrs. Mears stated that they have gone to a number of engineers trying to find some way to construct this addition without having a variance, but to no avail. They have a pie shaped lot and they also have a steep hillside in the back. Three of the neighbors who have to look at this consider this an improvement. The size of the garage is 24.40'. They have taken the exact dimension of the proposed structure and tried to balance it with the existing structure. She showed the Board a sketch of what she was talking about.

Mr. Smith stated that the Board has to base the variance on the minimum requirement and this garage could be cut down to 22' and they would still have a good serviceable garage.

Mrs. Mears stated that because of the way the house is constructed if they construct a 22' garage it will not balance with the architecture of the house. She again showed the Board a sketch of the plans which showed the existing structure and the proposed structure.

Mrs. Gatenby spoke in favor of the application. She stated that she knew the Mears have been working with engineers to try to work this out without a variance, but they could not. The neighbors are in favor of this application and hope that the Board will grant it. She stated that she is speaking for about four or five of the neighbors. She named them.

There was no opposition.

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 Mrs. Eleanor Gatenby/spoke in favor of the application stated that none of the neighbors in the immediate vicinity are in opposition to this application. No one in the neighborhood wants to lose the Mears as neighbors.

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Walter R & Joyce L Mears (continued)

In application No. V-66-73, application by Walter R. & Joyce L. Mears under Section 30-6.6 of the Zoning Ordinance, to permit addition of garage closer to front property line than allowed, on property located at 3206 Amberly Lane, Providence District, also known as tax map 49-3((18))89A, County of Fairfax, Virginia, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 9th day of May, 1973, and

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

- 1. That the owner of the subject property is the applicant.
- 2. That the present zoning is RE-0.5.
- 3. That the area of the lot is 20,363 square feet.

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

- 1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.
 - a. Exceptionally irregular shape of the lot.
 - b. Exceptionally narrow lot.
 - c. Exceptional topographic problems of the land.

NOW THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted in part (a 22 foot garage) with the following limitations.

- 1. This approval is granted for the location and the specific structure or structures indicated in the plat included with this application only, and is not transferable to other land or to other structures on the same land.
- 2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
- 3. Architecture and materials to be used in proposed structure shall be compatible with existing dwelling.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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TUCKAHOE RECREATION CLUB, INC., app. under Section 30-7.2.6.1.1 of Ord. to permit addition of one tennis court, lighting on all courts, enlarge baby pool and construct intermediate pool, 1814 Great Falls Street, 40-1(1)1 & 2, Dranesville District (R-12.5), S-72-73 OTH

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Mr. Dimpfel, 6845 Blue Star Drive, McLean, Virginia, President of the Association and present member of the Board of Directors, spoke before the Board.

Notices to property owners were in order. The contiguous owners were Mr. Harris, 1826 Great Falls Street and Mr. Satre, 1812 Great Falls Street and Col. Lampos, 1821 Susquehannock Drive.

Mr. Dimpfel stated that he has been a member of the Board for the past ten years. The interest in tennis has increased greatly and also the number of children under three years of age has also increased. They would like to have an additional tennis court, lights on the courts, enlarge the baby pool and construct an intermediate pool. The present membership is 3,250. They no longer have family memberships as such.

Mr. Kelley stated that the Special Use Permits are based on family membership, therefore, he would like an estimate of the family memberships.

Mr. Dimpfel stated that it averages around 900, and they never go over 1,000. He stated that they have checked the parking over the years and they have never needed all the parking spaces that they have. Therefore, they want to take some of the parking spaces and make a tennis court there.

Mr. Smith asked about the parking adequacy during swim metes.

Mr. Dimpfel stated that these metes are held on Saturday morning or after the close of the pool and they have had adequate parking spaces at that time. The pool closes at 9:00 P.M. and they have swim metes or volleyball practice at that time. Some of the swim teams start at 6:00 A.M. in the morning on school days. The indoor pool is used which is completely enclosed. They plan to use the cortz bulb type lights on the tennis courts. These lights will be kept in a downward position to shine directly on the courts.

Mr. Smith stated that there is another new type light out that keep the light confined to a smaller area.

Mr. Smith asked if they had any pictures of the type of lights that are planned.

Mr. Dimpfel stated that he did not.

The Board discussed the parking situation.

Mr. Kelley stated that he did not see an emergency lane on the plat and he felt there should be one.

Mrs. Cherbonneau, 1325 Susquehannock Drive, contiguous to the subject property, spoke in opposition to this use. She stated that the North fence of Tuckahoe fences in their back yard. They are on Lot 19. The only objection they have is the lights on the tennis courts and the traffic problems. There will be more noise and congestion. They do not have problems with the lights on the pool. During the summer there is not as much noise as in the winter because in the winter the pool is covered and people come in and out of the parking lot at all times of the day and night. The kids use it as a meeting place.

Mr. Smith stated that that certainly could be controlled.

Mrs. Cherbonneau stated that the kids also go into the parking lot after closing time. She stated that they have lived at this location for ten (10) years and they do not feel there is a need for the intermediate pool.

Mr. Smith stated that this is Club politics and must be settled at Club level, although an Association is supposed to have the majority vote of the members of the Board of Directors before the application comes to the Board of Zoning Appeals.

Mrs. Cherbonneau stated that this has not been done.

Mr. Smith stated that the minutes of the meeting would clarify any question on this. He asked that the Board be furnished a copy of the minutes of the meeting regarding this application.

Mr. Dimpfel stated that there would be no activity on the tennis courts after 9:00 P.M. so the lights and the traffic would not be a nuisance.

Mrs. Satre, who lives next to Tuckahoe by the parking lot, spoke in opposition to this application. She stated that they are very concerned about the lights from the tennis courts.

Mr. Barnes stated that he is concerned about this parking after hours and he felt something should be done about it.

Mr. Kelley moved that the Board defer this case for a maximum of thirty (30) days for decision only to allow the application to submit new plats showing:

- 1. landscaping; 2. fencing; 3. screening; 4. parking for emergency vehicles;
- 5. relocation of parking area (this is to make up for the parking area that would be lost when the additional tennis courts are put in); 6. square footage of pool area; 7. at least three (3) bike racks; 8. a plan to secure the area; 9. minutes of meeting authorizing this application.

These plats are to be in at least five (5) days prior to the hearing to the Zoning Administration Office, 5th Floor, Massey Building, 4100 Chain Bridge Road, Fairfax, Virginia.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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2:40 - DONALD F. JAMESON, app. under Section 30-6.6 of Ord. to permit construction of house closer to front property line than allowed, 1501 Beulah Road, Dranesville District, 19-3(1)34A, (RE-1), V-76-73; OTH

Mr. Jameson, 1567 Inlet Court, Reston, Virginia, represented himself before the Board. He stated that his architect, Mr. Bradford deWolfe, was present to answer any technical questions the Board might have.

Notices to property owners were in order. The contiguous owners were Allen Price Daw, Parcel 34, 1451 Beulah Road, Vienna, whose house is the only one that is very close to this property in question and Cinnamon Creek Homeowners Association, 2990 Telstar Court, Falls Church, Virginia.

Mr. Jameson stated that the reason they need this variance is because of the topography of the site. He stated that the plats show the topography of the land showing just how bad the problem is. The grade is extreme in the only area where the house can be built. If the house set back 75' from the center line of the road, it would necessitate a driveway with a 75% grade, which would necessitate a complicated construction process. This would also obstruct the view of the next door neighbors, the Daws. The house is 124' long. If you were to move the house back, the supports of the house become much more complicated. He shows a profile which illustrated what the problem is. He stated that his mobility is limited and he must have a house and garage on one level. They have made an inquiry to the Virginia Department of Highways as to the plans for Beulah Road and they have told them that they have no plans for widening or for realigning Beulah Road at the present. There is substantial ground in the easements already given. They have designed the house so that the part facing the road will be the blind side.

Mr. DeWolfe, 1149 Bellview Road, McLean, Virginia, spoke before the Board. He stated that if they were to try to move the south corner of the house further away from the road, it would necessitate greatly lengthening their columns and getting some kind of additional retaining wall to support the house. This is the main reason for keeping that end of the house as close as they can get it to the road. They are trying to keep the steep driveway as short as possible. It is a very difficult site. One of the reasons the house appears so long is that they are following the contours of the land.

Mr. Baker asked if there was a slippage problem there.

Mr. DeWolfe stated that they have checked with the County's Soils Scientist and the soil is 21 E 2 that registers as good soil for building. The slope over the part of the land that they are building on is a run of 2 and a rise of 1.

Mr. Covington stated that they can have an automatic 20% variance based on the taking of the land for the highway.

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JAMESON (continued)

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Mr. Smith stated that he could have the automatic reduction provided that he could go ahead and build, but in this case they are requesting a variance beyond that that he could have automatically, therefore, the Board must consider the entire amount of the variance.

Mr. Steve Reynolds, Preliminary Engineering Branch, stated that he does not see any problem with the road construction. There would be a sidewalk in there and 10' of the easement would be for grading. This is proposed to be a 60' right-of-way and they have 30' shown to be dedicated.

There was no opposition to this application.

Mr. Smith stated that he would like to see the applicant try to move back another 5'.

Mr. Kelley moved that in Application V-76-73, this case be deferred for proper plats showing the exact setback from the center line and the property line and for the architect to consider trying to move the house back 5' and try to move it back as far as is reasonable.

Mr. Barnes seconded the motion.

Mr. Smith stated that these plats should also show the setback from the house to the center line and property line in at least three places in front of the house so the Board can see exactly how much variance is needed and where they are needed.

Mr. Smith told the applicant to bring the plats in at least five days before the hearing. If they can get back by the next meeting, that will be fine.

The motion passed unanimously.

// AFTER AGENDA ITEMS

ELIZABETH COLLINS, S-43-73, for nursery school, granted April 18, 1973.

Mrs. Collins asked the Board if she could move the parking area right up to the property line abutting the service station property. She stated that this would save a number of large trees in an area that would be perfect for the Recreation Area for the school.

Mr. Smith stated that there is a requirement that states that all parking must not be in any setback, nor within 25' from any property line.

Mr. Knowlton stated that he did not feel the Board could waive this requirement, as this is a specific requirement of the Ordinance.

Mr. Smith stated that the reasoning behind this requirement is so these uses will set back from a residential use. In this case, this is a lesser use having to set back from a greater use, a small school setting back from a gasoline station. This does not seem fair. This is a very unusual case.

Mr. Kelley agreed that there should be some allowances made.

Mr. Smith stated that Mr. Runyon made the motion and perhaps the Board should wait until next week when Mr. Runyon is present to make any decision on this.

He told Mrs. Collins that she would not have to be present.

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Mr. Baker moved that the Board approve the minutes of March 28, April 11 and April 18 as corrected.

Mr. Kelley seconded the motion.

The motion passed unanimously.

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MICHAEL MATTA, Application for summer reading school. Request for out of turn hearing.

Mr. Smith read a letter from Mr. Matta requesting this out of turn hearing in order that the school might be ready for opening immediately upon the public school's closing.

Mr. Baker moved that the request be granted for this out-of-turn hearing for May 23, 1973, as the June 13, 1973 Agenda was filled.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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JACQUELINE S. NOVAK, T/A POTOMAC EQUITATION, S-10-70, Granted March 10, 1970.

Mr. Smith read a letter from Mrs. Novak stating that she would like a temporary extension of her special use permit to operate a riding school at 5320 Pleasant Valley Road, Centreville, Virginia, for three months. Last August their barn burned, but they were able to save the five horses. They intend to come back to the Board of Zoning Appeals for a hearing as soon as plans for a new barn and indoor riding arena are complete. She enclosed a copy of their current lease and the insurance certificate.

Mr. Smith asked Mr. Knowlton if he had granted a temporary extension up to this point. This was granted March 10, 1970 and ran for three years with the Zoning Administrator empowered to grant three one year extensions. He stated that the Zoning Administrator could extend this if he so desired.

Mr. Knowlton stated that he felt the Board should extend this permit if they so desired since the barn did burn down and they plan to rebuild. He stated that he had granted a temporary extension from March 10, 1973 until May 10, 1973.

Mr. Smith stated that this brings up a point regarding these extensions. He stated that it is the applicant's responsibility to come in 30 days prior to the termination date of a permit and request the extension, otherwise, they should have to come in with a new application.

Mr. Smith asked if the Board could get a progress report on this case as to whether or not there is a site plan in for the new structure.

Mr. Kelley stated that he would move to defer this until Mr. Knowlton has checked into it before the Board decides definitely what to do. He suggested that this be deferred 60 days and to give her a 60 day extension.

Mr. Smith stated that she would have to come in with a new application unless she constructs the barn in the same location and of the same size.

Mr. Baker seconded the motion.

The motion passed unanimously.

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RBD ASSOCIATES, Special Use Permit for Motel

Mr. Smith read a letter from Ronald Tydings, attorney for the applicant, requesting a 6 month extension to their Special Use Permit as they have not been able to begin construction at this time.

Mr. Baker moved that the request be granted.

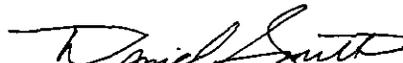
Mr. Kelley seconded the motion.

The motion passed unanimously.

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The hearing adjourned at 4:10 P.M.

By Jane Kelsey
Clerk


DANIEL SMITH, CHAIRMAN

APPROVED June 27, 1973
(Date)

The Regular Meeting of the Board of Zoning Appeals Was Held On Wednesday, May 16, 1973, in the Board Room of the Massey Building Present: Daniel Smith, Chairman; Loy P. Kelley, Vice-Chairman; George Barnes and Charles Runyon. Mr. Baker was absent.

The meeting was opened with a prayer by Mr. Barnes.

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LUCILLE REUTIMAN, app. under Sec. 30-7.2.8.1.1 of Ord. to permit dog kennel, 12436 Lee Highway, 55-4((1))16, Centreville District (RE-1), S-67-73

Mr. Reutiman, 12436 Lee Highway, represented the applicant before the Board.

Notices to property owners were in order. The contiguous owners were Mrs. Audrey MacDonald, 9113 Fairview Road, Silver Spring, Maryland and Fern M & Garnet R. Payne, 4026 Estabrook Road, Annandale, Virginia 22003.

Mr. Reutiman stated that they have run a kennel at this location since 1961. There have been no violations given. The permit was renewed by this Board in 1967 and now they are back asking for another renewal. They have a maximum of 50 dogs. At the present they only have between 25 and 30. He stated that his facilities are sufficient to handle this number of dogs and they have been approved by the Health Department.

Mr. Kelley asked if he was familiar with the comments from Preliminary Engineering.

Mr. Reutiman stated that he was familiar with their comments and he had talked with them just yesterday and they told him that after he has the zoning, he may ask for a waiver of Site Plan requirements.

Mr. Reutiman stated that if he had to do all the things that Preliminary Engineering requested, they would be forced out of business.

Mr. Kelley stated that he didn't believe they would have to construct anything, just dedicate the land for construction of road widening, etc.

There was no opposition to this use.

In application No. S-67-73, application by Lucille Reutiman under Section 30-7.2.8.1.1 of the Zoning Ordinance, to permit dog kennel, on property located at 12436 Lee Highway, Centreville District, also known as tax map 55-4((1))16, County of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 16th day of May, 1973.

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

1. That the owner of the subject property is Frank and Lucille Reutiman.
2. That the present zoning is RE-1.
3. That the area of the lot is 5.0852 acres.
4. That Site Plan approval is required.
5. That compliance with all County Codes is required.
6. That the kennel has been operating under SUP granted on April 25, 1967 S-569-67 and the term has now expired.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1.1 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations;

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats

submitted with this application, Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMITS and the LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. Landscaping, screening and/or fencing shall be as approved by Director of County Development.

7. The entrance road and parking lot shall be paved with a dustless surface.

8. The owner shall dedicate to 63 feet from the existing edge of pavement for the full frontage of the property for future road widening, service drive and sidewalk.

9. This permit is granted for a period of three years with the Zoning Administrator being empowered to extend for 3 - 1 year periods.

10. The maximum number of dogs shall be 50.

Mr. Barnes seconded the motion.

The motion passed 4 to 0.

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GRACE ORTHODOX PRESBYTERIAN CHURCH, app. under Sec. 30-7.2.6.1.11 of Ord. to permit addition to existing church building, 2381 Cedar Lane, 39-3(1)31, Dunn Loring Subd., Providence District (RE-1), S-68-73

Mr. Donald Potter, 506 Plum Street, S.W., Vienna, Virginia, member of the Board of Trustees, for the above-captioned church, represented the church before the Board.

Notices to property owners were in order. The contiguous owners were Rozelle Y. Costello, 2400 Rockbridge Street and Margaret C. Walsh, 2401 Rockbridge Street.

Mr. Potter stated that they propose to build an addition to the existing church building. It will be a one story building of brick material similar to the construction in the existing church. It will extend out toward Cedar Lane. There will be no increase in parking requirements.

There was no opposition to this use.

In application No. S-68-73, application by Grace Orthodox Presbyterian Church under Section 30-7.2.6.1.11 of the Zoning Ordinance, to permit addition to existing church building, on property located at 2381 Cedar Lane, Dunn Loring also known as tax map 39-3(1)31, Providence District, County of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 16th day of May, 1973.

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

1. That the owner of the subject property is Trs. of Grace Orthodox Presbyterian Church.
2. That the present zoning is RE-1.
3. That the area of the lot is 2.1527 acres.
4. That Site Plan approval is required.

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 GRACE ORTHODOX PRESBYTERIAN CHURCH (continued)

5. That compliance with all County Codes is required.
6. That the existing parking spaces exceed the minimum required.
7. That Cedar Lane is proposed to a 90 foot right-of-way.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping, screening, and planting shall be as approved by Director of County Development.
7. Owner shall dedicate to 45 feet from the existing center line of Cedar Lane for future road widening for the full frontage of the property.

Mr. Barnes seconded the motion and the motion passed 4 to 0.
 JACK H. MERRITT (SPRING & DALE SCHOOL) app. under Sec. 30-7.2.6.1.3 of Ord. to permit additional classroom 6574 Edsal Road, 71-4((6))37, Annandale Dist., (RE-0.5) S-69-73

Donald C. Stevens, attorney for the applicant, 10409 Main Street, Fairfax, testified before the Board.

Notices to the property owners were in order. The contiguous owners were Fred Koci, 5257 Clifton Street, Alexandria; Wade Ropp, 1213 North Evergreen Street, Arlington, Virginia and Katherine A. Mason, 6578 Edsal Road, Alexandria, Virginia.

Mr. Stevens stated that the Merritt's are the owners and operators of the school. This school has been in operation since 1958 and they are requesting an amendment to their use permit for the purpose of adding a portable classroom. The initial permit specified no student limit. The occupancy permit limits them to sixty children. Actually, they do not have sixty children. The only question that the Staff has raised is on sewer facilities. The initial report from the Health Department was that they would not approve this because sewer hookups were not available. Since that time, they have pointed out to the Health Department that there was a septic tank initially on this property and because of the condition made by Mr. Merritt at the time of the initial application's hearing before this Board, they did not connect to this septic tank, but to the public sewer and water facilities. Mr. Merritt now proposes to connect to the septic tank for this classroom only.

Mr. Smith stated that he did not see the septic field noted on the plats submitted with the application. He stated that it should show on the plats if they were going to use it.

Mr. Stevens stated that the present enrollment is forty-five. This is an all day nursery school and operates from 7:00 A.M. until 6:00 P.M. The classroom will be 47.73 x 23.75 and will be constructed of all steel. They plan to use the building for as long as they operate the school. No one lives on the premises. The building is used for school purposes only. The Health Department has approved this type of classroom all over the County.

Mrs. Bennett, 6614 New Hope Drive, Springfield, Virginia in the Edsal Park Subdivision spoke in opposition to this application.

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Her objections seemed to be based primarily on the school operation itself. She related several incidents to the Board. She also submitted a text outlining in detail the incidents involving her children who previously had attended this school. Most of these incidents seemed to stem from the lack of sufficient teachers and attendants at the school. She appealed to the Board to deny this application and to revoke the permits that they presently hold as she stated that she felt we cannot continue to permit such practices as are permitted in this school. She stated that she was invited to take her children out of the school if she did not like the operation.

Mr. Kenneth Sanders, 10560 Main Street, Fairfax, spoke before the Board representing Mr. and Mrs. White who live next door to Springfield Academy which is the case that is coming up next. They are not directly concerned with this school, but it is operated by the same owners that operate Spring & Dale School.

Mr. Smith told him to confine his testimony to the present application.

Mr. Sanders asked that the Board consider putting some safeguards on this use should they decide to grant it.

There was no other opposition.

Mr. Donald Stevens spoke in rebuttal. He stated that things that Mrs. Bennett complained about such as the absence of toys are things that the parents can control. They can request that the children be given more toys. He stated that he could not believe that the other parents of the children going to this school would not be aware if all these things were going on.

Mr. Smith asked if either Mr. or Mrs. Merritt spent the day at this school.

Mr. Stevens stated that they do not. They spend about a day per week there. The school is operated by Betty Akers who is a certified teacher with the State. She taught previously at a smaller private school before coming to this one. She has a degree in Elementary Education. She obtained this degree at VPI.

Mr. Kelley stated that he could understand how the parents of the other children would not know all this was going on as probably most of the parents of these children work. They drop their children off in the morning and pick them up in the afternoon. Since they work, they do not have time to check on them during the day.

Mr. Barnes stated that this case will have to be deferred for proper plans showing the septic field and also a letter stating the results of an inspection by the Health Department.

Mr. Smith asked how long it had been since this septic field had been used.

Mr. Stevens stated that it had been quite a few years.

Mr. Kelley seconded Mr. Barnes motion.

The motion passed unanimously, 4 to 0. Mr. Baker was absent.

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JACK H. MERRITT (SPRINGFIELD ACADEMY), app. under Sec. 30-7.2.6.1.3 of Ord. to permit additional enrollment to existing private school, 5236 Backlick Road, 71-4((3))11, Annandale District (RE-0.5), S-70-73

Mr. Donald Stevens, 10409 Main Street, Fairfax, attorney for the applicant, represented them before the Board.

Notices to the property owners were in order. The contiguous owners were Augusta C. Johnson and Mr. Jacobs.

Mr. Stevens stated that the Merritt's have already expanded the enrollment beyond the 80 children that was previously granted. According to the Health Department, the building will accommodate 126 maximum part day enrollment and 92 all day. The maximum number of students that are there now are 104. The enrollment for all day is 32. This permit was originally granted in 1961 and it was extended in 1963 to allow the Merritt's to put an addition to the building. The student enrollment number was not amended at that time and perhaps it was an oversight on the part of the Board. All they are now asking for is that the Special Use Permit be amended to increase the number of students according to the plans submitted in 1963. He stated that there is no question that the Merritt's are in violation of their Special Use Permit.

In answer to the Board's questions, Mr. Stevens stated that the ages of the children in Springfield Academy is from 2 to 8, there are six classrooms in the facility and seven instructors, a cook and three counselors. The staff is staggered so all seven are not there at any one time. There are three counselors there in the afternoon for the day care students. The State will allow 126 students at any one time on the premises in the six classrooms for a period of four hours or less. The land area is 4.78 acres.

Mr. Kelley questioned Mr. Stevens on the report from the Team Inspectors.

Mr. Stevens stated that all the requirements would be met.

Mr. Smith stated that there are some deficiencies noted that appear to be of a hazardous nature.

Mr. Stevens stated that some of these deficiencies have already been corrected, and all of them would be corrected.

The Board discussed some of these deficiencies in detail with the applicant.

Mr. Smith stated that the Board also has a letter from D. S. Leigh, Zoning Inspector, that stated:

"On January 2, 1973, I received a complaint from a neighbor that Springfield Academy has 200 students enrolled; after checking use permit folders I determined that their enrollment total should have been 80.

On January 3, 1973, a field investigation of the student roster revealed an excess of 30 students, with a total of 110 students.

A phone conversation with Mr. Jack Merritt the owner later that day produced promises of opening Pandora's Box. He said we could not do anything to him because he belonged to Northern Virginia Private School Association, and had been in this business for 16 years without complaints.

I told him that if he wished to continue with the 30 extra students he would have to apply for a use permit expansion before the B.Z.A.

This produced a series of responses to the effect that "if you get me I will turn in everybody else."

On January 5, 1973, despite Mr. Merritt's uncooperative telephone conversation I sent him a notice of violation with a deadline of February 9, 1973, to file with the B.Z.A. for use permit expansion.

As always I await your further instructions "
Mr. Smith stated that someone should be designated as the Director of this School so when something happens, there is someone to call since the owners are from out of town. Their name should also be on the Use Permit.

Mr. Tom Cawley, 4069 Chain Bridge Road, Fairfax, Virginia, attorney with the firm of McCandlish, Lillard & Marsh, appeared before the Board in opposition to this application. He represented Mrs. Lilly Jacobs who resides immediately below the site in question and adjacent to it.

Mr. Cawley stated that his clients feel that the Board of Zoning Appeals should institute a revocation hearing because they feel that this violation of the number of students is a flagrant violation and is willful. This man has been in this business for fifteen years and has been before this Board on two different occasions for the school at this location and has been before this Board on several different occasions for his other school, therefore, he does know that he should have come back to the Board before expanding his enrollment. His first application for this location was for 300 children and that application was denied. He came back again with an application for 80 students and that application was granted. He came back again for an addition on the building and the results of that hearing show that the Board specifically limited the enrollment to 80. It was not left out. He stated that he finds it hard to believe that Mr. Merritt did not realize after having gone through these proceedings at least four times that he must come back before this Board before enlarging his operation to a greater number of students. He stated that there are several reasons why this operation should not be expanded. This school is located on Backlick Road and directly across from Edsall Road. Both these roads are heavily travelled and the intersection is very dangerous. There are at least 200 exits and entrances into this property each day by cars bringing their children to this site and picking them up again. This does not count the delivery trucks, etc.

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MERRITT (SPRINGFIELD ACADEMY) continued

Mr. Cawley stated that he checked with the Planning and Research Branch Staff of the Police Department and they indicated to him that at the intersection alone, not counting the entire frontage of the property, in 1970 there were five accidents, 1971 - three accidents, 1972 - ten accidents; and during the first three months of 1973 - four accidents. At this rate, there will be sixteen accidents this year at that intersection. There is a section in the ordinance that does cover traffic conditions as they relate to the impact of these special use permit uses. He stated that he feels the dangerous traffic condition at this location is grounds to deny this application. It has been shown by previous testimony that this school has difficulties handling the present number of students. He further stated that it is confusing to him how the applicant arrives at his figures for the number of children he presently has. Section 30-7.1.1 indicates that the use will not be detrimental to the character of the adjacent land. The people on either side of the school have had serious problems with this facility. There has been a great deal of noise and a problem with the traffic coming into the school. On the south part of the property the road has encroached on his client's land. He submitted photographs showing this encroachment. He stated that this may be caused by the marshy conditions of the land there and the cars push the gravel from the road onto his client's property. This has been brought to the attention of the applicant, but he doesn't seem to care about it. They did not deny this. During rains there is a bad drainage problem. This also has been brought to the attention of the Merritt's but to no avail. Some of the people bringing their children to the school actually drive across the lawn of the Jacob's residence in order to get to the Jacob driveway and thereafter find it easier to exit onto Braddock Road. The roadway is poorly maintained. He submitted photographs of this also.

In 1961 when this permit was granted, there were promises by the Merritts that there would be a buffer strip erected between the Jacob's property and the school property. This has never been done in the twelve years they have been operating.

He stated that he would like to know what the enrollment was during the last semester and early in this semester.

Mr. Cawley stated that the track record of the applicant should be a real consideration here. They ask that this application be denied and that proceedings be instituted to revoke the existing permit. If this application is granted and the enrollment legitimized, there may be a tendency to think that anyone can go along and violate their permit and merely say when they are caught, that they will hire an attorney and say they are "sorry". He stated that he could see no reason for the applicant pleading innocent to this.

Mr. Kenneth Sanders, 10560 Main Street, Fairfax, appeared before the Board on behalf of Mr. and Mrs. Randolph Wike who reside directly to the north of this property fronting on Backlick Road. He stated that a lot of the points raised by Mr. Cawley are the same that he would make. He stated that if this had come up under other circumstances, this should be a revocation hearing. The evidence is the same. He also stated that he feels the applicant knew that he should come back to this Board prior to increasing his enrollment. The last time he was before this Board, the Board did limit his permit to 80. This Board determined that a school of a greater number of students would provide too great an impact on the neighborhood. Therefore, the applicant had already been denied the increased number of students, but he increased the number anyway. He also spoke of the dangerous traffic on Backlick Road and Edsall Road.

Mr. Sanders stated that the Merritts have not even tried to be a good neighbor. He constructed a fence which has been since given a violation for the height. The matter is now in Court whether or not he has to remove that fence that he has placed in the middle of the driveway between the Wike's and the school property.

Mr. Sanders stated that the traffic going in and out of this school are a hazard to the children that live around there.

Mr. Sanders stated that the third major point is that in 1961 and 1963, the Merritt's applied and received a Site Plan Waiver so they are not under site plan and according to the report of the Staff, they should be under Site Plan control. If they had been, the buffer would have been required. They have been operating a business for fifteen years, which apparently has been profitable, otherwise they wouldn't be here asking for additional enrollment. If they had been under Site Plan, they would have had to fix up their driveway. Most of that driveway is dusty and full of potholes. The Merritts have not improved their property. He stated further that his clients have had to install a speed bump in the driveway because of the high rate of speed of the cars that come in and out of this property. Now the applicant has fenced off that speed bump. He also submitted photographs of the driveway.

Mr. Sanders submitted a Petition signed by forty-three people in the area that oppose this application.

Mr. Smith stated that the Petition would be accepted, but it doesn't reflect the hearing and for that reason, it would carry no weight.

Mrs. Kay Wike, 5232 Backlick Road, spoke in opposition to this use. She stated that three times she has had to run out into the street to get a child that has run away from the school. The woman who was at the school thanked her for bringing the child back and told her that she could not look after thirty children on the play ground at the same time.

Mrs. Bennett spoke again in opposition to this school. She stated that the staff at this school are the same as the staff at Spring & Dale School, therefore, her feelings are the same about this school.

Mr. Smith denied her request to speak further as he stated her remarks do not pertain to this particular school.

Mrs. Wike again came before the Board to stated that one time at 6:00 P.M. a colored lady brought a little boy over and asked if she could leave him with her as her carpool was there and she had to leave and go home. She wondered what would happen to the boy, had she not been home.

Mr. Stevens, attorney for the applicant, spoke before the Board in rebuttal. He stated that they do not have a lady employed at the school such as Mrs. Wike's described.

Mr. Smith stated that apparently then no one was watching the boy from the school.

Mr. Cawley stated that the traffic was much worse now than when this permit was granted. However, both these roads are arterial roads and are four lane roads, whereas in 1961 it was only a two lane road. There is a "U" shaped driveway at this location which is safer and more convenient than any other type of driveway. They now have a traffic control at this location.

He stated that he had no excuse as to why Mr. Merritt increased the enrollment. The Director of the School is Betty Akins. She does live in Fairfax County and they will be glad to furnish the Board with her name and address and telephone number.

The Board then discussed the fence problem with Mr. Stevens.

Mr. Stevens stated that the character of the neighborhood has changed considerable since 1961 and is not entirely residential. There is definitely an institutional character of the vicinity of Edsal Park. There is an elementary school to the east and a couple of churches at least one of which contains another private school and a funeral home to the south. There are several townhouse communities.

Mr. Smith asked Mr. Stevens to explain his justification for Mr. Merritt's complete disregard for the limitation of his Special Use Permit. He stated that what if all private schools took the same position to disregard their permits and the limitations set by this Board. This County would really be in trouble if all applicants of Special Use Permits took this attitude. This is the reason the Board of Supervisors are taking a careful look at Special Use Permits. He stated that he sat on this Board in 1961 when this application was previously before this Board. There was a final limitation of 80 at that time and it was discussed at the hearing. Mr. Merritt certainly was not apologetic when the inspector came out to talk with him about this. He was apparently very rude.

Mr. Stevens stated that he could not justify the expansion of the enrollment beyond the 80 students. There is no justification. He apologized for the attitude of Mr. Merritt toward the inspector. He stated that unfortunately everybody has a bad day from time to time

Mr. Kelley stated that the Board would need correct plats indicating whether or not they are on public sewer or septic field and where it is located if they are on septic field. He moved that this application S-70-73, Jack H. Merritt, Springfield Academy, be deferred for a maximum of thirty (30) days for decision only to allow the applicant to submit new plats showing landscaping, screening, septic field, etc. He stated that he believed Mr. Stevens knew what the Board wants on the plats. He stated that this deferral would allow the Board time to make a complete and thorough investigation of the previous hearings of this subject application.

Mr. Smith asked that he include the request from the Inspection's Department on both applications of what has transpired over the past three years. The Board also would like to have a record of the maximum enrollment on a monthly basis for the past two years.

Mr. Barnes seconded the motion. The motion passed unanimously, 4 to 0. Mr. Baker was absent

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HENRY F. HOBK, app. under Sec. 30-6.6 of Ord. to permit construction of garage closer to side property line than allowed, 470 Duncan Drive, 70-1((6))67, Annandale District (R-12.5) V-71-73

Mr. Hobek represented himself before the Board.

Notices to property owners were in order.

Mr. Hobek stated that he would like to add a garage to his home. There is no other practical place on his property to make this addition. If he tried to put it on the back, he would have to make significant structural changes to his house. If they put it to the side they would have to remove some lovely trees. He stated that he is concerned about the feelings of his neighbors and he has notified ten of them. This addition is 15'x24'. He plans to continue to make this his home. This is not for resale purposes. He also has a sanitary sewer easement across the back of his property.

In application No. V-71-73, application by Henry F. Hobek, under Section 30-6.6 of the Zoning Ordinance, to permit construction of a garage closer to side property line than allowed, on property located at 470 Duncan Drive, Annandale District, also known as tax map 70-1((6))67, County of Fairfax, Virginia, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 16th day of May, 1973, and

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

1. that the owner of the subject property is Henry F. and Catherine B. Hobek.
2. That the present zoning is R-12.5
3. That the area of the lot is 27,177 square feet.
4. That there is an existing sanitary sewer easement across the subject property.
5. That the request is for a minimum variance.

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

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:

(a) exceptionally narrow lot

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. Architecture and materials to be used in proposed addition shall be compatible with existing dwelling.

FURTHERMORE, the applicant shall be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, residential use permit and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed 4 to 0. Mr. Baker was absent.

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JOHANNA ANKER, app. under Sec. 30-6.6 of Ord. to permit fence higher than permitted by Ordinance, 6706 Linclair Street, 92-2((16))8, Lee District (R-17), V-73-73

Mrs. Anker represented herself before the Board.

Notices to property owners were in order. The contiguous owners were Mr. Harold Lining, 6704 Linclair Street and Mr. Kolas, 6708 Linclair Street.

She stated that she is applying for this variance for a fence 1' higher than is allowed by the Ordinance. They need this fence this high because of the dog that they have can jump a 7' fence. She stated that her husband has a hearing problem and she has to be away from home a great deal of the time.

Mr. Covington stated that they could have a fence 30' high if they set off the property line 2'.

Mr. Gilbert Bond, 6702 Linclair Street, spoke in opposition to this variance. She stated that since she has lived in this neighborhood she has never done anything to her property to improve the appearance of it. She has lived there twelve years.

Mr. Smith stated that this is something that does not pertain to the case. He asked if Mr. Bond felt that this fence would devalue the property in the neighborhood.

Mr. Bond stated that he is concerned that Mrs. Anker will not keep the fence in good repair and would allow vines to grow on the fence. The appearance would then detract from the value of the property surrounding her property.

In application No. V-73-73, application by Johanna Anker, under Section 30-6.6 of the Zoning Ordinance, to permit fence higher than permitted by Ordinance, on property located at 6706 Linclair St., Lee District, also known as tax map 92-2((16))9, County of Fairfax, Virginia, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 16th day of May, 1973, and

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

- 1. That the owner of the subject property is Willard B. and Johanna D. Anker.
- 2. That the present zoning is R-17.
- 3. That the area of the lot is 12,308 square feet.

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

- 1. That the applicant has satisfied the Board that conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land.

NOW, THEREFORE, BE IT RESOLVED, that the subject application and the same is hereby granted.

- 1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
- 2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
- 3. The fence shall be kept clean and free from weeds, vines and debris.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, residential use permit and the like through the established procedures.

Mr. Kelley seconded the motion.

The motion passed 4 to 0.

Mr. Baker was absent.

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FRANCONIA VOLUNTEER FIRE DEPT., app. under Sec. 30-7.2.6.1.2 of Ord. to permit addition of building for storage, 6300 Beulah Street, 81-3((5))20 & 21, Lee District (RE-1), S-74-73

The gentleman representing the Fire Department did not have notices with him.

Mr. Baker moved that this case be placed at the end of the Agenda to allow the applicant to contact their office and determine whether or not notices had been sent.

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There was no other person in the room interested in this application.

Mr. Barnes seconded the motion and the motion passed unanimously.

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ACADEMY OF MUSICAL ARTS, app. under Sec. 30-7.2.6.1.3 of Ord. to permit operation of music school and ballet class, 1711 Kirby Road, 31-3((1))119, Dranesville District (RE-1), S-40-73

Mr. Robert Trayhern, Valley Wood Road, Franklin Park Subdivision, McLean, Virginia represented the applicant before the Board.

Notices to property owners were in order. The contiguous owners were Elsie P. Carper, 1700 Kirby Road and Jessie McIntosh, 1653 Kirby Road.

Mr. Trayhern stated that they wish to bring the school into compliance with the ordinance. When they first began the school in September 1968, they felt they already had permission for this use. The Church had a large German School in occupancy. They moved out and they moved in. His wife was teaching in their home and she was the organist at the church and she talked with the minister and they decided that they would began private studies in the church building. This is the Chesterbrook Methodist Church. They use the church's education building. This is 100' behind the sanctuary. Their activity is not incorporated. It is run by he and his wife, Robert John Trayhern and June B. Trayhern trading as Academy of Musical Arts. In December the new minister, Mr. Riter, talked with them and asked if they had obtained a Special Use Permit from the County and they had not. He suggested that Mr. Trayhern come to the County and find out what he had to do in order to get this and this is why this application is before the Board today.

Mr. Trayhern stated that they have 250 students per week. He explained how this is broken down per day. They also have a chamber orchestra rehearsal once a week in the evenings, but they will be moving from this location to the McLean Community Center.

In Application No. S-40-73, application by Academy of Musical Arts, under Section 30-7.2.6.1.3 of the Zoning Ordinance, to permit operation of music school and ballet class, on property located at 1711 Kirby Road, Dranesville District, also known as tax map 31-3((1))119, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 16th day of May, 1973..

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

1. That the owner of the subject property is Chesterbrook Methodist Church.
2. That the present zoning is R-17.
3. That the area of the lot is 3.921 acres.
4. That Site Plan approval is required.

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

1. That the applicant has presented testimony indicating compliance with

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Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. Hours of operation shall be 9:30 A.M. to 9:00 P.M., Monday through Friday, and 9:00 A.M. through 1:00 P.M. on Saturday.
7. Number of students, not to exceed 250 students per week or 20 pupils at a session.
8. Permit is subject to new lease being submitted to Zoning Administrator 30 days prior to expiration of present lease.

Mr. Barnes seconded the motion.

The motion passed 4 to 0.

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JOSEPH CAPPUCCI, app. under Sec. 30-6.6 of Ord. to permit construction of pool closer to side property line than allowed, 6712 Valley Brook Drive, 60-2((24))70, Mason District (RE-0.5), V-92-73 OTH

Mr. Cappucci represented himself before the Board.

Notices to property owners were in order. The contiguous owners were Kenneth Miller, 3524 Devon Drive, Falls Church and J. H. Berge, 6714 Valley Brook Drive.

Mr. Cappucci stated that he planned to construct a pool in his back yard within 13' of the western property line. He stated that he is requesting a variance of 7' on the western boundary. His wife has muscle problems and the Doctors have advised her to exercise in water and for two years she has been going to Bethesda. There is no other physical location for this pool. They have lived at this location for nine years and they plan to continue to live there. They do not plan to construct a structure over the pool.

Mr. Runyon asked how close he is to the rear porch and would it be 12'.

Mr. Cappucci stated that it is 12'.

Mr. Covington stated that this is a corner lot and there is no rear yard. He has two side yards. If he can setback 12' from his existing structure, he can put the pool

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within 4' of the side property line. Based on the plats the pool does not setback 12' from the house, therefore, he needs a variance in order to construct the pool.

Mr. Runyon stated that it looked as if he was farther than 12' from the pictures that he had submitted.

Mr. Runyon moved to defer this case to give the applicant time to find out if the pool is, in fact, closer than 12' from the house. If it is not closer, he can withdraw the application and the Zoning Administrator will issue him a building permit to construct the pool.

Mr. Baker seconded the motion.

The motion passed unanimously.

Mr. Runyon advised Mr. Cappucci to see Mr. Covington in the Zoning Office.

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DEFERRED CASES:

LITTLE RIVER RACKET CLUB, INC. ET AL, app. under Section 30-7.2.6.1.1 of Ord. to permit private tennis club with indoor and outdoor courts, dining facilities and swimming pool, north side of Little River Turnpike, west of Pineland Street, 58-4((1))68 & pt 65 59-3((1))6, Annandale District (RE-1), S-47-73 AMENDED to Section 30-7.2.7.1.2 of Ord. (Deferred from 4-18-73)

The William Hansbarger, 10523 Main Street, attorney for the applicant, testified before the Board. He stated that they had submitted new plats and done everything the Board asked. The Zoning Administrator has suggested that they also bring in new plats of the Commonwealth Christian School showing the deletion of the land from the school. He asked the Board to defer this case until they had the additional plats showing the amount of land to be leased from Commonwealth Christian School (JJS Corporation) and formally amend the application. He stated that he could have these plats within the week.

Mr. Walter Couch spoke in opposition to this deferral. He stated that the citizens feel that the applicant has had ample time to do what was required of them. He stated that he feels that the applicant is dragging this thing out in order to weaken the opposition. The citizens are taking time off from work to come to this meeting and they would appreciate getting on with it.

Mr. Smith asked the applicant if they had had an opportunity to look over the new plats as the new plats show that the facility is now less than one-half of what they originally had planned.

Mr. Couch stated that they have not had time to analysis these plats and in fact they had not had an opportunity to see them.

Mr. Smith gave them a copy to look over.

Mr. Hansbarger stated that he had just seen the plats yesterday himself. He stated that it would certainly help to have an additional week to finish the work on this case. He stated that he would be glad to meet with the citizens in the area with regard to the letter that they have submitted to him as to conditions they would like placed on this use should the Board of Zoning Appeals grant it.

Mr. Couch stated that if the Board sees fit to grant this request for a deferral, they would request that the decision be reached at the next meeting with no more deferrals. He stated that they are in opposition to the principal of this application and they do not want any further commercial uses in this area.

Mr. Smith cautioned him not to speak of commercial in general. This is not a rezoning and this is an application for a Special Use Permit on this property alone and that is all that is before this Board. The Board cannot get into a general situation.

Mr. Smith stated that this case would be deferred for one week then if no one on the Board had any objections.

No one spoke in objection among the Board members.

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WALTER T. SETTLE, app. under Sec. 30-6.6 of Ord. to permit less lot area than allowed, north side of Alpine Drive, 71-2((5))87, Mason District (R-17), V-48-73

Mr. Mitchell, Planner from Zoning Administration, stated that this case was deferred for a month because the Staff Report at the time the case originally came up indicated that it could be granted administratively and suggested that the case be withdrawn. Mr. Runyon suggested that it be deferred instead to make sure that it could be granted administratively. Two days ago Mr. Rose from Design Review indicated that he was prepared to sign the plats for the subdivision but he could not sign them until the Board of Supervisors had acted on Monday with respect to withholding approval of any plats or site plans where sewer taps were not available. The situation now is that the plats are approved so far as any need for a variance, but they are still being held up because of the recent action of the Board of Supervisors. Mr. Settle has been notified that their plats are approved so far as needing a variance and they were notified that the Board of Zoning Appeals would be asked to allow them to withdraw their application and their filing fee refunded.

Mr. Smith questioned the / ^{refunding} of the filing fee since the Board had already heard the case, but said if it was a mistake on the County's part requiring him to come to the Board when he really didn't need to then he would agree to refund the money. That would have to be determined by Mr. Knowlton.

Mr. Kelley moved that the Board of Zoning Appeals withdraw this case without prejudice.

Mr. Barnes seconded the motion.

The motion passed 4 to 0. Mr. Baker absent.

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DONALD JAMESON, app. under Section 30-6.6 of Ord. to permit construction of house closer to front property line than allowed, 1501 Beulah Road, Dranesville District, 19-3((1))34A, (RE-1), V-76-73 (Deferred from May 9, 1973 to allow applicant to revise plats showing a lesser variance needed)

Mr. Jameson, 6567 Inlet Court, Reston, Virginia, represented himself before the Board.

He stated that the Board is in receipt of new plats showing the closest point from the house as being 61.8' from Beulah Road.

Mr. Smith stated that the Board will have to grant a 20' variance then on one corner.

Mr. Runyon stated that the applicant certainly needs at least this much variance as this is a very severe topographic problem. This would make the setback the same as is in a cluster development.

Mr. Smith stated that this would be the minimum to allow some relief in order that the applicant can make the reasonable use of his land.

In application No. V-76-73, application by Donald F. Jameson, under Section 30-6.6 of the Zoning Ordinance, to permit construction of house 30' from front property line, on property located at 1501 Beulah Road, Dranesville District, also known as tax map 19-3((1))34A, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 16th day of May, 1973; and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 1.488 acres.
4. That the request is for a minimum variance.

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DONALD F. JAMESON CONTINUED:
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AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:

(a) Exceptional topographic problems of the land.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same lane.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, residential use permits and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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DEFERRED ITEM & AFTER AGENDA ITEM:

ELIZABETH COLLINS, S-43-73, nursery school granted April 18, 1973

On May 9, 1973, Mrs. Collins presented a letter to the Board requesting the Board allow her to move the parking area for this use adjacent to the service station property in order that she might be able to save some trees that could be used for shade in the play area. She had submitted new plats showing the location of this parking.

The question was deferred from the last meeting as Mr. Runyon was not present.

Mr. Runyon looked over the plats and reread the letter from Mrs. Collins requesting this change and moved that the parking be change as indicated on the accompanying plats to the west side of the rear property contiguous to the commercial zoning.

Mr. Barnes seconded the motion.

The motion passed 4 to 0. Mr. Baker was absent.

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JANE ROGERS, S-239-71, school for general instruction granted January 18, 1972 for twenty-five children, 1426 Crowell Road, Vienna, Virginia.

Mr. Smith read a letter from Mrs. Rogers dated April 21, 1973 which stated that some confusion has arisen regarding the issuance of a Special Use Permit for the above captioned school. The Permit was issued for only 25 children instead of the 44-45 requested. The 25 child limit was imposed by the Fairfax County Health Department based on existing sanitary facilities. If another toilet were added, they understand they could then have 44-45. She asked that the Board recheck their records and consider upgrading the permit to the 44-45 requested.

Mr. Smith had asked at the last meeting that the Clerk contact the Health Department and see if the necessary changes had been made and if, they would, in fact, approve this facility for the 44-45 children requested.

Mrs. Kelsey stated that she had contacted the Health Department and Mr. Berger had written back stating that there had been no change in the facilities and therefore his original report still stood.

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 JANE ROGERS CONTINUED:
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The Board then discussed the minutes from the previous hearing on this case. At that time, there were two people in opposition. Mainly, they were worrying about this school getting larger.

Mr. Runyon stated that in view of the minutes from the original hearing, this case may have to be reheard in order to amend the application.

The Board agreed that if she could accomodate the 44-45 children originally requested, and at such time as Mrs. Rogers has proof that she had accomplished the necessary changes necessary to have this number of children, the Board would reconsider her request. When these changes are made, she should have the facility rechecked and get them approved by the Health Department. Then she should write a letter requesting the increase along with a copy of the Health Department letter approving the facility to the Board and the Board will reconsider.

This was agreeable with all of the Board members.

Mr. Smith asked the Clerk to so notify the applicant.

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FORESIGHT INSTITUTE --
 REQUEST FOR OUT OF TURN HEARING. Mr. Smythe submitted plats to the Staff and a letter requesting the Board grant him an out of turn hearing as the premises that they now occupy will have to be vacated by the end of the year's session and they would like to complete the new building prior to the beginning of the new school term.

Mr. Smith asked the Clerk if everything was in order.

Mrs. Kelsey answered that the plats were not in accordance with the Board's requirements.

Mr. Kelley stated that Mr. Covington should see to it that the applicants have correct plats. He moved to deny the request for an out of turn hearing.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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SALVADORE GULLACE, V-78-73

Mr. Smith read a letter from Mr. Gullace stating that on May 24, 1972, the Board of Zoning Appeals granted him a variance to construct a garage 20x26.3' within 10.66' of his side property line. He has not begun construction because of the objections of his contiguous neighbor, Mrs. Landseadel. However, recently the Landseadels have agreed to the construction of the proposed garage of the same dimensions and within 10.66' of the side property line. They have both agreed to shift the location of the proposed garage 18.3' towards the rear of the house and to maintain the dimensions and distance as previously stated. He submitted plats showing what he would like to do. These were not certified plats.

The Board agreed that Mr. Gullace must submit certified plats showing this new location and at that time the Board will consider the request for the change in location.

The Board asked the Clerk to notify the applicant of this and also that his variance would expire on the 24th of May, therefore, he would need to ask for an extension of time to begin construction or the variance would be void.

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CITGO PROGRESS REPORT, HOES ROAD

Mr. Douglas Leigh stated that he had met with Mr. McIntyre just this afternoon and discussed the progress of the construction. They have put some pipe in the stream on the side of the road. Other than that, they have not done anything lately. He had also talked with Mr. Lyon of the Public Utilities Branch and Mr. Lyon had told Mr. McIntyre that the ground was too moist for them to pour concrete.

Mr. Smith stated that unless the Board has a letter of explanation within one week, the Board will have to take some action.

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POTOMAC EQUITATION, RIDING STABLE, S-10-70, Granted March 10, 1970.

This case was discussed on May 9, 1973 and action was taken to defer this for 60 days and grant the applicant a 60 day extension while Mr. Knowlton checks this out.

Mr. Kelley stated that he had driven out there and looked at the place. The road was very bad, but there was alot of room there. He suggested that the rest of the Board go out and take a look at this property.

Mr. Covington stated that there is no heavy traffic out that way.

The Board decided to go out and view this property within the 60 day period.

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B. MARK FRIED, Special Use Permit for Motel , S-79-72, Granted June 28, 1972.

Mr. Smith read a letter from the applicant requesting a one year extension as the owner has been unable to commence construction on the site because of slow processing of the site plan by the County and the unavailability of sewer taps for the subject property.

Mr. Barnes moved that the request be granted for a six month extension which is the limit that the Board can grant.

Mr. Runyon seconded the motion.

The motion passed 4 to 0. Mr. Baker absent.

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Mr. Kelley moved to approve the minutes of April 18, 1973 with the corrections as noted.

Mr. Barnes seconded the motion.

The motion passed 4 to 0.

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By Jane C. Kelsey
Clerk


DANIEL SMITH, CHAIRMAN

APPROVED June 13, 1973
(DATE)

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The Regular Meeting of the Board of Zoning Appeals
Was Held On Wednesday, May 23, 1973, in the Board
Room of the Massey Building. Present: Daniel
Smith, Chairman; Joseph Baker; Loy P. Kelley,
George Barnes and Charles Runyon.

The meeting was opened with a prayer by Mr. Barnes.

10:00 COL. CHARLES CUMINGS, app. under Section 30-6.6 of Ord. to permit air support bubble over swimming pool, 7106 Park Terrace Dr., Marlan Heights Subd., 93-4((4))(1)13, Mt. Vernon District, (R-12.5), V-60-73

Col. Cumings stated that he was representing himself before the Board.

Notices to property owners were in order. The contiguous owners were Kielock, 7111 Sussex Place and Kinard, 7108 Park Terrace.

Col. Cumings stated that he appeared before this Board last year for the purpose of obtaining a variance to put in the swimming pool. It needed to be closer to the house than is allowed in the ordinance. That variance was granted. The pool was 7' from the house. The reason for needing a pool was because of back conditions that both he and his wife have. The pool company installed an air supported bubble over the pool in order that they can use the pool year around.

Mr. Smith asked if this air bubble was shown on the plat at the time they came in for the variance for the pool.

Mr. Kelley asked if he had obtained a building permit to put up the bubble.

Col. Cumings answered both the questions by saying that No, it wasn't on the plats at the time they received the variance as they did not think it had to be since the bubble can be deflated at any time and is not a permanent structure. He stated that he did not get a building permit for the bubble, but he was sure that the pool company got whatever is necessary.

Mr. Smith stated that this is one of the reasons the Board granted this variance since the pool was a below ground structure.

Col. Cumings stated that the National Pool Construction Company erected the pool. They contracted for the pool and the bubble at the same time. He stated that he mentioned at the time of the hearing that he planned to put up a structure in order that they could use the pool all the year.

Mr. Smith checked the minutes which are a synopsis of the testimony given at the hearings and the minutes did not reflect any comments regarding a structure over the pool.

Mr. Smith asked Mr. Covington, Assistant Zoning Administrator, if he would check the file to see if the pool company had received a permit to install the bubble.

Mr. Smith asked if the contract for the pool and bubble called for the pool company to obtain all the permits necessary.

Col. Cumings stated that it did.

Mr. Smith asked for a copy of that contract.

Col. Cumings stated that he did not have a copy with him.

Mr. Kelley asked if he had received a copy of the motion granting the original variance.

Col. Cumings stated that he did.

Mr. Kelley stated that in the motion granting the variance it states that the variance is granted according to the plats submitted with the application. It is for the location and the specific structures indicated in the plats. It stated that it would seem to be clear that he could not put any additional structures on the property except those that were on the plat at the time the variance was granted.

Mrs. Cumings testified before the Board. She stated that her husband was not home the day that Mr. Beaver, the Zoning Inspector, came to her house. Mr. Beaver told her that they were going to have trouble with that bubble. She then called one of the salesmen from the National Construction Company to ask him if there was something they should have done prior to putting the bubble in that they did not do. The salesman stated that he would check on it and call them back, but that they had put up a lot of bubbles over pools and they never had to get a permit in the past for them. The salesman never called them back.

Mr. Covington submitted to the Board a copy of the building permit where they had obtained permission to put in the pool, but there was no mention of the bubble.

Mr. Smith read excerpts from the permit. He asked if they had put the pool in for \$3500.

Col. Cumings stated that it was close to \$15,000 for the entire pool, bubble and landscaping. The pool and bubble was \$11,000. The pool is 20x40', heated and with a special apparatus that sprays water on their backs. The man who was present from the Pool Company at the time of the original hearing was Mr. DeMarr, the engineer for the pool company.

Mr. Charles F. Mullaly, 7107 Sussex Place, spoke in opposition to this application. He stated that his lot backs up to Col. Cumings back yard. He was present at the original hearing and objected to the pool going in. He opposed the pool as he felt it would result in injury to the enjoyment and value of their property. Their home overlooks the Cumings' property. They were the only people at the previous hearing in opposition to it. Col. Cumings received the variance and constructed the pool. It is a beautiful pool. They did a good job. At the time of the previous hearing he does not recollect any mention of a bubble being proposed at any time in the future. The bubble is huge and is dark green with yellow stripes. It looks like a big balloon or a storage building used by the Armed Forces. It covers the entire pool area. They are the people who have to look at it and all their windows face Col. Cumings' house.

Mr. Mullaly stated that it is his personal opinion that this air supported balloon is a structure and as such is not permitted under the zoning regulations. It has been up for seven months. The Cumings have used the pool and haven't raised any fuss. However, the cover is offensive to them and he feels it has an adverse impact on the neighborhood and results in damage to his property values.

Mr. Runyon asked if he had tried to sell his property.

Mr. Mullaly stated that he was going to try to sell it. He has an appraiser coming Saturday for that purpose.

In rebuttal, Col. Cumings stated that he did not agree that his bubble has caused serious injury to the Mullalys and does not feel it has an adverse impact on them either. He does not have a scenic easement across his property and he stated that he feels he should be able to use his property as long as it does not restrict the air and light from the Mullaly property. The bubble does not do this. The roof of his house is 6' to 8' above the bubble.

Mr. Smith stated that under the ordinance, he had not justified the variance that he had requested.

Mr. Kelley stated that he ordinarily does not explain his reasoning in writing a motion. He stated that he felt the minutes of the meeting granting the previous variance shows the testimony from both sides. He stated that he did recall the case and he feels that Mr. Mullaly's objections are valid and that he has been very fair.

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In application No. V-60-73, application by Col. Charles Cummings, under Section 30-6.6 of the Zoning Ordinance, to permit air support bubble over swimming pool, on property located at 7106 Park Terrace Drive, Marlan heights, also known as tax map 93-4((4))(1)13, Mt. Vernon, County of Fairfax, Virginia, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 23rd day of May, 1973, and

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

1. That the owner of the subject property is Charles S. Jr., & Eloise G. Cummings
2. That the present zoning is R-12.5.
3. That the area of the lot is 21,921 sq. ft.

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

1. That the Applicant has not satisfied the Board that conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr. Baker seconded the motion.

The motion passed unanimously.

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T/A MONTESSORI SCHOOL OF CEDAR LANE
G. LANCE & JOYCE GILBERT, app. under Sec. 30-7.2.6.1.3 of Ord. to permit expansion of Montessori School to 104 children, 3035 Cedar Lane, 49-3((1)) 25A, Providence Dist., (RE-1), S-75-73

(Hearing began at 10:35 A.M.)

Mr. Gilbert represented himself before the Board.

Notices to property owners were in order. The contiguous owners were Ethel Lee Harrison, 2828 Cedar Lane and VanZeller and Dr. Takogo, 8636 Arlington Blvd., Fairfax, Virginia.

Mr. Gilbert stated that they now have an existing Special Use Permit for 52 children, but they would like to expand to 104 children. He stated that the lease with the Church is in the file. The ages of the children are 2 and 3 to 6 and the hours will be from 8:30 A.M. to 4:30 P.M. The Health Dept. has stated that they would allow 80 children for four hours or less and in addition to those 80, 30 children for four hours or longer. (See letter in file)

The Board then discussed this in detail. They also read the letter from the Health Department which also stated this.

Mr. Gilbert stated that there would be eight adults. Six adults stay all day. His wife is the Director of the school. He is there part of the time also. This is his wife's only job and she is there all day every day. The school is not incorporated. The name of the school is Montessori School of Cedar Lane.

Mr. Kelley asked if the Bruen Chapel Methodist Church has been advised of the memorandum from Preliminary Engineering Branch requesting that the owner dedicate some land.

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GILBERT T/A MONTESSORI SCHOOL OF CEDAR LANE

Mr. Gilbert stated that he only received the copy of the memo on Monday and had not had an opportunity to discuss this with the Church. However, he felt this application should stand on its own merits. If and when it comes to Cedar Lane being widened, then the Church would have to work that out.

Mr. Kelley asked about the parking lot and whether or not it is paved.

Mr. Gilbert stated that the parking lot is gravel and his school only uses a small portion of the lot. The children are dropped off by their parents and carpools in the morning. There is a circular drive in the front of the church for that purpose.

Mr. Kelley stated that these are things that will have to be worked out prior to the granting of this Special Use Permit.

There was no opposition to this use.

Mr. Baker moved that this case be deferred until June 20, 1973 to allow the applicant to discuss these problems with the property owners and weigh the impact of the Site Plan requirements.

Mr. Kelley seconded the motion.

The motion passed unanimously.
(The hearing concluded at 11:10 A.M.)
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PHILLIP FARMER, app. under Sec. 30-6.6 of Ord. to permit construction of pool closer to rear property line than allowed, 2404 Nottingham Street, 39-4((16)) 42, Providence District (R-12.5), V-77-73

Mr. Farmer represented himself before the Board.

Notices to the property owners were insufficient as the applicant did not notify the contiguous owners. He had two contiguous owners and he had only notified one of them.

Mr. Farmer stated that he had not received the notice of the hearing until May 12, 1973, therefore, he had very little time to notify these owners.

Mr. Smith stated that the notice went to Mr. Minard who signed the application as the agent for the applicant.

Mr. Farmer indicated that he did not know who Mr. Minard was, but he was probably a member of the pool company that he purchased the pool from.

Mr. Smith asked Mr. Farmer if he had authorized Mr. Minard to make this application.

Mr. Farmer stated that he was aware that an application for a variance was needed. However, he had not authorized Mr. Minard to make the application.

Mr. Baker moved that this application be deferred until the 27th of June.

Mr. Kelley seconded the motion.

The motion passed unanimously.

Mr. Smith asked Mr. Farmer to come forward and sign the application and show his address where he could be notified of the hearing.

Mr. Farmer did so.

Mr. Smith told Mr. Farmer that he would be notified of the time, date and place of the hearing and Mr. Farmer would then have to notify 5 property owners, two of which were contiguous to his property. He would have to renotify the same people he notified this time plus the other contiguous owner.

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ROBERT E. STAFFORD, JR., app. under Sec. 30-6.6 of Ord. to permit Lot 5-A to remain with less frontage than required and to permit house on Lot 5-A to remain closer to street than allowed and permit construction of house on Lot 4-A to be closer to street than allowed, 49-2((6))5A and 4A, 7822 and 7828 Martha's Lane, (R-12.5), V-79-73, Providence District

Mr. Smith stated that it states in the staff report that the property is owned by Mr. William West and Robert E. Stafford.

Mr. McGinnis, attorney for the applicant, represented the applicant before the Board.

Mr. McGinnis stated that that was correct. The property is owned by both men.

Mr. Smith stated that the application should have been made in the name of both men. It will have to be amended.

Mr. McGinnis requested that it be so amended.

Mr. Smith stated that the application would be amended to read William E. and Carlyn West and Robert E. Jr. and Emily Stafford.

Notices to the property owners were in order. The contiguous owners were Fred J. Benoff, 2713 Westford Street, Falls Church, and John J. Bibb, Jr., 2711 Westford Court, Falls Church, Virginia.

Mr. McGinnis stated that this particular lot lies immediately adjacent to West Stafford Landing Subdivision. There are four lots here.

Mr. Smith asked how many lots there were prior to the drawing of these four lots.

Mr. McGinnis stated that there were two lots, but now they are making it into four.

Mr. McGinnis stated that from the plats, it shows that the two lots were subdivided August 25, 1947. There is a 50' dedicated ingress and egress easement now that would provide access to these lots, but they do not want to use it because the houses that were built in West Stafford Landing come right up to that easement and it would make all those houses in violation if this was actually used. They want to cut the lots into four lots and have ingress and egress from a driveway in the center of the two lots, 5-A and 4-A. The Staff has said that since they are putting this driveway into these lots to serve just these four lots, it becomes a street and they have to setback 50' from the center line. They cannot set back 50', therefore, they are before this Board to ask for a variance in setback and also since this driveway makes these two lots corner lots, they do not have the proper frontage for a corner lot. They are asking that this be waived also. This will not damage any of the surrounding property and the road will be in the center of their property. There is an existing house on the property at the present time which they would like to leave. It is on Lot 5-A.

The hardship will be eliminated if they are able to have ingress and egress in the center of their lots as the plats indicate. Without this variance, they will not have the reasonable use of the land.

Mr. Smith stated that they could use the lots as they now exist.

Mr. West, one of the owners of the property, testified before the Board. He stated that when the County approved the original subdivision of West Stafford Landing, they made the mistake and also, when they o.k.ed the subdivision of the four lots, they made a mistake, if they could not build on the four lots. They purchased this land with the understanding that it could be built on all four lots. They came to the County and went through all the preliminary stages and got the subdivision approved. He stated that the four lots were subdivided October 2, 1972.

Mr. Smith asked if the same engineer planned both subdivisions.

Mr. West stated that Mr. Pacuilli was the engineer on both West Stafford Land and this subdivision.

Mr. Smith stated that he must have been aware of this problem at the time he drew up the subdivision of the lots. When he planned the houses to be built right up to the line of the easement, he must have realized that he

STAFFORD & WEST (continued)

couldn't come back in and use that access for other lots. You can't use an easement and then come back and use it for access. This was the same developer and the same engineer in both developments. He stated that the developer created his own hardship.

Mr. Smith asked Mr. West how long they had owned the property.

Mr. West stated that they had owned it since about September or October. The price he paid for these lots was predicated on using them for four lots.

Mr. Smith stated that he purchased two lots and then subdivided them into four lots.

Mr. West stated that that was correct.

Mr. Smith stated that he created his own hardship.

Mr. West stated that he purchased this property based on County information.

Mr. Peter Baskin, 2707 West Court, testified in opposition to this application.

He stated that he was not necessarily against the application, but he wanted a few questions answered. He inquired as to the quality of the houses.

Mr. West stated that they would be of the same quality as the houses now existing in West Stafford Landing.

Mr. Smith read a letter from Mr. John Bibb, Lot 10, West Stafford Landing dated May 21, 1973. He was concerned about the quality of the construction, the landscaping and the drainage problems.

Mr. Smith stated that these problems would be worked out at Site Plan level.

Mr. Wall testified in opposition to this case. He stated that he is the major adjoining property owner and has the property to the rear of this subdivision. He stated that he too feels that this hardship has been brought upon themselves. There was a 50' easement on the original plat for the Robert Darn Estate which was this entire area in here. Apparently, these four lots were granted by the Zoning Office and the Zoning Office also allowed the houses in the West Stafford Landing to be built directly on the easement line. He stated that he has all the deeds all the way back and the chain of title. Any property/upon demand can require the other property owner to give 25' to put in the proposed road through providing they pay for it. Anything that is granted here today is not in compliance with the existing deeds. He stated that he notified his next door neighbor that he wanted to put in that road and this is recorded in a Deed dated March 24, 1946 and recorded in Deed Book 481. However, the builder went ahead and put in the houses right up to the easement.

He stated that he felt that the record of the easement is sufficient to substantiate his position. He stated that even the plats that are before the Board today shows this road as an ingress and egress easement, so apparently it is an easement of record.

Mr. Knowlton, Zoning Administrator, explained that this is a 50' easement for ingress and egress which has never been constructed. He stated that what rights there are to open that particular road, he does not know. When the plans came in for approval of the eighteen houses in West Stafford Landing, the Staff reviewed these in light of the property lines and setbacks on that particular piece of property. Despite the fact that this is an easement, it is not a street because it does not provide principal access to adjoining properties. Therefore, the center line of this easement is the rear property line within the West Stafford Landing Subdivision. The 25' rear setback requirement was applied to these lots and the side of the easement was where some of the houses were placed. It was suggested by the Staff that the developer find another means of access by the subject application subdivision.

There was no rebuttal.

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Mr. Runyon stated that if the Board does not grant this, it will leave two lots in the rear that are not usable. If the Board does grant it, Mr. Wall could still use the 50' right-of-way that does not touch on these lots. He could develop his land (by using that easement to get to them. He stated that he could not see the necessity to extend that 50' right-of-way any further back. He stated that the only thing that concerns him is the way this came about since the applicant was aware of this easement road at the time he subdivided the first subdivision.

Mr. Smith stated that the other matters that involve this easement road are civil matters and Mr. Wall has recourse in civil court. The question the Board will have to answer is, Does the applicant meet the requirements of Section 30-6.6 of the Zoning Ordinance.

In application No. V-79-73, application by William E. & Carolyn West and Emily Stafford under Section 30-6.6 of the Zoning Ordinance, to permit Lot 5-A to remain with less frontage than req. & permit house on Lot 5-A to remain closer to street than allowed & permit construction of house on Lot 4-A to be closer to street than allowed, on property located at County of Fairfax, Virginia, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:
*7822 & 7828 Martha's La., Prov. Dist., also known as tax map 49-2((6))5A&4A
WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 23rd day of May, 1973, and

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

1. That the owner of the subject property is William & Carlyn West and Robert E., Jr. & Emily Jo Stafford* *Taken from the Land Book.
2. That the present zoning is R-12.5.
3. That the area of the lot is 59,063 sq. ft.
4. That the property is subject to Pro Rata Share for off-site drainage.

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

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
 - (a) unusual condition of the location of existing buildings, and the existance of the lots.

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Baker seconded the motion.

The motion passed 4 to 1. Mr. Smith voted No.

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LINCOLNIA PARK RECREATION CLUB, INC., app. under Sec. 30-7.2.6.1.1 of Ord. to permit lights on proposed tennis courts, 6501 Montrose Street, 72-3((1))11, Mason District (RE0.5) S-80-73

Notices to the property owners were in order. The contiguous property owners were Brown, 5101 Redwing Drive and Strome, 5118 Amphill Drive.

The representative stated that they had selected a lighting system which is only 14' above the courts rather than the higher lighting system. They did that so the lights would have a minimum impact upon the adjacent property owners and still give adequate lighting for the tennis players. There are two proposed courts. They plan to enclose the tennis courts with a 10' high chain link fence. They have a membership of 406, however, only 207 are active regular members. They would like the courts lighted from 9:00 A.M. until 11:00 P.M.

Mr. Smith stated that the Board usually sets a time limit of 9:00 A.M. to 9:00 P.M. They have on occasions where the courts are a long way from any adjacent property, allowed them to remain open until 10:00 P.M. He asked if someone would be there who would be responsible for making sure the lights were cut off at the proper time.

The representative stated that they have a mechanical device that they can set for a specific time and it will shut the lights off automatically.

Mr. Barnes stated that it looked as though the courts that they propose are a good ways from the neighbors.

Mr. Smith stated that as an experiment, the Board could allow the courts to stay open until 10:00 P.M. if there are no objections raised.

There was no one present in objection to this use.

Mr. Kelley questioned the plats. He stated that he did not see an emergency entrance to the pool area and that would have to be put on the plats.

The Board discussed the parking spaces and decided that 167 parking spaces would be sufficient.

The Board recessed the hearing and asked the applicant to come back later in the day with revised plats showing the emergency entrance to the pool.

Later that day this case was reopened and the plats were received. The Board members went over the plats and then made the following motion:

In application No. S-80-73, application by Lincolnia Park Recreation Club, Inc. under Sec. 30-7.2.6.1.1, of the Zoning Ordinance, to permit lights on proposed tennis courts, not existing courts on property located at 6501 Montrose St., Mason Dist., also known as tax map 72-3((1))11 Co. of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 23rd day of May 1973.

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is Re-0.5.
3. That the area of the lot is 8,273 acres.
4. That the Site Plan approval is required.

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5. Compliance with all County and State codes is required/
6. That the applicant is operating a recreation club pursuant to a S.U.P. granted January 8, 1957; #14833, which allowed a broad range of recreation activities but did specifically mention lighting.

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

1. That the applicant has presented testimony indicating compliance with (Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance); and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The maximum number of family members shall be 500.
7. The hours of operation shall be 9:00 A.M. to 9:00 P.M. for the pool and from 9:00 A.M. to 10:00 P.M. for the tennis courts. Any after hours parties shall require special permission from the Zoning Administrator and such shall be limited to six (6) per year.
8. All lights, noise and loudspeakers shall be directed to site and confined thereto.
9. The maximum number of people allowed in the pool at any one time shall be 176.
10. Landscaping, screening, planting and/or fencing shall be as approved by the Director of County Development.
11. The minimum number of parking spaces shall be 100.
12. A dustless surface is required for the parking lot in accordance with Section 30-1.7.4.
13. A copy of the instrument reserving a right-of-way for future dedication through the subject property shall be provided in order to establish the exact status of said right-of-way.

Mr. Baker seconded the motion.

The motion passed unanimously.

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REGINA KISE, app. under Sec. 30-7.2.6.1.3 of Ord. to permit hourly child care, 8408 Highland Lane, 101-3((4))30, Lee District (R-17), S-78-73

Mrs. Kise represented herself before the Board.

Notices to property owners were in order. The contiguous neighbors were Mr. Carter, 8400 Highland Lane and Mr. John Paul Lavadins, 5013 Pole Road.

Mrs. Kise stated that she and her family live at this location. They would like to take care of on the average of six children and overlapping into possibly ten at some times during the day. The parents drop the children off in order to go shopping. The children stay two to three hours. They wish to operate five days per week from 9:00 A.M. until 3:00 P.M. in the afternoon. Her children are in school during this period.

Mr. Smith asked if she was caring for children now.

Mrs. Kise stated that she is.

Mr. Smith asked the average time that these children are in her home.

She stated that they are in her home on the average of two hours. She stated that this way she is not tied down and if her children are sick, she does not have to take care of someone else's children. She stated that she could take care of three children by night, but it is difficult to make enough money. They have lived at this location since January of this year. She has four children of her own, but three of them are in school each day. She wishes to stay home and take care of the little one, but in order to do so, she must make some additional money.

Mr. Smith asked if they would be able to comply with the team inspection report.

Mrs. Kise stated that they would. She stated that the Health Department sent Zoning a notice stating that they could have up to twenty-five children, but they do not wish to have that many. She stated that perhaps that is why the neighbors are so upset, if they think they will have twenty-five children next door.

Mr. Smith asked if she would have someone there to help her.

Mrs. Kise stated that she would not. She is a nurse and the nursery is limited to only one area of the house and she felt she could take care of that many. She stated that the age group of the children has been from two weeks old to six years of age. She stated that she did have one mother that did not get back to pick up her child until 5:00 P.M. on one occasion.

Mr. Charles Kise, husband of the applicant, spoke before the Board. He stated that he believed they would have a service to the community. The neighbors will not really know this is there as they will not have any outside help. This will certainly be a help to them. The children stay inside most of the time.

Mr. Ed Padberg, 8417 Highland Lane, spoke before the Board in opposition to this application.

He stated that he had letters from some of the neighbors who could not be present at the meeting today. There are a total of 17 families represented, 12 of them live on their street and there are three over on Pole Road.

Mr. Smith stated that he has a total of six before him now, where are the others.

Mr. Padberg stated that there are three people present today.

Mr. Smith asked if any of the people present also signed the letters.

Mr. Padberg stated that none of them did. He stated that the reason for the objection is the fact that there is not enough protection for the children at this location. The property is not entirely fenced and the children wonder out in the street. He stated that they have witnessed this about two months ago in January. In addition, they have a traffic problem now and this will make it worse. They have a flood of traffic in the morning because of the elementary school that is up the street and there is a flood of traffic on Sunday because of the Engleside Baptist Church. There is a stop sign now on Pole Road, but when Pole Road is widened, there will be a traffic light. There is also a drainage problem and a flood problem at this location. The applicant is requesting ten children, but they could raise it to 15 or 20 which would increase the number of cars into that driveway. They should have a turn around driveway.

Mr. Smith stated that the plats do show a proposed turn around driveway. It also shows three parking spaces. The applicant could not have any more children than designated by this Board.

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 KISE (continued)

Mrs. Kise stated that they only have one car.

Mr. Smith stated that the Health Department controls the fencing and they have approved it.

Mr. Smith asked Mr. Padberg to be specific about the times he has seen the children Mrs. Kise keeps running into the street.

Mr. Padberg stated that it has been during the day whenever there are children there.

Mr. Smith asked Mr. Padberg if he knew they were children that Mrs. Kise keeps, or some children that belongs to one of the neighbors perhaps.

Mr. Padberg stated that he didn't get that close to the kids. He stated he could not give a time and date.

Mr. Padberg also stated that they feel that an operation of this type will pull down the neighborhood's property values.

Mr. Smith asked him to give the Board an example of where a child care facility has affected the property values in the area contiguous to property owners.

Mr. Padberg stated that he could not specify a specific area.

Mr. Smith stated that the Board has never been able to establish that as a fact.

Mr. Smith asked the people in the audience that were present in opposition to this use to stand.

Three people stood.

Mr. Smith read the letters in opposition. One was from Mr. Dobson who stated that there was a great deal of traffic in the area as there is an elementary school and church nearby; a letter from Mr. Fraley, Jr., who gave the traffic as the reason for the opposition and the commercialism of this property; Mr. Leonard Lips; Jane Schelow; John Sutler and Mr. J. W. Swink who was present. They are in the file.

Mr. Padberg also submitted to the Board newspaper clippings that advertised this school and a guitar school at this same location.

Mr. Smith then questioned Mr. Kise about the guitar lessons.

Mr. Kise stated that he is the person who gives the guitar lessons. He has taught for Fairfax County. He stated that he uses this as supplemental income. He teaches in the evenings from 6:00 P.M. until about 8:00 P.M. He only has one person at a time.

Mr. Kise in rebuttal to the opposition stated that he felt some of the neighbors had the wrong impression of the type operation they would have. At first they thought it would be twenty-five children. He found this out by talking with some of the neighbors about this school. As to the children playing out in the street, they do not. His wife keeps the children at close range and doesn't let them go onto other properties.

Mr. Smith asked if they had had any complaints from the neighbors about this.

Mr. Kise stated that one of the neighbors told them that one of the children was up in her apple tree and she didn't like that. It was one of their own children. The Health Department says that a fence is not needed, but they plan to put in the fence anyway. Most of the children that his wife keeps are kept in the nursery. They do plan to provide off street parking and a turn around area. The children never go out front. The neighbor next door has told them that she plans to sell her house to her daughter.

Mr. Kelley asked the ages of their own children.

Mr. Kise stated that they were 10, 7, 5 and 2½. Three are in school during the day.

Mr. Kelley stated that he was concerned as to how one person could take care of that many children at one time.

Mr. Smith stated that one to ten more than meets the State's criteria.

Mr. Kise stated that six children is their average. They do not intend to carry this program for more than a year, or just until they can make some extra money to improve the property.

Mr. Baker stated that he would go along with three, but no more than that.

Mr. Smith stated that he could have three by right.

Mr. Kise stated that they feel this is a neighborhood service. A lot of the children come from Pinewood Lake, a few blocks away and some from Fort Belvoir area and most come after the traffic rush is over.

In application No. S-78-73, application by Regina Kise under Sec. 30-7.1.6.1.3 of the Zoning Ordinance, to permit hourly child care on property located at 8408 Highland La., Lee District, also known as tax map 101-3(4)30 Co. of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 23rd day of May 1973.

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

1. That the owner of the subject property is Charles D. & Regina Rae Kise.
2. That the present zoning is R-17.
3. That the area of the lot is 36,745 sq. ft.
4. That the Site Plan approval is required.
5. That compliance with all county and state codes is required.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless operation has started or unless renewed by action of this Board Prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. Applicant shall meet all requirements of the Inspection Report.
7. Parking for 3 additional vehicles other than owners with adequate on site turnaround.
8. The daily maximum number of children shall be 10, age 2 wks. to 6 years.
9. The hours of operation shall be 9 A.M. to 5 P.M., 5 days per week, Monday through Friday.
10. The permit shall run for 1 year with the Zoning Administration being empowered to grant 1, 1-year extension.
11. The rear yard shall be fenced.

Mr. Barnes seconded the motion.

The motion passed 3 to 2. Mr. Baker & Mr. Kelley voting No.

Mr. Smith stated that this will limit the number of children per day to 10. He stated that actually the use permit may be of no help at all as they could have more than that number of children per day by right as long as they only had three at any one time.

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LANGLEY SCHOOL, INC., app. under Sec. 30-7.2.6.1.3 of Ord. to permit temporary mobile building for daytime use in summer of each year at 1417 Balls Hill Road, 30-1((1))43, Dranesville District (R-12.5) S-81-73

Mr. Mark Friedlander, Jr. represented the applicant.

Notices to property owners were in order. The contiguous owners were Mr. Evans and American Legion.

Mr. Friedlander stated that this trailer would be for the tennis instructor during the months from June to August of each year. The building is quite a long way away from the tennis courts and they also wish to keep the operation of the tennis facility away from the school building. It is a place for the instructor to rest between the tennis sessions. She will not live in the trailer. The trailer will be hooked up to water and sewer. It is self contained.

There was no opposition to this use.

The Board discussed the hours that the trailer would be used. It was decided that it could be used from 8:30 A.M. until 7:30 P.M., seven days per week.

Mr. Friedlander stated that the trailer would be removed at the end of the summer season. They will just be leasing the trailer.

In Application No. S-81-73, application by Langley School, Inc., under Section 30-7.2.6.1.3 of the Zoning Ordinance to permit temporary mobile building for daytime use in summer of each year, on property located at 1417 Balls Hill Road, Dranesville District, also known as tax map 30-1((1))43, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 23rd day of May, 1973.

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 7.27584 acres.
4. That site plan approval is required.
5. That the applicant has been operating at this location under S.U.P. which was originally granted Nov. 16, 1954, #5631, and has been amended several times.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless operation has started or unless renewed by action of this Board prior to date of expiration.

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 LANGLEY SCHOOL, INC. (continued)
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3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. Operation to be located there during the months of June, July, and August.

7. Hours of operation to be 8:00 A.M. to 8:00 P.M., 7 days per week.

8. Permit to be for five (5) years with the Zoning Administrator being empowered to grant three, one-year extensions.

Mr. Baker seconded the motion.

The motion passed unanimously.

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FRANKLIN SPIELBERG, app. under Section 30-6.6 of Ord. to permit construction of addition closer to side property line than allowed, 3401 Cypress Drive, 59-2((8))(8)13, Providence District (R-12.5), V-82-73

Mr. Frank Sellers and Mr. Thwaits were the contiguous property owners. They had been properly notified. He had notified three other nearby property owners, therefore, the notices were in order.

He stated that only one corner of the addition would be in violation of the zoning ordinance. He has owned the property for four years and plans to continue to reside there. The addition is for his family's use and not for resale purposes. There is no other place on the lot that he can construct this addition. The building is located at an unusual location on the lot.

Mr. Kelley asked him if he planned to make the addition compatible with the existing structure.

Mr. Spielberg stated that he did. He also stated that this variance is necessary also because the existing structure is set at an angle of approximately 15° to the south lot line. This angle was necessary at the time of construction in order to conform with the required setback of 40' from the north lot line. In order that the proposed addition blend architecturally with the existing structure and to provide a regular and usable space making reasonable use of the area within the normal setback from the south lot line a variance is requested which would permit the southwest corner of the addition to extend 1'3" beyond the required 12' setback from the lot line. This variance is required only for 4' of the 19'8" width of the addition and will permit extension of the existing roofline and front of the structure.

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 FRANKLIN SPIELBERG (continued):

In application No. V-82-73, application by Franklin Spielberg, under Section 30-6.6 of the Zoning Ordinance, to permit construction of addition closer to the side property line than allowed, on property located at 3401 Cypress Drive, Providence District, also known as tax map 59-2((8))(8)13, County of Fairfax, Virginia, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 23rd day of May, 1973, and

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

1. That the owner of the subject property is Franklin L. & Susan W. Spielberg.
2. That the present zoning is R-12.5
3. That the area of the lot is 11,911 square feet.
4. That the property is subject to pro rata share for off-site drainage.

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

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:

- (a) exceptional topographic problems of the land.

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. Architecture and materials to be used in proposed addition shall be compatible with existing dwelling.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, residential use permits and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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MICHAEL MATTA, app. under Sec. 30-7.2.6.1.3.4 of Ord. to permit summer reading school, 6215 Rolling Road in Messiah United Methodist Church, 79-3((8))6, Springfield District (RPC), S-98-73 OTH

Mr. Michael Matta represented himself before the Board.

Notices to property owners were in order. The contiguous owners were Dr. DeAngelis, 6159 Roxbury Avenue and W. F. Betzald, 6157 Roxbury Avenue, Springfield.

Mr. Smith asked if he had an agreement or lease from the church.

Mr. Matta stated that the church had met just last night and approved his lease agreement, but it was not drawn up in writing.

Mr. Kelley stated that if he could get this lease or agreement to the Board before the end of the Agenda, they could go ahead and hear the application.

The Board recessed the hearing until later in the day.

Mr. Smith stated that if he could not get it back before the end of the Agenda, the Board would set the case for June 13.

This case was recalled later after Mr. Matta had called to say that he would not be able to get the agreement to the Board prior to the end of the Agenda as the Minister was out of town for the day.

Mr. Smith stated that this would be deferred until June 13, 1973.

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DEFERRED CASES:

JJS CORP. OF VA., app. under Sec. 30-7.2.6.1.3 of Ord. to permit increase in capacity of Commonwealth Christian School by 100 children, nursery through 6th grade, 5101 Thackery Court, 69-3((1))5, Springfield District (RE-1), S-34-72 (Deferred from 4-19-72 to allow applicant to meet with citizens of community to work out problems)

Mr. Smith read a letter from Mrs. Boyett requesting the Board withdraw this application.

Mr. Baker moved that the request be granted to withdraw the application without prejudice.

Mr. Kelley seconded the motion.

The motion passed unanimously.

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VOB LTD., a Maryland Corp., app. under Sec. 30-7.2.10.5.4 of Ord. to permit used car dealership including rentals, not to exceed one year in duration, or new car dealership whichever occurs first, 8753 and 8801 Richmond Highway, 109 ((2))7A, Mt. Vernon District (C-G), and(RE-0.5) S-3-72 (Deferred from March 15, 1973 until May 23, 1973 to allow applicant to work out a technical problem)

Mr. Charles Shumate, 10523 Main Street, Fairfax, represented the applicant.

Mr. Shumate stated that this is the third time this case has come before the Board and been deferred. This strip of land that fronts this property is 70' in length and is zoned commercial. However, when the Board of Supervisors approved the maps for the County, the maps were incorrect. However, the Board of Supervisors would not change this strip to commercial as it should be. Suit has now been filed against the County. He submitted copies of the suit papers that were filed. He stated that he has asked the County Attorney to address a memorandum to the Board that will bring the Board up-to-date.

The memo was addressed to Mr. Dan Smith, Chairman, Board of Zoning Appeals from John F. Rick, Assistant County Attorney, dated May 23, 1973 and stated:

"This is to advise you that suit has been filed against the County concerning the 70-ft. strip subject of the hearing scheduled for your Board of Zoning Appeals this date.

I have been in recent negotiation with Mr. Shumate about this matter and am of the opinion at this time that there are possible grounds for settlement of the case. Since we are currently exploring these grounds for settlement, I would very much appreciate it if you could defer the hearing on the matter before your body indefinitely pending some final word from my office as to the success of the negotiations.

If you have any questions, please call me at 691-2421."

Mr. Baker moved that the case be deferred for six months, as the Board cannot defer a case indefinitely, and all notification requirements would have to be met at the time of the hearing.

Mr. Barnes seconded the motion.

The motion passed unanimously and the case was set for November 14, 1973. Mr. Smith told Mr. Shumate he could bring it back earlier if he wished.

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LITTLE RIVER RACKET CLUB, INC., ET AL., app. under Section of Ordinance to permit private tennis club with indoor and outdoor courts, dining facilities and swimming pool, north side of Little River Turnpike, west of Pineland Street, 58-4(1)68 & pt 65; 59-3(1)6, Annandale District (RE-1), S-47-73

Mr. Hansbarger, attorney for the applicant, testified before the Board on behalf of the applicant.

Mr. Hansbarger stated that when the application was first filed under Group 6, the Community Use Section, but the Board subsequently ruled that from their point of view, the application should have been filed under Group 7, Commercial Recreation. What is before the Board today is an amended application related to the standards set forth in Group 7 uses. In addition, they have submitted new plats for Commonwealth Christian School showing the amount of land that the Little River Racket Club has leased. That was application No. S-38-70. One acre of the school's land has been leased to the applicant for this use that is before the Board today.

Mr. Smith stated that the Board would consider the Little River Racquet Club application first and see what happens and then consider amending the Commonwealth Christian School application.

Mr. Hansbarger stated that the Board stated that they required one parking space for every three family memberships, therefore, that limits the number of members from 1200 with the land area involved to 1085 with 195 parking spaces. Since the last meeting, the Little River Pines Civic Association has addressed a letter to him and a copy to the Board of Zoning Appeals suggesting that they still oppose the application, but should it be granted, they would like several conditions imposed on that use. He stated that he could agree with most of the conditions requested by the Association.

Mr. Hansbargar stated that he could agree with most of the conditions that this letter requested except item listed as "g" which stated: "That the proponents post sufficient bond to insure that the constructed facilities are removed, and that the site be restored to its natural state within six months from the time the facility ceases to operate as a private tennis club, or upon a change of ownership or operational control of the present proponents."

Mr. Hansbarger stated that from the opposition's testimony at the previous hearing he felt that they are really objecting to this use because they fear that it is the forerunner of commercial zoning of an area that they wish to keep residential. He stated that he feels that their fears are unfounded. The Zoning Ordinance permits certain uses in residential areas under a special use permit without the necessity of a rezoning.

This permits the Board of Zoning Appeals to attach conditions to these uses to insure that they are compatible with the neighborhood. The Board of Zoning Appeals cannot change the zoning category by granting a Special Use Permit. He stated that he was willing for the Board of Zoning Appeals to attach as a condition that the applicant would not apply for commercial zoning on this ground for ten or fifteen or whatever the Board might want to limit it to, years.

Mr. Smith stated that this condition would not be reasonable and would not be upheld in Court. The Board of Zoning Appeals has no authority to impose conditions in the area of zoning and this is not relative to the application.

Mr. Hansbarger stated that the forces that change zoning classifications are in existence already. A lot of the vacant land has already been rezoned to R-17. He stated that when you consider all of the effects this use might be expected to have with all of the conditions that they are willing to abide by, this use is far less than single family residences would be if the land were developed under R-17 zoning. There would be no buffer, there would be more traffic, R-17 zoning would generate more school children to impact the schools, if this was developed under R-17.

Mr. Smith stated that under R-17 zoning, one would not be allowed to have a restaurant, a bar and that sort of thing.

Mr. Hansbarger stated that he could eat in his own home and take a drink of whiskey. He stated that he is asking the Board to grant a use that is permitted in Residential zoning under the present Fairfax County Zoning Ordinance. The citizens have said what they would like in the way of conditions and the applicant has said he would do most of these things. He stated that he did not see any difference in this use and any other private organization, such as a country club.

Mrs. Boyett spoke in favor of this application. She stated that she and her husband are the owners of Commonwealth Christian School that is adjacent to this use and they are satisfied with the restrictions that the applicant has agreed to and they also feel that the traffic will not adversely affect them.

Mr. John Edmunson, Mill Creek Subdivision, 3918 Lake Boulevard, spoke in opposition to this use. He stated that on April 18, 1973, this Board heard this case and this association had not had time to take formal action to come before the Board. Now they would like to go on record in support of the position taken by the Little River Pines community in opposition to this use. Of the 100 members in the association, 74 were contacted personally on Sunday, May 13, and Monday, May 14. 70 voiced opposition to this use and 2 took no position at all and 2 were in favor of the proposal. The overwhelming majority of the association strongly feels that the proposed use is a departure from the Annandale Master Plan; that it would degrade the present residential character of the surrounding area, by constructing buildings, constructing parking lots, eliminating wooded areas, and increasing the traffic flow on Route 236. The commercial nature of the proposed facilities is also in direct conflict with the present thinking of the Fairfax County Board of Supervisors, who have repeatedly prevented any encroachment upon the residential area bordering Route 236, between Interstate 495 and Fairfax City.

Mr. Koffman from the citizens association of Court of Camelot, Incorporated, spoke in opposition to this use. They have a membership of 399 and they oppose this use on the basis that it represents an unwarranted departure, both from the present zoning and the provisions of the master plan. This plan was approved by the membership at the business meeting of the Court of Camelot of May 14, 1973.

Mr. Runyon asked how many people were there and how many voted.

Mr. Koffman did not know.

Mr. Philip Roach, Pineland Street, spoke in opposition to this use. He represented 43 families in the Westchester Subdivision. They opposed this use for the same reasons as the Pineland Civic Association which went on record at the previous hearing.

Mr. Thomas Vick, President, Truro Homes Association, spoke in opposition. Their association represents 378 families residing in the Truro, Okehampton and Wakefield Chapel Subdivisions located south of Little River Turnpike between Guinea Road on the west and Wakefield Chapel Road on the east. They feel this is against the Master Plan for the area. They would like to keep this area residential in accordance with the existing zoning. When a homeowner defaults on his mortgage commitment his house, if resold, retains its character as a dwelling unit. When a commercial enterprise fails, there is substantial likelihood that a successor will be considerably less concerned with maintaining neighborhood character. Worse, the legacy might very well be a vacant eyesore. Within the provisions of the Special Use Permit within a residential neighborhood, it is considered essential that no subsequent change be permitted to occur which would affect the character of

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of the neighborhood adversely as a result of the demise, default or other transformation of the structure originally permitted and the purpose for which the permit was originally granted. In the case of the Little River Racquet Club, the building that will be used (butler type) might easily be converted to industrial or commercial facilities.

A substantial proportion of resident objection to deviation from the established Master Plans is based on fear of establishing a precedent of instability. No matter how well-meaning the initial developer who seeks deviation from the Master Plan, once the first variance is granted other developers with various motivations will appear from the woodwork to partake of the opportunity, citing the original variance as precedent.

Mr. Walter Couch, Pineland Street, representing the Little River Pines Community spoke before the Board. He stated that on April 18, 1973, he presented a petition to this Board outlining the objections of their community to this proposal. The petition was signed by an overwhelming majority of their community. They have examined the second site plan for this commercial development and find it even more objectionable than the original for the following reasons:

"a. In the original plan, the nearest outdoor courts were about 400 feet from our property lines, and were further screened by two intervening buildings. In the latest plan, the nearest courts are less than the width of one of our residential lots from us.

b. In the original plan no night lighting was proposed for the outdoor courts which would rule out noisy night games. In the current proposal, night lighting is proposed for all courts.

c. In the original proposal, the swimming pool (the noisiest activity of all) was to be located about 300 feet from our properties. It has been moved closer in the new proposal and is now located about one lot width from us.

d. In the original proposal, the main entrance to the proposed club building (with its traffic) was facing the Little River Turnpike and was located about 200 feet from our properties. It has been changed to directly face our homes and is one lot width from our properties.

On April 18th, we voiced strong objections to the noise we could expect from the outdoor courts, pool, traffic, and other boisterous activities. The proponents have ignored these concerns, and have literally "thumbed their noses" at us by moving those activities even closer. These are the types of neighbors we don't need.

There is a 10 feet storm drainage easement on two of the residential properties which drains about half of the 3900 block of Pineland Street. This drainage flows into the proposed club property and collects in a low area south of Leroy Place. The current plan makes no provisions for this drainage, and proposes to fill the water collection area in order to provide additional parking. We would assume that if we are bound by these drainage easements, the proposed club property, through which it has always drained, must also have similar easements to accommodate this large volume of water.

We are concerned that in a period of one month since the original hearing, the proposed property has increased in size by almost one-half acre. We might add that this is not isolated to this proposal, but can be considered a syndrome of commercial developments everywhere. The land reserved for residential development inevitably gives way to commercial blight. This is the trend that we are opposing.

We are also interested in obtaining an answer to the question raised by this Board on April 18, about the propriety, or legality, of including lands which are covered by one special use permit -- the Commonwealth Christian School -- into the area covered by this proposed special usage. The property added since the last hearing also is to be acquired from the school property.

It is our understanding that commercial facilities to be operated in residential areas under a special use permit must have frontage on a major highway. This property does not! They have made tentative arrangements to increase the width of their driveway to 50 feet in a very patent attempt to circumvent this requirement. We submit that this does not satisfy the intent of the requirement, and it is very questionable as to whether it satisfies any legal technicalities. For a property which is about 800 feet wide, we do not think that a 50 feet driveway meets the test of highway frontage.

The proponents have likened their facility to a country club, as being very desirable. If their noisy activities and traffic were to be separated from surrounding residences with a golf course, we could agree. This is clearly not the case, and such arguments are insulting to our intelligence.

Mr. Hansbarger has stated that he is willing to discuss a compromise of points we presented in our letter of May 7th to himself and this board. We do not feel that they are subject for compromise; but are community safeguards which should be directed by this board in the event it sees fit to approve this application. We cannot compromise, to our absolute detriment, safeguards which are implicitly guaranteed by both the Annandale and Fairfax County Master Plans; and, by the while concept of zoning..."

In rebuttal, Mr. Hansbarger stated that the people who testified in opposition are from subdivisions not closely related to the property in question. There are only four houses on Pineland Street that back up to this property. Those people have sent to him with a copy to the Board a letter listing a number of conditions they wished placed on this use should it be granted. He stated that he felt that these conditions are adequate to protect these property owners that would be affected by this use, if anyone is affected. The Master Plan calls for R-12.5 zoning and under R-12.5, residential, zoning, Special Use Permit uses such as this are permitted. The traffic is oriented to Little River Turnpike. Should the property be developed with single family residences under the R-17 zoning, these residences will have access to Pineland Street. It has been determined that single family residences generate 9 trips per day for each unit and using this as a basis, there would be more traffic with the single family homes than with this use.

Mr. Hansbarger stated that the applicant has reduced the proposed membership more than one-half and they will accept any reasonable condition placed upon by this Board.

Mr. Runyon stated that under the Specific Requirements of the Group 7 use, the use must front on a primary highway and he did not see how this use met that requirement.

Mr. Hansbarger stated that the intent of that requirement is a thing that they have discussed previously. That is, it is their opinion that the intent of that requirement is so that the traffic from the use will be oriented to a primary highway and not use residential streets. Insofar as the amount of frontage, the ordinance does not say how much frontage they have to have. They do have frontage on a primary highway. They have checked this out with the Zoning Administrator before they filed under Group 7 and the answer was, as long as you can divert traffic to a primary highway and not residential streets, you have met the frontage requirements.

Mr. Runyon stated that they do not have frontage at the building restriction line. He stated that as he sees it, they do not meet the frontage requirement.

Mr. Hansbarger stated that if the ordinance meets "setback", he would agree, but if you talk about what this ordinance is attempting to do, then their application does meet this requirement.

Mr. Smith stated that he agreed with Mr. Runyon that this doesn't meet the frontage requirement; however, this is something the Board has to take into consideration and there are other factors to consider also. The Board has to find that this use will not result in hazardous or congested conditions. The Board must decide whether this use will be harmonious with the residential character of the particular neighborhood in which this use is proposed. Is it compatible? What will its impact be on the surrounding neighborhood? These are the questions that the Board must consider.

Mr. Runyon asked Mr. Kelley for his opinion.

Mr. Kelley stated that he agreed with both he and Mr. Smith. He stated that he did not feel this use will meet all these requirements.

Mr. Smith stated that this is a heavy dense use on this small piece of land and it is surrounded by residential land. The frontage question is only one aspect of this. Whether it is compatible with the existing residential neighborhood has a far greater affect than the highway will although, he stated that he felt this intense traffic is not conducive to safety on this Route 236 corridor.

Mr. Runyon stated that the traffic doesn't bother him that much as he feels that if this land were developed in R-17 or R-12.5 zoning use, they would have as much traffic as this use will generate. He stated that he, too, is concerned about the impact on the neighborhood.

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Mr. Smith stated that if this property were developed residential single family residences in conformity with the Master Plan there would be other areas of disbursing the traffic through the entire community and would not put the impact on Route 236 only. This traffic would be a part of the community, whereas there would be predominantly outside traffic for this commercial establishment. The residential would be permitted by right. The fact that this requires a Special Use Permit illustrates the impact that this does afford on the community. He stated that he could not support the application for these reasons, if this might have any bearing on the Resolution. (He was directing the last comment to Mr. Runyon)

Mr. Runyon stated that he wanted to check off the items listed in the Code once again.

Mr. Smith stated that while the Board was deliberating he would read the Section from the Code that pertains to the Special Use Permits, Section 30-7.1, Page 533 of the Ordinance which states: "...Special Use Permit uses as specified in this chapter may be authorized by the board of zoning appeals in the district indicated upon a finding that the use will not be detrimental to the character and development of the adjacent land and will be in harmony with the purposes of the comprehensive plan of land use embodied in this chapter..." and further under Section 30-7.1.1 "...The location and size of the use, the nature and intensity of the operations involved in or conducted in connection with it, its site layout and its relation to streets giving access to it shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection with it will not be hazardous or inconvenient to the predominant residential character of the neighborhood or be incongruous therewith or conflict with the normal traffic on the residential streets of the neighborhood, both at the time and as the same may be expected to increase with any prospective increase in the population of the neighborhood, taking into account, among other things, convenient routes of pedestrian traffic, particularly of children, relation to main traffic thoroughfares and to street intersections and the general character and intensity of the development of the neighborhood.

The location and height of buildings, the location, nature and height of walls and fences and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.

The use shall be in harmony with the general purpose and intent of the zoning regulations and map and shall not affect adversely the use of neighboring property in accordance with the zoning regulations and map."

In application No. S-47-73, application by Little River Racquet Club, Inc., et al. under Section 30-7.2.7.1.1 of the Zoning Ordinance, to permit private tennis club with indoor and outdoor courts, dining facilities and swimming pool and related facilities, on property located at north side of Little River Turnpike and Pineland Street also known as tax map 58-4(1)68 and pt. 65, 59-3(1)6, Annandale District, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 18th day of April, 1973 and deferred until the 23rd day of May, 1973.

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

- 1. That the owner of the subject property is Boyette, Hatton & Lewis, Trustees.
- 2. That the present zoning is RE-1.
- 3. That the area of the lot is 10.0554 acres.
- 4. That Site Plan approval is required.

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

1. The applicant has not presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance. NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby denied

Mr. Kelley seconded the motion and the motion passed 4 to 1 with Mr. Baker voting No.

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IRVING ADLER & JESSIE SPIELMAN, app. under Section 30-6.6 of Ord. to permit house to remain closer to front property line than allowed, 3118 Barley Road, 47-4(1)37, Providence District (R-12.5) V-62-73 (Deferred from 5-9-73 for results of rezoning hearing)

Mr. Tom Mays, attorney for the applicant, testified before the Board.

Notices were in order at the previous hearing.

Mr. Knowlton stated to the Board that the rezoning was granted to R-12.5, therefore the Board amended the application to read R-12.5 zoning.

Mr. Smith asked if this is the only variance that they will need.

Mr. Mays stated that as far as he knows it is.

In application No. V-62-73, application by Irving Adler and Jessie Spielman, under Section 30-6.6 of the Zoning Ordinance, to permit house to remain closer to front property line than allowed, on property located at 3118 Barley Road, Providence District, also known as tax map 47-4(1)37, County of Fairfax, Virginia, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 23rd day of May, 1973, deferred from the 9th day of May, 1973.

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

1. That the owner of the subject property is Jessie L. Spielman.
2. That the present zoning is R-12.5
3. That the area of the lot is 5.1124 acres.
4. That no further variances will be requested on subject site.

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

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
 - a. unusual location of existing building.
 - b. to realign location of Flintlock Road.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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AFTER AGENDA ITEMS:

RIVERSIDE GARDENS RECREATION ASSOCIATION, S-216-71

Mr. Smith read a letter from Mr. Richard Hobson, attorney for the applicant, requesting an extension of the Special Use Permit because the case is now in litigation and they will not be able to begin construction until it is resolved.

Mr. Baker moved that this request be granted for a six (6) month period.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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May 23, 1973

AFTER AGENDA ITEMS (continued)

POWHATAN NURSING HOME -- request for extension of Special Use Permit

Mr. Smith read a letter from Mr. Bruce Lambert, attorney for the applicant, requesting a ninety day extension of time as they had not been able to get the Site Plan through the County in order to begin construction.

Mr. Baker moved that the request be granted.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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SALVADORE GULLACE - Request for change in location of garage with the same amount of variance that was granted previous^d and requesting 6 month extension.

Mr. Smith at the previous meeting had read the letter from the applicant requesting that the Board allow him to move the garage back a little in order to get the approval of a next door neighbor, who had originally objected to his variance request. The Board requested certified plats which would show this change in location.

Mr. Gullace had submitted certified plats showing the new location, a letter from the neighbor approving the new location and a letter requesting an extension to his variance as he had not begun construction until he could get the approval of his neighbor.

Mr. Baker moved that the request be granted.

Mr. Runyon seconded the motion.

The motion passed unanimously to substitute the plats ^{and} to grant the six month extension.

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CITGO, PROGRESS REPORT, 8318 Hoos Road.

Mr. Smith read a letter from Mr. McIntyre, Citgo's Field Engineer, regarding the progress that they were now making toward completing the construction of the road in front of their station.

Mr. Runyon stated that he was glad to hear that they were making some progress.

Mr. Doug Leigh, Zoning Inspector, stated that he had visited the site earlier in the day and they had been working on the road.

Mr. Runyon asked that the Board get another progress report in thirty (30) days.

Mr. Smith asked the Clerk to so notify the applicant.

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DELIA B. OLSON, 8705 Little River Turnpike, Annandale, Special Use Permit # S-157-72 for Antique Shop in Home.

Mr. Smith read a letter from Mrs. Olson requesting that the Board allow her to use the back entrance to the property and close off the entrance from Little River Turnpike so that she would not have to construct the deceleration lane.

Mr. Kelley moved to defer this until June 13, 1973 to allow the Board members to take a look at the proposed new entrance to the property.

Mr. Baker seconded the motion.

The motion passed unanimously.

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McLEAN VOLUNTEER FIRE DEPARTMENT - Request for out-of-turn hearing.

Mr. Smith read the letter requesting this out-of-turn hearing. They stated that they have new equipment coming in and it is urgent that they get this addition constructed in order to house the new equipment.

Mr. Baker moved that the request be granted and the hearing set for June 20, 1973.

Mr. Runyon seconded the motion.

The motion passed unanimously.

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Iliff Nursing Home, Special Use Permit No. 14391, Granted last addition in 1963 for 118 beds.

Mr. Knowlton explained the problem to the Board. He stated that as the Board is aware under the new ordinance, nursing homes over fifty beds now go to the Board of Supervisors. Under fifty (50) beds, the Board of Zoning Appeals still makes the decisions. The problem here is the nursing home is over fifty beds already. They do not wish to expand, but only relocate twenty-two (22) patients from frame buildings to a new brick addition. The Fire Marshall's office has suggested that this be done and they are willing to do it. Mr. Knowlton stated that there is nothing in the new ordinance pertaining to the relocation of existing facilities. The Board of Zoning Appeals acted on this application originally.

Mr. Knowlton stated that the Board of Supervisors and/or the Board of Zoning Appeals must first receive a recommendation from the Fairfax County Hospital and Health Center Commission. Since this is an existing facility and the change is for the better, the Staff does not feel that this relates to the amendment. He stated that what he thought the Board might like to do is take the latest action of the Board and refer to the new plats rather than the plats that are on file.

Mr. Kelley stated that he felt the Board of Supervisors should be made aware of this since there are 118 beds involved.

Mr. Smith asked Mr. Knowlton if he had discussed this with the Board of Supervisors.

Mr. Knowlton stated that he had not.

Mr. Smith stated that he felt it would be a good idea to contact them and tell them about the case. He stated that he felt that this Board does have jurisdiction.

Mr. Smith asked if there was anything in the file from the Fire Marshall's office.

Mr. Knowlton stated that it hasn't gotten to that point as yet. The buildings have not actually been condemned and the applicant wants to rectify the problem before it gets to that point.

Mr. Smith asked Mr. Knowlton if he could bring this to the Board of Supervisors' attention.

Mr. Knowlton stated that in five months he could bring it to their attention.

Mr. Smith stated that then the Board of Zoning Appeals would address a letter to the Chairman of the Board of Supervisors with a copy to all the Supervisors stating that this Board has just received a request from the Iliff Nursing Home to allow them to relocate in two permanent buildings, brick, twenty-two beds that are now housed on the property under Special Use Permit. The two existing buildings are frame. The total allowable number of beds is 118. This will remain the same as granted in 1963. There are no changes in the facilities other than the construction of the new addition to house the patients that are now in the frame buildings and are questionable as to fire safety factors. He stated that he would sign the letter if this is agreeable with the Board.

Mr. Kelley, Mr. Baker, Mr. Barnes and Mr. Runyon all agreed with this idea.

Mr. Smith stated that the Board would take some action on June 13th, 1973, if the Board of Supervisors have no objection.

Mr. Smith stated that the applicant should make the proper application with plats showing the new addition to the building.

Mr. Kelley agreed.

Mr. Barnes stated that he felt it would be a good idea to get rid of the old frame buildings and the sooner the better.

Mr. Smith advised the Clerk to write the letter as outlined above for his signature by direction of the Board.

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Mr. Smith asked if the Zoning Administrator had any other items to come before the Board.

Mr. Knowlton had nothing else.

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The meeting adjourned at 6:12 P.M.

By
Jane C. Kelsey
Clerk



DANIEL SMITH, CHAIRMAN

APPROVED June 13, 1973
(DATE)

The Regular Meeting of the Board of Zoning Appeals Was Held on Wednesday, June 13, 1973, in the Board Room of the Massey Building. Present: Daniel Smith, Chairman; Loy P. Kelley, Vice-Chairman; George Barnes; Joseph Baker and Charles Runyon.

The meeting was opened with a prayer by Mr. Barnes.

HEARING ON REVOCATION NOTICE - MR. & MRS. RAJ MALLICK (CEDAR KNOLL INN), 9030 Lucia Lane, 111-1(1)5, Mount Vernon District, (R-12.5), Permit originally issued to Mildred Linster in 1942.

Mr. Smith after calling the case stated that this revocation came about after careful consideration and discussion with the Zoning Administrator and a memorandum and appearance by the late Mr. William Barry, Senior Zoning Inspector for the County of Fairfax. This action took place on January 17, 1973, after the Board had an extensive study and listened to Mr. Barry and considered the allegations. The Board issued a notice of revocation for the named applicants. The list of allegations that brought about this was based on the information obtained by Mr. William Barry at that time.

Mr. Smith then read a letter from Mr. Barry listing the items. This memo is in the file and is also listed in the minutes of January 17, 1973.

Mr. Smith stated that Mr. and Mrs. Mallick have appealed that revocation notice and this is a hearing on that appeal.

Mr. Smith then called on Captain Peck from the Fire Marshall's office.

Captain Peck stated that his address is 1609 Florida Avenue, Woodbridge, Virginia.

Captain Peck stated that there were two areas in question as far as their Department is concerned. One area is the construction classification which according to his interpretation of the Building Code would not be permitted. The other problem is with respect to the waiver of the fire protection for the facility. It is his understanding that when the applicants applied for this addition, there was no site plan submitted. If it had been submitted and gone through, the regular procedure, it would not have been approved without the provision of providing a fire hydrant. As the situation is, the only water that is available is from existing hydrants on Price's Lane, or trucking the needed water into the facility, or if conditions were exactly right, use the water from the Potomac River. However, as to the latter probability, there is no hard surface road which comes within a reasonable distance to the edge of the embankment of the river and if the ground is wet, the trucks would not be able to take their vehicles off the road to get down to the river, or the tide might be out. Under Sec. 306.2 of the Bldg. Code for Fairfax County, it is unlawful to increase the height or area of an existing building or structure unless it is of a type of construction permitted for a new building. In this case, the Cedar Knoll Inn was of a non-conforming construction for the type of use. Sec. 418.13 of the Bldg. Code prohibits the construction for F-1 Use Group out of frame (type 4) construction.

Since the Cedar Knoll Inn has a dinner theatre, therefore, again it would be in violation. Table 6 of that Code which would refer you to the area limitations, because this is a two story structure, this type construction is not permitted under any type of classification and with respect to the F-1-A, it is strictly not permitted. Their office would like to know why the waivers were granted with respect to the site plan and also why this type of construction was permitted.

Lt. Pearson from the Fire Services Department stated that he had nothing to add to Capt. Peck's statements.

Mr. Seldon Garnet from the Building Inspection office spoke before the Board. Mr. Smith asked him if he could answer some of the questions that have arisen. Mr. Garnet gave his address as 306 East Piedmont Street, Culpepper, Virginia. He stated that a building permit was issued December 30, 1971.

Mr. Smith asked if part of the construction was in place at the time the building permit was issued.

Mr. Garnet stated that part of it was. He stated that the team inspection was made prior to the issuance of the building permit. He was not on the team that inspected and, therefore, is not aware of the results. The permit was issued along with the stipulation that any requirement of the team inspection also be met.

Mr. Smith asked if this meant that they would not have to meet all the County Codes.

Mr. Garnet stated that on the existing building, it was impossible for them to meet the County Code 100 percent. The team inspection covered the existing building.

Mr. Smith questioned the two story building that the Captain Peck has mentioned.

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CEDAR KNOLL INN (continued)

Captain Peck interposed to state that he would like to clarify this point. He stated that he didn't mean to imply that the addition was two story. The addition is only one story.

Mr. Garnet read the team inspection report. A copy of this report is in the file.

Mr. Smith asked if part of this addition was existing at the time the permit was issued.

Mr. Garnet stated that it had begun, but he was not aware of how much had been done.

Mr. Smith asked Mr. Garnet if he had a copy of the building permit that was issued.

Mr. Garnet submitted it to the Board.

Mr. Smith also found a copy of a permit for toilet facilities in the file, but Mr. Covington explained that he had stopped it. He stated that those facilities were never built.

Mr. Smith read from the building permit that the addition was to cost \$2,000.

Mr. Smith asked if a recent building inspection had been made of these premises.

Mr. Garnet stated that a final inspection was made March 29, 1973, and all the items listed in the original team inspection report had been complied with.

Mr. Smith asked if he could answer the question of why this addition was allowed to be constructed without a site plan approval

Mr. Garnet stated that when they reviewed the plans, they had nothing to do with Site Plan approval. They look to see if Site Plan has approved the addition. It was approved on that application. Insofar as being able to add on to the frame building, Mr. Garnet stated that he could not answer that except to say that the Chief Building Inspector at that time said to issue the permit.

Mr. Reeves from the Health Department, spoke before the Board. He gave his address as 2620 Pioneer Lane, Falls Church, Virginia. He stated that their latest inspection was March 6, 1973, by Mr. Walker, the area sanitarian. The inspection was a check to see if they were keeping all foods covered and health cards were posted, etc. They found that the dishwasher rinsing temperature was only 140 degrees and it should have been 180 degrees. There was a dog in the storage room which was removed. They have asked Mrs. Mallick to put in a hand basin and a mop sink and a dipper well for the ice cream scoop, but as yet she has not done this. These items were required by the County and State Code and also by the Plumbing Department. These items have been requested to be put in continuously since 1971 and they still have not been installed. They were told by the Mallicks that these items would be put in at the time they put in toilet facilities in the addition, but they never put in the toilet facilities that they had planned to put in and they never put in these items they had asked them to put in either. Before they renewed their license in December, these fixtures would have to be put in.

Mr. Smith asked if this restaurant had been approved as a dinner theatre.

Mr. Reeves stated that it had been approved as a full course restaurant. There is no separate category for a dinner theatre. He stated that he did not know the seating capacity. The requirement for this information was taken out of the State and County Codes requirement once the restaurant went on public sewer. They do not keep their old records longer than one year and therefore do not know what their previous seating capacity was.

Mr. Smith asked if they have adequate toilet facilities.

Mr. Reeves stated that the Health Department has approved the toilet facilities.

Mr. Smith asked if they have put in additional toilet facilities recently.

Mr. Reeves stated that they had not to his knowledge.

Mr. Smith asked the man from the Fire Services Department to check to see if the Mallicks have a Hazardous Use Permit which is required to be filed if their seating capacity is over 100 and forward a copy of that permit to the Clerk.

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Mr. Black, attorney for the opposition, spoke before the Board to say that they have several speakers who would like to speak before the Board.

The first speaker was Charles Wahl, Director of Mount Vernon. He stated that he was not here to speak for the Mt. Vernon Ladies Association that holds George Washington's home, but as a long time resident of the neighborhood and one time member and Chairman of the Fairfax County Planning Commission in the early 40's. When they were rezoning this area their purpose was to establish the lowest possible density along the approach to Mt. Vernon as Mt. Vernon is a national shrine. That purpose was fulfilled with the exception of the Woodlawn Shopping Center which later was allowed to develop. There is nothing they can do about that now as much as they dislike it. He stated that it was his understanding that a non-conforming use could not be enlarged. This place has been enlarged and he has asked County officials how this could be done and he did not receive a satisfactory answer. This facility serves no purpose that would justify it to remain. This facility has access over a narrow lane that is directly on a large highway. If there haven't been accidents, it is by the Grace of God. This restaurant does not belong at this location and he again stated that he did not understand how they could expand it as they have. He stated that he is present to question rather than give information.

Mr. Smith stated that the Board would try to get the answers to this question.

Mr. Benjamin Eggerman, 2102 Prices Lane, spoke in opposition to this restaurant. He stated that he and his wife have owned their home since 1957 and it is in the immediate vicinity of the Cedar Knoll Inn. He stated that he is also speaking for a number of his neighbors. He stated that they have seen the expansion of the Cedar Knoll Inn both from its physical expansion and the scope of the operation. They expanded their dining facilities with the erection of the south or west wing which is 30' by 18' and also the expansion of their dining facilities by the creation of a concrete veranda. The parking lot has doubled in size and they added flood lights which may be necessary for a parking lot, but are offensive to the neighbors in the immediate vicinity. The scope has expanded from a tea room to a year around dinner theatre and restaurant. He stated that he does not feel that this expansion is compatible with the community.

Mr. Black, attorney for the opposition, came forward and asked all the people present in opposition to this expansion of Cedar Knoll Inn to stand.

There were fifteen people who stood.

Mr. Raj K. Mallick, 6627 Skyline Court, Alexandria, Virginia, spoke before the Board for the Cedar Knoll Inn. He stated that he is an Indian, but he has adopted this country as his own. His wife is German and she too has adopted this country as her own. However, they are unfamiliar with all the laws and regulations, but they have tried to do everything that the County requested them to do. They have tried to upgrade this restaurant and improve it to make it more compatible with the area. Their main purpose was to give the existing restaurant a face lift. He wishes to provide a service to the people who come to visit this area. He stated that as far as the wash basin, m.p sink that the Health Department requested them to install, they had planned to do this when they put in the toilet facilities. However, when they applied for the toilet facilities, the County turned them down and they were not able to install this.

Mr. Mallick stated that the former owner, Mrs. Linister, is present today and she can confirm the statement that they had under her ownership from 155 to 165 seats. They never had had under their ownership more than 175 seats in the restaurant.

He stated that they have conformed to every Code that the County has requested them to conform to and his lawyer has checked with the County and he informs him that all the necessary items have been complied with. The improvement of this facility has taken time and he could only go as fast as he had money to do.

Mr. Mallick stated that with regard to the fire hydrant, they will install it if it is necessary. A new hydrant has been installed in the last two or three months nearby and there is another one on Price's Lane. The insurance company has been informed of this new hydrant being installed. However, if the Board feels they should install another hydrant, they will be glad to. The insurance company is satisfied with the present setup.

He stated that the most sensitive area in his opinion is the question of the addition before the permits. The construction of the footings prior to permits was done. That allegation is correct. Their original intent was to extend the patio and it was their understanding from the County officials that no permit was necessary for this. They did nothing but level the ground and pour the footings for the patio. There was no intention of building a room on that.

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CEDAR KNOLL INN (continued)

With regard to the new addition, they were told that they must have a fire exit and in order to have an exit, they had to build the addition. The original construction is 140 years old and putting a fire exit in that room would have totally destroyed that room. It would have made the structure very unsound. They submitted an application and drawing to the County to house this door. The County approved it and it was constructed. Up until this point, they have not received any word from the County that anything they did in this regard was wrong.

Mr. Smith asked if they submitted a plot plan showing the proposed addition to this existing building.

Mr. Mallick stated they did. These plans are in the County.

Mr. Smith asked Mr. Covington if he had a plan such as this. The answer was that a plan had been submitted, but he did not have a copy available in the file today.

Mr. Smith asked that he get a copy of that plan for the file.

Mr. Covington stated that he was in the office when Mrs. Mallick applied for this permit and he had her draw up a statement that this addition would not be used for dining facilities, but only to improve the existing facility and Mrs. Mallick signed that statement.

Mr. Smith asked if this addition was being used for dining facilities.

Mr. Covington stated that he went down there just this week with an inspector and there were eight place settings in that area in violation to the agreement. They were not being used.

Mr. Smith asked Mr. Mallick if he was not told that he could not use this addition, which is 12x6x27 which is a considerable addition, as a restaurant or dinner theatre. He also asked if they had been using this addition for that purpose.

Mr. Mallick stated that the answer is Yes and No. The chairs that were noticed there yesterday were put there for the purpose of cleaning the floor. At no time have there been tables and chairs in that area. The expansion area houses a stage. Previously they had the stage in the corner of the other room and it was a very very small stage and could only be used for a three person play.

Mr. Smith asked if any of the theatre patrons were seated in that addition.

Mr. Mallick stated that if they were seated there, they would have to also be eating. They come for the combination, dining and show. The floor of that area is about 1/4" higher than the rest of the floor in order that the Staff will be able to see that no one is seated in that area.

Mr. Smith asked if the theatre dressing rooms were housed in this addition.

Mr. Mallick answered that they were.

Mr. Smith asked if they were not informed that they would not be able to use this addition for any use at all. He stated that they have expanded the use by installing the stage. He stated that when the stage was in the existing room, there were fewer people who could get in there to eat. Mr. Smith stated that he had been to the restaurant several times when Mrs. Linister owned it. She didn't have a dinner theatre at the time.

Mr. Smith asked when Mr. Mallick purchased the property.

Mr. Mallick stated that he purchased the property about 2 and 1/2 years ago. This coming October, it will be three years. He stated that it was his understanding when he purchased the property that it was used for dining and also for skits to be performed.

Mr. Smith asked if there was a stage at that time.

Mr. Mallick stated that there was no stage, but when they talked with the County they were not told that they could not have a stage there. The only thing that they were specifically told was that there was to be no dining facilities in the addition and that the dining facilities could not be expanded into this area at all.

Mr. Smith stated that they actually built a building for the stage and moved the stage out of the existing dining room, thereby allowing them to use the addition room where the stage was located for expanded dining facilities.

Mr. Smith asked Mr. Mallick if they had expanded the parking area.

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Mr. Mallick stated that they had not expanded the parking area. They made it level and they intend to asphalt it. There is gravel on it at the moment. They did remove some trees that were in the middle of this parking lot. It has always been used for a parking lot. They did not expand the area of it.

Mr. Smith stated that if they removed the trees it would allow more parking than could originally be accommodated.

Mr. Smith asked if he built the addition himself or subcontracted the work.

Mr. Mallick stated that they subcontracted part of the work and an employee of his that usually works at the restaurant in Washington also did part of it. He stated that the man does understand the Code and he did get permits to do the work.

Mr. Smith asked Mr. Mallick if he realized that the restaurant he has in Washington is in a commercial zone and he can operate by right, but the Cedar Knoll Inn is in a residential zone and is under a Special Use Permit which has been in existence for a number of years. There is quite a difference.

Mr. Mallick stated that he did understand this.

Mr. Smith asked Mr. Mallick the cost of this addition.

Mr. Mallick stated that it was about 16 or 17 thousand dollars.

Mr. Smith stated that the building permit calls for \$2,000.

Mr. Mallick stated that anyone could see that this addition could not be constructed for \$2,000.

Mr. Smith asked Mr. Mallick if he had discussed the expansion with anyone in the Zoning Office.

Mr. Mallick stated that he might have, but he did not personally recall, but he had not departed from using this facility for a restaurant.

Mr. Smith read the section of the Ordinance which stated that prior to any expansion of any addition it is required that the applicant obtain a permit from the Board of Zoning Appeals. He stated that a letter from Mr. William Barry told them this. A copy of the letter is in the file.

Mr. Mallick stated that he did not believe that they had expanded the Special Use Permit. They have not done anything except what is within their rights to do.

Mr. Mallick then asked if he could make a small appeal. The restaurant houses about 175 at its maximum. There is only one ladies room and only one men's room. People have to stand in line to use the bathrooms. The team inspectors suggested that they needed two additional bathrooms. They would like to request this in the service of the community and at the same time they put in these bathrooms, they would also change the kitchen area to put in the mop sink. They would also like to cover the walkway from the parking lot to the restaurant.

Mr. Smith asked if this problem of people standing in line to use the restrooms existed prior to the installation of the theatre.

Mr. Mallick stated that it did.

Mrs. Mildred Linister, 5520 Old Mill Road, Alexandria, Virginia, spoke before the Board. She stated that she wished to refute Mr. Wahl's statements as he is either forgetful of the facts or doesn't know them as she would have never bought the property herself if it wasn't zoned for a business. She stated that she went into the plans and records and found that her land and the land adjoining hers was officially zoned for business purposes and in her deed, it stated that she could have a tea room and an antique shop. She purchased the property in 1940 in December and in those days one didn't build in the winter time. By the time she was ready to build in the spring, she was informed by Mr. Gardner that the zoning had changed from business to residential. Mr. Gardner stated that he would represent her, but she told him No, she would make her own appeal. The Board of Zoning Appeals issued her zoning. Later in 1957, this matter came up again when she went to sell the property and it was found that since this permit was not issued to her as an individual, but to the property that she could sell the property as a restaurant or tea room to anyone. The permit was also granted for an indefinite time. She stated that she comes from a family of fine restaurant people. At the time she owned the property and ran the restaurant, Mr. Wahn was happy to have her come

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down there. They did not violate any rules. She stated that Mr. Wahl to make the statements that he did is a personal blow to her.

Mr. Smith stated that he did not believe that Mr. Wahl was criticizing the place as it used to be, but as it is now expanded. The dinner theatre generates an entirely different clientele. The traffic for a dinner theatre would come all at one time.

Mrs. Linister stated that the previous owner had go-go girls down there. She had skits and plays. The place was also used for citizens meetings for the community at no cost to them. Mr. Andrew Clark was the previous owner before Mr. Mallick.

Mr. James Sineath, 35 Canterbury Court, Alexandria, Virginia. He stated that he was present before the Board to support the Mallick's.

Mrs. Clarrie, 4601 Robertson Blvd. adjacent to the Mount Vernon estate area, in the Westgate area, one-half mile from the Cedar Knoll Inn, spoke in support of the Mallicks.

Mrs. Mallick, 6627 Skyline Court, Alexandria, Virginia, spoke before the Board in support of this application. She stated that she would like to supplement her husband's testimony as he was not fully aware of all of the permits that were obtained. They also received a Utility Permit to allow the improvement of the existing parking lot and to repair the existing sewage facilities.

Mr. Smith asked if they were instructed to install a fire hydrant.

She stated that they were advised that they should not install this. They had the Fire Engine come down for a dry run and at that time they were told that they should not install the fire hydrant. They do not serve any more people than Mrs. Linister did. They were not aware of the requirement of a deceleration lane. The traffic has not increased any more than when Mrs. Linister was there. She said that she would provide a letter from the Park Service giving them permission to put in a deceleration lane. Mr. Smith asked how many nights each week do they have theatre performances.

Mrs. Mallick stated that they have had no performances for the last three weeks. They had a contract with Group Five Productions, but they advertised that they were having a dinner theatre when they were not. The ads were placed by George Fisher without her knowledge. When she found this out, she saw to it that it was stopped. They do not have a buffet dinner. It is a sit down meal.

Mr. Kelley stated that according to the agreement when they put in the parking lot, the fire hydrant was to go in. This has not been done. The fire exit door could have been put in the existing log cabin.

Mrs. Steingaszner, 71205 Terrace Drive, Villa May Subdivision, spoke in support of the Mallicks. She stated that this is a nice restaurant to go to and they hope that the Board will allow them to continue.

Mr. Black representing the opposition to the neighborhood stated that Mr. Theodore Bacon, 2104 Prices Lane would speak to the Board in rebuttal to the testimony in support of the Mallicks.

He stated that he had been at the restaurant when they had had dining facilities in the addition. He lives nearby and he has seen an increase in the number of people and cars that now use the facility.

Mrs. Jean Packard, Chairman of Board of Supervisors, 4058 Elizabeth Lane, Fairfax, Virginia, spoke to the Board. She stated that she was not here to speak for or against the case. She stated that she has listened with a good deal of interest. She stated that she is here to speak in the interest of the ordinance. She asked the Board to help them adhere to it. She had heard a great deal of testimony with regard to the merits of Cedar Knoll Inn and she is willing to agree with these. However, this is not the question. She stated that she was not present to hear whether there were violations of the ordinance. However, if there were violations and these violations have continued after they were warned, it would seem that this is the primary point. If the violation notice has been ignored and if they have continued after they were officially notified of what they should or should not do, this is what the Board must consider. If this is the case, then she stated that she did not believe that the Gentlemen on the Board have much choice if our ordinance is to mean anything. What the Board of Supervisors do on Monday is useless if the rest of the County does not carry through in attempting to protect the citizens of Fairfax County. A slap on the wrist and promises to do better and never do bad again will not affect a thick skinned person.

Mr. Smith thanked Mrs. Packard for coming to speak before the Board of Zoning Appeals and stated that their thoughts concur with hers. It is difficult at times to enforce the Code as it is now written, but the Board certainly does its best and they hope to continue.

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Mr. Steve Reynolds from Preliminary Engineering spoke before the Board. He stated that at one time Mrs. Mallick was referred to their office for a site plan waiver. This was right at the time the addition was proposed. Because the Mallicks were referred to their office, they began to process a request for a site plan waiver. He stated that he did visit and inspect the site and talked with the Mallicks at that time about a deceleration lane. The construction on the addition had commenced as far as the footings were concerned. This is a Group 9 use and under Group 9, no site plan is required. He stated that he had a copy of the building permit which he did sign, but he did not sign a site plan waiver because at the bottom, Mr. Woodson, the Zoning Administrator at that time or someone for him, had signed that a site plan was not necessary. He stated that he did not sign the building permit until after he saw that statement at the bottom of it. He stated that he signed the building permit on December 30, 1971.

Mr. Pammel, Director of Zoning Administration, spoke before the Board. He stated that he was one of the parties that did participate in the so-called first team inspection that was made in May of last year to inspect the premises and determine exactly what the problems were. They did discuss the memorandum that had a list of items on it that should be done as safety improvements on the premises and immediately thereafter they called an inspection from every division of inspection services. Mr. William Barry, the Senior Zoning Inspector at that time who has since passed away, was instructed at that time to follow through. He did follow through and contacted him frequently about problems that he felt were developing. Various inspections were made of the premises. However, the dinner theatre itself was being carried on at night and Mr. Barry did make several inspections at night and in January he found that they did, in fact, have a dinner theatre in progress. He issued a violation notice as they were conducting these activities without first obtaining a certificate of occupancy. Mr. Barry then requested the Board of Zoning Appeals to issue a Show-Cause Order, which was done.

Mr. Smith asked if Mr. Pammel could tell the Board why the Cedar Knoll Inn was allowed to expand without first complying with the Ordinance and coming back before the Board of Zoning Appeals.

Mr. Pammel stated that he could not tell them this because it occurred before he was involved in it.

Mr. Smith then asked Mr. Covington if he knew why the Cedar Knoll Inn was allowed to expand without first coming back to the Board of Zoning Appeals.

Mr. Covington stated that this Use Permit was issued some time ago, 1946, without any restrictions. They did not consider this addition an expansion but an improvement to the existing facility. They had to have a fire door. This would make it a safer place.

At the time Mrs. Mallick came in Mr. Covington stated that he had her sign a statement agreeing that this addition would not be used as part of the restaurant facility. There was to be no expansion of tables, but an improvement from the health and safety angle.

Mr. Smith stated that the Fire Marshall and Health Department did not require them to put in a stage did they. He also asked if a fire door would take an 18x30 foot addition.

Mr. Covington stated that it was his understanding that this addition would house the fire door the additional toilets and that type of thing.

Mr. Smith asked why they held up the toilet permit.

Mr. Covington stated that they were supposed to put the toilets in the addition. Then when they came in requesting some more toilets, he became skeptical as they were also requesting dressing rooms. Therefore, he did not permit it. They had promised the citizens that there would be no more additions and no further construction.

Mr. Smith stated that the ordinance is very specific and says that any replacement or enlargement should come back before the Board of Zoning Appeals.

Mr. Covington stated that they did consult the County Attorney's office. Mr. Ken Smith, Assistant County Attorney, talked with them about this.

Mr. Baker moved that this case be taken under advisement until June 27, 1973 and that the Board members view the property.

Mr. Runyon seconded the motion.

Mr. Smith stated that the record would be left open for any additional information from any of the County offices that might have something to add to enlarge on what has been said here today.

The motion passed unanimously to defer until June 27, 1973 for decision only.

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CONRAD P. BURNETT, app. under Section 30-6.6 of Ord. to permit construction of enclosed garage closer to side property line than allowed, 9810 Orchid Circle, 13-3((3))24, Dranesville District (RE-1), V-84-73 - Scheduled 11:00 A.M. case.
(Hearing begun at 12:45 P.M.)

Mr. Burnett represented himself before the Board. His address is 9810 Orchid Circle.

Notices to property owners were in order.

The contiguous owners were Cole at 1903 Bonnie View Drive and Curtis, 1904 Orchid Lane.

Mr. Burnett stated that he needed this variance because of the terrain and because the house is on the lot at a difficult angle. There is also a drain field behind the house that prevents him from building in the back. He has owned the property for 8 years and plans to continue to live there. He stated that there is a large tree on the right side of the house.

There was no opposition.

The applicant stated that they plan to use the same type material on the addition as is in the house.

In application No. V-84-73, application by Conrad P. Burnett, under Section 30-6.6 of the Zoning Ordinance, to permit construction of enclosed garage closer to side property line than allowed, on property located at 9810 Orchid Circle, also known as tax map 13-3((3))5, County of Fairfax, Va, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 13th day of June, 1973, and

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

1. That the owner of the subject property is Conrad P. & Betty J. Burnett.
2. That the present zoning is RE-1.
3. That the area of the lot is 60,462 sq. ft.

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

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
 - (a) exceptional topographic problems of the land,
 - (b) unusual condition of the location of existing buildings,

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. Architecture and Materials to be similar to those in the existing structure.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain procedures.

Mr. Baker seconded the motion.

The motion passed unanimously.

Hearing concluded at 1:00 P.M.

COMMUNITY CHURCH OF GOD, app. under Section 30-7.2.6.1.11 of Ord. to permit addition to church for Sunday school facilities, 790 S. Carlyn Spring Road, 62-1((2))5, Mason Dist., (R-12.5), S-83-73

Rev. Bunting, 5137 North 3rd Street, Arlington, Virginia represented the church.

Notices to property owners were in order. The contiguous owners were B. V. Godwin and Bobbie's School.

Rev. Bunting stated that in 1961 when the church was built they were not able to build this wing at that time because of finances, but now they are in a position to build. This addition will be of brick and masonry similar to the church. The architectural design will also be in keeping with the present structure. The average attendance of the church is around 72. They are required to maintain twenty-five parking spaces, but they have about thirty-six.

Mr. Kelley questioned the fact that the parking is closer than the Specific Requirement in the Ordinance requires. The specific requirement states that no parking shall be located within any setback restriction, nor within 25' of any property line.

Rev. Bunting stated that in the Staff Report it was stated that perhaps this could be waived as the parking existed prior to the ordinance requiring them to get a Special Use Permit for an addition.

Mr. Smith stated that the parking lot is also shown as gravel and this would have to be paved and at that time they could move the parking in to conform to the ordinance. This would be required under Site Plan control. He stated that the existing non-conforming parking lot is affected by the fact that they are putting on an addition that will bring the entire property into conformity.

There was no opposition.

The Board discussed whether or not Kline Drive had been vacated. Mr. Smith stated that if Kline Drive is vacated, they would then have an additional amount of land and would no longer have to set back from a street.

In application No. S-83-73, application by Community Church of God under Section 30-7.2.6.1.11, of the Zoning Ordinance, to permit addition to church for Sunday school facilities, on property located at 790 South Carlyn Spring Road, also known as tax map 62-1((2))5, Mason District Co. of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 13th day of June 1973.

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

1. That the owner of the subject property is Community Church of God, Trs.
2. That the present zoning is R-12.5.
3. That the area of the lot is 34,496 sq. ft.
4. That the Site Plan approval is required.
5. That compliance with all county codes is required.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R. Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use of additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for

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fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. Landscaping, screening, planting and/or fencing shall be as approved by the Director of County Development.

7. A 22' minimum access to the parking lot from South Carlyn Road in accordance with Section 30-11.7(2) of the Fairfax Zoning Ordinance is required.

8. A dustless surface is required for the parking lot in accordance with Sections 30-3.10.5 and 30-1.7.4 of the Zoning Ordinance.

Mr. Barnes seconded the Motion.

The Motion passed unanimously.

Mr. Smith stated that under Site Plan they would require the Church to comply with the Ordinance in that they would have to move the parking back out of the setback area and not within 25' of any property line.

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June 13, 1973 - This case began at 2:00 P.M.

Amended to Section 30-6.6.5.4

CHARLES E. PIERCY, app. under Section 30-6.5/of Ordinance to permit garage to remain at present location, 7307 Sportsman Drive, 40-1((17))24, Dranesville District (R-10), V-85-73

Mr. Piercy represented himself before the Board. His address is 7307 Sportsman Drive.

Notices to property owners were in order. The contiguous property owners were Kisner, 1826 Anderson Road and Cooper 1828 Anderson Road.

Mr. Piercy stated that this was constructed without a building permit. The Zoning Inspector, Mr. Claude Kennedy, came to inspect the addition that he was putting on the back of the house and told him that this building is in violation. He enclosed it in 1968. It was a carport originally. He purchased the house in 1967 and the carport was only one-half built. The foundation was there and he finished it into a carport and later enclosed it as a garage.

Mr. Smith stated that he would be allowed to have a carport within this setback, but his problem came from enclosing it.

Mr. Smith asked if he built the garage himself.

Mr. Piercy stated that he did and it does conform with existing codes.

Mr. Smith stated that the Board should ask the County to inspect this to see whether or not it complies with the Code and report back to the Board prior to the Board making a decision.

Mr. Barnes asked if there was any other place on the property where he could have constructed this.

Mr. Piercy stated that there was no other place on the property where he could have constructed this garage as there is a deep grade in the back.

Mr. Kisner, the next door neighbor at 1826 Anderson Road, spoke before the Board in support of the application. He stated that this an improvement to the property as it had been an eye sore to the neighborhood. Mr. Piercy did a wonderful job and it doesn't bother the neighbors. They have a signed note from five people in the file stating that they agree with the applicant and feel that this is not a detriment to the block.

Mr. Kelley moved that this case be deferred until June 27, 1973 for an inspection report from the County to make sure that the garage is in conformity with the proper codes.

Mr. Barnes seconded the motion.

The motion passed unanimously.

Mr. Smith told Mr. Piercy that it would not be necessary for him to appear at that time. The Board would check the report and make a decision and he would be notified of that decision.

(This hearing ended at 2:20 P.M.)

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LTC. & MRS. DOUGLAS SMITH, app. under Section 30-6.6 of Ord. to permit garage door on existing carport, 1506 Laburnum Street, 31-4((8))10, Dranesville District (R-17), V-86-73

Mr. Smith had been present previously in the day, but had a meeting and had asked earlier that this case be deferred until later in the day. The Board agreed to do this as there was no one present who was interested in this case.

Mr. Barnes so moved, Mr. Baker seconded the motion and the motion passed unanimously.

This case was recalled later in the day.

Mr. Smith, the applicant, was present to represent himself before the Board.

Notices to property owners were in order. The contiguous owners were F. T. Brown and Katherine Carroll.

Mr. Smith, the Chairman, stated that he was no relation to the applicant. The applicant confirmed this.

Mr. Douglas Smith stated that all the neighbors have attached garages and they want their house to conform more nearly to the styles of the other houses. They have a drainage

problem in the neighborhood. Apparently these houses were built over an underground stream and because of these houses being constructed this way, the stream was rerouted. The next door neighbor was forced to cap that stream off to prevent erosion on his property. If they construct in the back it may cause the neighbors to have more drainage problems. They stated that this will not be a detriment to the neighborhood, but will improve the appearance of the property. This is R-17 zoning which requires a 15' setback. Therefore, they need a 3' variance.

Mr. Runyon stated that if this were cluster zoning they would be able to construct within 12' of the property line, therefore, he could do this by right. However, since this is not cluster, he will need a variance. There was no opposition.

In application No. V-86-73, application by LTC. & Mrs. Douglas Smith, under Section 30-6.6 of the Zoning Ordinance, to permit garage door on existing carport with side yard of 12', on property located at 1506 Laburnum Street, also known as tax map 31-3((8))10, Dranesville District County of Fairfax, Virginia, Mr. Runyon that the Board of Zoning Appeals adopt the following resolution: moved

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 13th day of June, 1973, and

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

1. That the owner of the subject property is Douglas S. & Mary H. Smith
2. That the present zoning is R-17.
3. That the area of the lot is 17,045 sq. ft.
4. That the left side yard contains a 15' storm sewer easement.

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

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
 - (a) exceptionally narrow lot,
 - (b) exceptional topographic problems of the land,

NOW, THEREFORE BE IT RESOLVED, that the subject application ~~be~~ and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, Residential Use Permit and the like through the established procedures.

Mr. Baker seconded the motion.

The Motion passed unanimously.

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RUDOLF STEINER SCHOOL, app. under Section 30-7.2.6.1.3 of Ord. to permit primary school and kindergarten, 75 children, 9 A.M. to 3 P.M., 5 days per week, 3241 Brush Drive, 60-1 ((1))79, Providence District (R-10), S-87-73

Mr. Schiffer, 6468 N. 32nd Street, spoke before the Board.

They had not met the notification requirements, therefore, the Board could not hear the case.

Mr. Baker moved that the case be deferred until July 11, 1973 for proper notices.

Mr. Kelley seconded the motion and the motion passed unanimously.

There was no one in the room interested in the application.

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CHRISTOPHER R. FLEET, app. under Section 30-6.6 of Ord. to permit construction of carport closer to side and front property lines than allowed, 6806 Barnack Drive, 89-1((7))63, Springfield District (R-17 Cluster), V-88-73

Notices to property owners were in order. The contiguous owners were William McCarron, 8300 Wythe Lane, Springfield, Virginia and Edward Nelson.

Mr. Fleet represented himself before the Board.

Mr. Fleet stated that the proposed construction is to replace the existing carport which is there. He submitted a sketch of the proposed construction. The construction will be harmonious with the existing house. The brick will be similar. They need the variance for two reasons. One reason is because of the location of the house on the lot. It is less than 15' on the left (the proposed carport side) and more than 36' on the other side. The house is skewed on the lot. The second reason is because of the slope of the lot. On the right, the slope is 2 1/2 to 1. This is also true in the back of the house. He has owned the property since December, 1967 and plans to continue to live there. This is for his family's use and not for resale purposes. He will also need a slight variance in the front. Only one little corner will be extending into the front setback.

Mr. William J. McCarron, one of the contiguous neighbors, 8300 Wythe Lane, spoke in opposition to this application.

Mr. McCarron stated that this addition will come within 3.1' of his property. He stated that he does not believe that the strict application of the ordinance will cause the applicant unreasonable hardship. This neighborhood has five types of houses. Two types have carports and one type has a garage. He stated that the applicant has a carport now which he wishes to enclose and then build another carport. The hardship here will be on the neighbors. The property owner on the other side of him is only 12' from the property line and he is 12'. He stated that he believed the applicant could extend his house to the rear. He stated that he believed that this encroachment on the property line would cause him to have a hard time selling his house when he gets ready to sell it. The main objection is that he would not be providing the total separation as required in the cluster zoning ordinance.

In rebuttal, Mr. Fleet stated that he felt that this would be an undue hardship on him as he is used to having a carport and wants to have a carport. Having a carport on the house when he purchased it was a selling feature.

Mr. Kelley stated that he felt that Mr. McCarron has a right to object and there would only be 3' between the structure and the property line. He stated that the family room could be constructed elsewhere and leave the carport as it is. In cluster zoning, they have already been granted a lesser setback distance.

Mr. Smith stated that the applicant could build a 10.1' carport without a variance, as long as he sets back 5' from the property line

Mr. Runyon stated that the applicant has a chimney that takes up some room.

Mr. Smith stated that this is a proposed chimney. This variance is requested for convenience. The Board is not authorized to grant a variance for the convenience of one property owner when it adversely affects the other. The ordinance was amended so the Board would not get this type of application. The property owner can extend by right 5' from the setback requirement. This was amended just so the property owner could do this by right. Now those owners want to enclose the addition and encroach closer.

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In application No. V-88-73, application by Christopher R. Fleet, under Section 30-6.6 of the Zoning Ordinance, to permit construction of carport closer to side property line and front property line than allowed in Ordinance, property located at 6806 Barnack Drive, also known as tax map 89-1((7))63, Springfield District, County of Fairfax, Virginia, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 13th day of June, 1973, and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-17 cluster.
3. That the area of the lot is 10,660 square feet.

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

1. That the applicant has not satisfied the Board that the physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or building involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr. Barnes seconded the motion and the motion passed unanimously.

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SPRINGWOOD LEARNING CENTER, INC., app. under Section 30-7.2.6.1.3.4 of Ord. to permit special school summer session, 1301 Trap Road, 19-4((1))47, Centreville District (RE-1) S-89-73

Mr. Andrew Goodman, attorney for the applicant, represented them before the Board.

Notices to property owners were in order. The contiguous owners were the Catholic Traditionalist Movement and Mr. Dickerson.

Mr. Goodman stated that an agreement is in the file showing that they may use the church facilities from July 2 through August 11. This is a non-profit organization and is incorporated to protect the owner and operator who is a principal in the Fairfax County School System. The children that will be in this school are not handicapped, but they have having difficulties in some aspect of the educational process. The children need individualized instruction and they can get this during the session here that they cannot get in the public school system during the year. The principal has several other teachers who will help her. They will operate from 8:00 A.M. to 12:00 Noon each day. The ages will range from 10 to 14. They operated last year in a different church. They hope to develop a school of their own in the future. This school will be operated 5 days per week. The children will be brought to the school by their parents.

There was no opposition.

In application No. S-89-73, application by Springwood Learning School under Sec. 30-7.2.6.1.3.4, of the Zoning Ordinance, to permit special school summer session - 35 to 40 children, on property located at 1301 Trap Rd., also known as tax map 19-4((1))47, Centreville Dist. Co. of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 13th day of June 1973.

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

1. That the owner of the subject property is Andrew Chapel Methodist Church.
2. That the present zoning is RE-1.
3. That the area of the lot is 5.96 acres.
4. That Site Plan approval is required.
5. That the Andrew Chapel Pre-School has been operating a pre-school for 40 children at this location under S.U.P. which was granted July 14, 1970.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
3. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.
4. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use. of operation
5. The hours/are from 8 a.m. to 12 noon, Monday thru Friday.
6. The permit is to run from July 2, 1973 to August 11, 1973.
7. The ages of this students are from 10 to 14.

Mr. Baker seconded the motion.

The motion passed unanimously.

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DEFERRED CASES:

FRANCONIA VOLUNTEER FIRE DEPARTMENT, app. under Section 30-7.2.6.1.2 of Ord. to permit addition of building for storage, 6300 Beulah Street, 81-3((5)20 & 21, Lee District, (RE-1), S-74-73 (Deferred from 5-16-73 for proper notices)

Mr. Schurtz from Fire Services testified before the Board.

Notices to property owners were in order. Mr. Baker left the meeting at this point.

Mr. Schurtz stated that this fire station was built in 1967 and they did not realize that they were not providing enough storage space. They are not able to put up another addition to the building because of finances. They asked the Butler people to construct them a building for storage only. They will put it in the back corner of the property. They are not changing the site plan whatsoever. The building will be 14' high and 6' from the property line.

Mr. Kelley asked what a building such as that would cost.

Mr. Schurtz stated that it was going to cost them \$10,000 and if they put in insulation it will run around \$12,500. To build an addition would cost \$25.00 per square foot.

There was no opposition to this application.

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 Franconia Volunteer Fire Dept. (continued)

In application No. S-74-73, application by Franconia Volunteer Fire Dept. under sec. 30-7.2.6.1.2, of the Zoning Ordinance, to permit addition of building for storage, on property located at 6300 Beulah St., Lee District, also known as tax map 81-3(5)20&21 Co. of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 13th day of June 1973.

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

1. That the owner of the subject property is Franconia V. F. D., Inc.
2. That the present zoning is RE-1.
3. That the area of the lot is 2.6065 acres.
4. That Site Plan approval is required.
5. That the applicant is operating under S. U. P. #S-380-66, granted on Oct. 11, 1966.
6. That compliance with all county codes is required.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R. Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

Mr. Barnes seconded the Motion.

The Motion passed unanimously.

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RESTON POLO CLUB, app. under Section 30-7.2.8.1.4 of Ord. to permit recreation facilities and stable, 2441 Fox Mill Road, Herndon, 16-4((1))14, S-114-71 (Deferred June 22, 1971 for approval of Health Department of sanitary facilities and various other information)

Mr. Joseph L. Brand represented the applicant before the Board. He stated that at the July 13, 1971 meeting the Board asked for three items: The by-laws which have been supplied, a letter from the Health Department which has been supplied, and a plat showing a deceleration lane. They have talked with the Preliminary Engineering Office who have viewed the site and they feel that they would only have to provide an apron instead of a deceleration lane. It was not Preliminary Engineering's recommendation that they provide a deceleration lane, it was the Zoning Inspector's recommendation. However, he has also talked with the Zoning Inspector about this. He was under the impression that the traffic came from both the west and east. However, the traffic comes from the west. They only have about 4 horse vans come in on Sundays. They are willing to provide this apron.

Mr. Barnes stated that he had been up there on Sunday and he does not feel they need to provide a deceleration lane either.

Mr. Smith stated that the Board would need this information in writing.

Mr. Smith asked Mr. Brand if he could get this information by Friday when the Board is having a special meeting. He also asked them to have a written statement regarding the lease agreement.

Mr. Brand agreed to do this and the case was deferred until June 15, 1973. There was no opposition.

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MICHAEL MATTA, T/A Virginia Development School of Reading, app. under Section 30-7.2.6.1.3.4 of Ordinance to permit summer reading school, 6215 Rolling Road in Messiah United Methodist Church, 79-3((8))6, Springfield District (RPC), S-98-73 OTH (Deferred from 5-23-73 for lease or agreement from church)

Mr. Matta represented himself before the Board.

The Board had received a lease agreement. The public hearing had been concluded at the previous hearing but they went over some of the information again. The school will be operated only from June 21 until July 20, 1973 from 8:00 A.M. until 3:00 P.M. The age group will be from the first grade, seven years, through twelve years. The number of students will be a maximum of 75, but only 20 will be there at any one time. The classroom is limited to 4 per teacher.

There was no opposition.

In application No. S-98-73, application by Michael Matta T/A Va. Development School of Reading under Sec. 30-7.2.6.1.3.4, of the Zoning Ordinance, to permit summer reading school, Private school of Special Education for 75 children, on property located at 6215 Rolling Rd., in Messiah United Methodist Church, also known as tax map 79-3((8))6, Springfield District Co. of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 23rd day of May 1973, and deferred to June 13, 1973.

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

1. That the owner of the subject property is Messiah United Methodist Church Trustees.
2. That the present zoning is RPC.
3. That the area of the lot is 3.927 acres.
4. That Site Plan approval is required.

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

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1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R.Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

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

2. This permit shall expire July 20, 1973.

3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional ~~structures~~ of any kind, changes in use of additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening of fencing.

4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. The hours shall be from 8 a.m. to 3 p.m., Monday to Friday.

7. The ages shall be from 6 to 13 years.

8. The number of children shall not exceed 75 with maximum number at any one time of approximately 20 students.

9. The permit shall run from June 21, 1973 to July 20, 1973.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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TUCKAHOE RECREATION CLUB, INC., app. under Section 30-7.2.6.1.1 of Ord. to permit addition of one tennis court, lighting on all courts, enlarge baby pool and construct intermediate pool, 1814 Great Falls Street, 40-1(1)1 & 2, Dranesville District (R-12.5), S-72-73 OTH

Mr. Smith read the resolution deferring this application for addition information.

The Board checked each individual item to see if they had complied. They had complied.

Mr. Dimpfel, 6845 Blue Star Drive, McLean, testified before the Board. He stated that he is the past president of Tuckahoe.

Mr. Smith asked if they had taken the plats back to the ladies who had objected at the original hearing.

Mr. Dimpfel stated that they had taken the plats back to those two ladies and explained them in detail. Their main objection was the racing of the cars in the parking lot at night and they have shown a plan that will prevent that.

Mr. Smith stated that as to the parking facilities, if it proves inadequate in the future, they will have to find some new areas for providing those parking facilities.

Mr. Dimpfel stated that they would be glad to do that.

Mr. Dimpfel stated that the Club does have a full time manager, Mr. Echols, who is present today should the Board have any questions of him.

The Board had no questions.

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In application No. S-72-73, application by Tuckahoe Recreation Club, Inc. under Sec. 30-7.2.6.1.1, of the Zoning Ordinance, to permit addition of one tennis court, lights on all courts, enlarge baby pool & construct intermediate pool, on property located at 1814 Great Falls St., also known as tax map 49-1((1))1 & 2, Co. of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 9th day of May, 1973 and deferred to the 13th day of June, 1973.

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

- 1. That the owner of the subject property is the applicant.
- 2. That the present zoning is R-12.5.
- 3. That the area of the lot is 7.19102 acres.
- 4. That the Recreation Club is operating under S. U. P. granted Feb. 25, 1955, and amended by S-766-68 and S-7-69.
- 5. That property is subject to Pro Rata Share for off-site drainage.

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

- 1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
- 2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
- 3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
- 4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
- 5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
- 6. The maximum number of memberships shall be 3,250, (individual).
- 7. The hours of operation shall be 9 a.m. to 9 p.m. Should there be any objection, these hours will be adjusted.
- 8. The minimum number of parking spaces shall be 230 spaces.
- 9. All loudspeakers, noise and lights shall be directed onto site and confined to said site. After hours pool parties shall be limited to six (6) per season and permission must be obtained in writing from the Zoning Administrator prior to date requested.
- 10. Landscaping, screening, planting and/or fencing shall be as approved by Director of County Development.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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Mr. Baker moved that the minutes for May 16, 1973 and May 23, 1973 be approved with minor corrections.

Mr. Kelley seconded the motion and the motion passed unanimously.

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DELIA B. OLSON - After Agenda Item deferred from May 23, 1973 for Board to view the proposed new ingress and egress)

Mr. Kelley stated that he had visited the property and he found that the proposed ingress and egress is from one-fourth to one-half mile from Route 236 and he stated that he felt this was not a good ingress and egress as it is so far removed from the front of the property where the people who would want to shop here would first go. He stated that he still feels they should have a deceleration lane on Route 236.

Mr. Barnes agreed.

Mr. Runyon stated that it should be pointed out to the applicant that in a commercial district she would have to not only provide a deceleration lane, but construct a service drive. They are asking for the deceleration lane as a safety feature. This is the minimum that the Board should require.

Mr. Smith stated that the applicant should be notified that her request is denied for the reasons stated above.

// (Hearing concluded at 5:00 P.M.)
(A Special Hearing and Viewing to be June 15, 1973 at 10:00 A.M.)
By Jane C. Kelsey
Clerk


DANIEL SMITH

APPROVED July 11, 1973
(DATE)

The Special Meeting of the Board of Zoning Appeals Was Held On Friday, June 15, 1973, in the Board Room of the Massey Building. Present: Daniel Smith, Chairman; George Barnes; Joseph Baker and Charles Runyon. Mr. Loy P. Kelley was absent.

The meeting was opened with a prayer by Mr. Barnes.

10:00 - RESTON POLO CLUB, app. under Section 30-7.2.8.1.4 of Ord. to permit recreation facilities and stable, 2441 Fox Mill Road, Herndon, 16-4((1))14, S-114-71 (Deferred from June 22, 1971 for approval of Health Department of sanitary facilities and plat showing deceleration lane and deferred again June 13, 1973, for letter from County Staff stating that they would accept an apron to be built along the roadway instead of a deceleration lane as the applicant had stated they would, a lease agreement and corporation papers)

The applicant had submitted a lease agreement, the corporation papers and there was a letter from the Preliminary Engineering Branch stating that they would accept the apron.

Mr. Barnes stated that the application reads that they want a stable, but they do not have a stable and to his knowledge, they are not proposing to have one.

The corporation papers and lease papers showed that MHB Corporation is actually the lessee of the property, therefore the application should be amended to include them.

Mr. Barnes so moved. Mr. Baker seconded the motion and the motion passed unanimously.

In application No. S-114-71, application by Reston Polo Club & M. H. B., Inc. under Sec. 30-7.2.8.1.4, of the Zoning Ordinance, to permit recreation facilities, on property located at 2441 Fox Mill Rd., also known as tax map 16-4((1))14 Centreville District Co. of Fairfax, Mr. Barnes moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on June 22, 1971 and deferred to June 13, 1973 and again to June 15, 1973.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is Gulf Reston, Inc.
2. That the present zoning is RE-1.
3. That the area of the lot is 257.5605 acres.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

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

2. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing;

3. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.

4. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

Mr. Runyon seconded the motion and the motion passed unanimously.

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CHILDREN'S ACHIEVEMENT CENTER. Mr. Smith read a letter from the applicants requesting an out-of-turn hearing as they were being forced to move out of their present structure and needed to get this building ready for the coming school year.

Mr. Baker moved that the request be granted.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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ILLIFF NURSING HOME

The Board had discussed this case at an earlier hearing and had notified the Board of Supervisors that they intended to take action on this case if the Board of Supervisors had no objection. The Board of Supervisors had not contacted this Board that they had any objection. Mr. Smith read the letter from the applicant requesting the out-of-turn hearing.

Mr. Barnes moved that the request for an out-of-turn hearing be granted..

Mr. Baker seconded the motion.

The motion passed unanimously.

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PIPER, S-180-71 -- Special Use Permit for Real Estate Office granted June 21, 1972.

The applicant wrote a letter to the Board which Mr. Smith read requesting that he be granted a six month extension due to some difficulties he was having getting his operation started.

Mr. Baker moved that this request be granted and the applicant be granted a six month extension.

Mr. Runyon seconded the motion.

The motion passed unanimously.

Mr. Smith asked the Clerk to so notify the applicant. He stated that this is the only extension that the Board can grant and the applicant should be notified of this also.

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WASHINGTON GAS LIGHT COMPANY. Request for out-of-turn hearing.

Mr. Smith read a letter from the applicant requesting an out-of-turn hearing as they needed to get started as soon as possible. The company is now required to keep the Ravensworth Station operating more frequently than just peak periods of cold weather as they used to operate, because of the gas shortage. Therefore, this more frequent operation will necessitate increasing the size and capacity of the existing railroad siding this summer in order to be ready for operation during the 1973-1974 winter season.

Mr. Smith asked Mr. Covington if the Board of Zoning Appeals in his opinion has authority under the ordinance to grant the railroad siding.

Mr. Covington stated that he feels the Board does have that authority.

Mr. Baker moved that the request be granted for an out-of-turn hearing for July 18, 1973.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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JOHN M. COLDWELL & ASSOCIATES, INC. AGENT FOR JEFFREY SNEIDER & COMPANY

Mr. Smith read a letter from the Engineer, Mr. Coldwell stating that the house in question had been constructed to the first floor level and the builder has indicated that construction can be delayed for only 30 days. The house was incorrectly constructed on the lot through an error and responsibility for the mistake has not yet been determined. The house was scheduled and sold with a two-car garage, having a 2'8" front projection. The builder has agreed to modify this by building a one-car garage flush with the face of the house to reduce its projection into the Etta Drive front yard setback.

The house as it now exists with the one-car garage as proposed, will not extend into the 30 foot sight area for corner lots as required in Section 30-3.5.1. The house and proposed one-car garage will be approximately ten feet beyond the required site line.

The Board then discussed this problem.

Mr. Runyon moved that the request for an out-of-turn hearing be granted for July 18, 1973.

Mr. Baker seconded the motion.

The motion passed unanimously.

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copy of a
MR. Smith read a letter from the Holmes Run Citizens Association to R. W. Carroll Manager, Northern Virginia Division, Virginia Electric and Power Company regarding several trees that had been removed that they felt were not necessary to be removed located at the new VEPCO substation that the Board approved at Gallows Road.

Mr. Baker stated that he was in sympathy with the citizens as sometimes the power companies think they can go in and take out anything they want to.

Mr. Smith asked Mr. Covington to investigate the situation and get some pictures.

Mr. Runyon stated that they might have cleared some of the trees were the berm was going in. He had viewed the site not too long ago.

Mr. Smith stated that the Board should defer this until the Zoning Administrator has completed his investigation.

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By Jane C. Kelsey, Clerk.

At 11:15 the Board recessed to view the property of the Cedar Knoll Inn owned and operated by Mr. and Mrs. Mallick. The public hearing on this case was held on June 13, 1973.

The Board also was going to view the property of Mr. Jack Merritt, Springfield Academy and Spring and Dale School. The public hearing on this was held May 23, 1973.

Mr. Charles Runyon, Board of Zoning Appeals member, took notes during these viewing as the Clerk was unable to accompany them.

SPRINGFIELD ACADEMY -- On site inspection, June 15, 1973

The Board noted: 1. poor entrance -- suggested 30' entrance
2. dusty surface on road and parking area

Mr. and Mrs. Merritt appeared at the site. They discussed the extension of the fence along the north property line. The Merritts told the Board that the use of the school drive by adjacent owners caused the present fence to be erected. Now they want to extend the fence.

Mr. and Mrs. Merritt told the Board that Mrs. Hoover is the new Director. She lives in between the two schools. they said.

SPRING & DALE SCHOOL -- on site inspection, June 15, 1973

The Board noted: 1. Small lot
2. Close proximity to adjacent residence.

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CEDAR KNOLL INN -- on site inspection, June 15, 1973

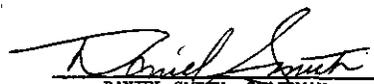
Mrs. Mallick told the Board that the Park Service was to build deceleration lane.

The Board noted raw sewage seeping onto the parking area.

The Board noted the rough exterior appearance of the additions.

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Viewing Notes
By Charles Runyon
Member, Board of Zoning Appeals

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DANIEL SMITH, CHAIRMAN

APPROVED July 11, 1973

(Chairman)

The Regular Meeting of the Board of Zoning Appeals Was Held On Wednesday, June 20, 1973, in the Board Room of the Massey Building. Present: Daniel Smith, Chairman; Loy P. Kelley, Vice-Chairman; George Barnes; Joseph Baker and Charles Runyon.

The meeting was opened with a prayer by Mr. Barnes.

10:00 - ANNE S. CAVINESS, app. under Sec. 30-7.2.6.1.3 of Ord. to permit day care center, 15 children, 2601 Phillips Drive, 93-1((6))23, Mt. Vernon District (R-10), S-90-73

Mr. Kelley, Vice-Chairman, read the letter from Anne S. Caviness requesting that the case be withdrawn without prejudice. She withdrew because of the opposition of her neighbors and because she wanted to keep harmony in the neighborhood.

Mr. H. K. Human, 2516 Phillips Drive, spoke before the Board. He stated that he was speaking for the neighbors in the area who were in opposition to this use. He stated that they appreciated her considering their feelings on this matter and thanked her for withdrawing the application.

There were 14 people in the room who stood to identify themselves that they were in opposition to this use.

Mr. Barnes moved that this case be withdrawn without prejudice.

Mr. Baker seconded the motion.

The motion passed unanimously.

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10:20 - HIDDENBROOK HOMES ASSOC., app. under Sec. 30-7.2.6.1.1 of Ord. to permit community swim club and community building, end of Hiddenbrook Drive, 10-2((1))pt. 11, Dranesville District, (R-12.5), S-91-73

Mr. Donald Stevens, P.O. Box 547, Fairfax, Virginia, attorney for the applicants, appeared before the Board to represent the applicants.

Notices to property owners were in order. He stated that all the notices were contiguous to this property. This is a very large parcel under development. Mr. Miller, the builder, owns all the land surrounding the pool itself. He stated that there is in the file a boundary plan showing just how the land is to be subdivided and where the pool will be located within this subdivision. He had notified property owners adjacent to Mr. Miller's land. Two of the contiguous owners were Mr. James Swart, Parcel 5-1, Lot 5 and Mr. Roy Allman, Lot 9, 1512 South Arlington Ridge Road.

Mr. Stevens stated that this is a single family detached home subdivision under cluster zoning. There will be 390 family membership in this pool. This pool will accomodate 220 people at any one time using the Health Department's criteria of 27 square feet per swimmer.

In answer to Mr. Kelley's question as to whether or not they intended to put lights on the tennis courts, Mr. Stevens answered that he felt they did plan to do this.

Mr. Smith stated that they would have to be on the plats.

The Board deferred this case until later in the day in order that Mr. Stevens could have the plats redrawn to show where the lights would go on the courts

Mr. Smith asked Mr. Covington if he would allow the fence for the tennis courts to be 10' from the property line.

Mr. Covington stated that he would.

Mr. Smith asked Mr. Stevens if he was familiar with the comments from Preliminary Engineering.

Mr. Stevens stated that he was and they were prepared to comply with these suggestions that Preliminary Engineering had made.

This case was recalled later in the day and the following Resolution was made after Mr. Stevens stated that there will be no lights on the tennis courts.

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In application No. S-91-73, application by Hiddenbrook Homes Assoc. under Sec. 30-7.2.6.1.1, of the Zoning Ordinance, to permit community swim club and community building, on property located at end of Hiddenbrook Drive, also known as tax map 10-2((1))pt.11, Dranesville District Co. of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 20th day of June 1973.

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

1. That the owner of the subject property is David H. Miller & Gordon V. Smith, Trs.
2. That the present zoning is R-12.5.
3. That the area of the lot is 2.62828 acres.
4. That Site Plan approval is required.
5. That compliance with all county and state codes is required.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction has started or unless renewed by action of the Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to OBTAIN NON-RESIDENTIAL USE PERMITS AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The maximum number of family memberships shall be 390.
7. The hours of operation shall be 9 a.m. to 9 p.m. Any after hours party will require a written permit from the Zoning Administrator, and such parties shall be limited to six (6) per year.
8. All loudspeakers, noise and lights shall be directed onto and confined to said site.
9. Landscaping, planting, screening and/or fencing shall be as approved by the Director of County Development.
10. The minimum number of parking spaces shall be 89 and a bicycle parking rack that will accommodate a minimum of 50 bicycles, shall be provided.
11. A 30' minimum entrance shall be provided to the subject site and a standard 4' concrete sidewalk must be provided from both Sadlers Wells Drive and Youngs Point Place to the pool facility and community building.
12. Parking lots and travel aisles shall be paved with a dustless surface.

Mr. Baker seconded the motion.

The motion passed unanimously.

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10:40 - WARREN H. ORTLAND, app. under Sec. 30-6.6 of Ord. to permit construction of garage closer to side property line than allowed, 8514 Buckboard Drive, 102-4((12))(3)31, Mt. Vernon District, (R-12.5), V-94-73

Mr. Ortland represented himself before the Board.

Notices to property owners were in order. The contiguous owners were Theodore W. Troy and Jay B. David.

Mr. Ortland stated that he wanted anything that he constructed to be in keeping with the neighborhood. The builder placed the house lopsided on the lot in order to save several trees. If he placed the garage any place else on the property, it would detract from the neighborhood and require the removed of some large trees. This is cluster zoning. He has owned the house for 4 years and he has just retired from the Navy and plans to make this his permanent home. He stated that he had his contiguous neighbor, Mr. Davis, sign the plats as he lives adjacent to the construction and would be most affected.

Mr. Kelley stated that it looked as though he needed two variances since this is a corner lot.

Mr. Ortland stated that actually he had had all his neighbors sign a statement and that statement is in the file.

In application No. V-94-73, application by Warren H. Ortland, under Sec. 30-6.6 of the Zoning Ordinance, to permit construction of garage closer to side property line than allowed, on property located at 8514 Buckboard Dr., also known as tax map 102-4((12))(3)31, Mt. Vernon District County of Fairfax, Virginia, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 20th day of June, 1973, and

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

1. That the owner of the subject property is Warren H. & Pamela B. Ortland.
2. That the present zoning is R-12.5.
3. That the area of the lot is 13,022 sq. ft.

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

1. That the applicant has satisfied the Board that the following conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and buildings involved:

- (a) unusual location of existing buildings

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. Architecture and materials to be used in proposed structure shall be compatible with existing dwelling.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, and the like through the established procedures.
Residential Use Permit

Mr. Barnes seconded the motion and the motion passed unanimously.

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 Warren H. Ortlund (continued)

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AMENDED TO Sec. 30-6.6.5.4 (Mistake Section of Ordinance)
 11:00 DAVIS T. MOOREHEAD, app. under Sec. 30-6.6/of Ord. to permit carport to remain closer to side property line than allowed, 7517 Dolce Drive, 60-3((36))8, Annandale District, (R-12.5), V-95-73

Mr. Moorehead represented himself before the Board.

Notices to property owners were in order. The contiguous owners were John T. Krause, 7519 Dolce Drive and Mr. Albrecht, 7515 Dolce Drive.

Mr. Moorehead stated that in 1966 when he purchased the house the contractor, Mr. Long of Dodd and Long, was aware that they wanted a carport, but could not afford it at the time. Mr. Long assured them that he would place the house on the lot so a carport could be accommodated in the future with no problem. In 1967, they extended the driveway about thirty-five feet so it would parallel the west end of the house and extend toward the rear. In 1971, they decided to add the carport. At that time, they looked at their house location survey with a slight question as the house did not appear to be, in reality, located where the survey certified by Ross & France of Manassas stated it to be. They discussed this with Mr. Baldwin, who built the carport, and they checked the property lines and found an iron stake at the rear of their property buried in concrete at the end of a chain link fence. By running a line from their sidewalk back to the iron stake at the rear of their property they came up with a distance from the right front corner of their house to what they assumed to be their property line of 17'10", which was plenty of room to add the carport.

They built the carport and upon its completion in April of 1971, they and everyone in the neighborhood thought that it added to the house and gave it a finished look. His neighbor on Lot 9 complimented them and the builder for doing such a nice job.

Last fall, in 1972, they talked with the neighbors about the possibility of a fence and felt some iron pipes should be set into the ground so there would be no question where the lines were. He called Ross & France but they could never get him to send a crew out. Then they found out that the firm of Patton, Kelly & Associates had done the original subdivision plot in 1965 and that the firm, Patton, Harris & Rust were still in business. They came out and staked out the corners of Lots 7, 8 and 9. They found the corner at the front of Lots 8 and 9 to be about 6 inches in their driveway. They also found that the carport was not 7'10" from the property line. It was 4'6" from the property line.

Patton, Harris and Rust came back and did a complete new survey on the house and its relation to the lot perimeters. It cost the three neighbors \$126 for the staking of Lots 7, 8, and 9 and it cost him an additional \$203.70 for the Final House Location Survey for his lot, Lot 8.

As a result of this, it was necessary to apply for this variance.

They had had good faith on their part in 1966 that the builder would locate the house as he promised to do so that they could build a carport and because of the fact that an inaccurate house location survey certified correct in 1966 by the firm of Ross & France licensed to do business in Fairfax County, and the fact that builders are not required to have steel posts delineating property lines for settlement purposes, they have lost a lot of sleepless nights worrying about their carport and also \$245.00 they have had to spend on surveys.

He asked that the Board grant this 2 and $\frac{1}{2}$ foot variance as they feel the carport does not detract from the looks of their property or the neighborhood, nor does it present any kind of health or safety hazard to the adjacent property.

Mr. Smith asked if he had obtained a building permit.

Mr. Moorehead stated that he had.

Mr. John Krause, 7519 Dolce Drive, one of Mr. Moorehead's contiguous neighbors, came before the Board and stated that what Mr. Moorehead stated is true. However, they feel the affect of the construction should be of some consideration as it does affect his property line. Due to the way the line runs and the angle that it makes it is about 4.3' from the property line. The overhang is only 30" from his property line and if he ever constructs a fence down that line the construction would overhang his fence.

Mr. Smith stated that since Mr. Krause stated that what Mr. Moorehead said was true, this is an error on the part of the engineer and Mr. Moorehead was not aware of it. Therefore, it was not done deliberately. If there is a problem such as water runoff, then Mr. Moorehead should take care of that.

Mr. Smith read the Section of the Ordinance that this should come under and stated that Mr. Moorehead does comply with this section of the ordinance.

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In application No. V-95-73, application by Davis T. Moorhead, under Section 30-6.6.5.4 of the zoning ordinance, to permit carport to remain closer to side property line than allowed, on property located at 7517 Dolce Drive, also known as tax map 60-3((36))8, Annandale District, County of Fairfax, Virginia, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 20th day of June, 1973, and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is Davis T and Joyce M. Moorhead.
2. That the present zoning is R-12.5.
3. That the area of the lot is 19,933 square feet.

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

- 1. That the Board has found that non-compliance was the result of an error in the location of the building subsequent to the issuance of a building permit, and
- 2. That the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

- 1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

FURTHERMORE, the applicant should be aware that the granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, Residential Use Permit, and the like through the established procedures.

Mr. Baker seconded the motion.

The motion passed unanimously. Hearing ended at 11:20.A.M.

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11:20 A.M.

RICHARD GOEHNER, app. under Sec. 30-6.6 of Ord. to permit construction of porch closer to rear property line than allowed, 7512 Ferber Place, 71-3((4))4221, Springfield District, (R-12.5), V-97-73

Mr. Goehner represented himself before the Board.

Notices to property owners were in order. The contiguous property owners were Robert Chambers, 7510 Ferber Place and James Cumings, 7511 Ferber Place.

Mr. Goehner stated that the reason he could not build further back was because he wanted to connect to the house; and on the side would require moving the french doors and the fireplace. The patio is already in existence and they want this addition to blend in with the construction of the house so that it will not detract from the neighborhood. This will be an open porch except for the screening.

Mr. Baker stated that the Board cannot consider the economics of the situation.

Mr. Smith asked him if he could cut the porch down to 15'x22'.

Mr. Goehner stated that he could do that.

Mr. Smith asked Mr. Mitchell if in the ordinance they would allow the same type encroachment into a setback of 5' for an open carport or porch as they do in the side yard.

Mr. Mitchell stated that the ordinance does not allow this.

Mr. Smith stated that at the time they recommended this change to the ordinance, they asked that it be allowed for both front and side yards.

There was no opposition.

Mr. Runyon stated that the lot does have an irregular shape.

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 June 20, 1973
 Richard Goehner (continued)

In application No. V-97-73, application by Richard Goehner, under Sec. 30-6.6 of the Zoning Ordinance, to permit construction of porch closer to rear property line than allowed, on property located at 7512 Ferber Place, also known as tax map 71-3((4))(42)21, Springfield District County of Fairfax, Virginia, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 20th day of June, 1973, and

WHEREAS, the Board of Zoning Appeals has made the following Findings of fact:

1. That the owner of the subject property is Richard H. & Kathleen R. Goehner.
2. That the present zoning is R-12.5.
3. That the area of the lot is 14,339 sq. ft.
4. That the request is for a minimum variance (5 ft.).

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

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
 - (a) exceptionally irregular shape of the lot.

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted in part with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. Architecture and materials to be used in proposed addition shall be compatible with existing dwelling.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, Non-Residential Use Permit and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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BEECH PARK CORP., app. under Sec. 30-6.6 of Ord. to permit construction of building closer to front property line than allowed, 48-3(10)1, 3131 Draper Drive, Providence District (I-L), V-99-73.

Mr. Harman H. Harrison, President of the Beech Park Corporation, spoke before the Board. He gave his address as 3131 Draper Drive, Fairfax, Virginia.

Notices to property owners were in order. The contiguous owners were R. E. Hill Company 1706 East Avenue in McLean and Blake Lane Associates, 1725 DeSales Street, Washington, D. C.

Mr. Harrison stated that he would like to build out to that side of the property in order that the brick wall of the building can act as a screen between his lot and the residential lot across the road. The dimensions are 24'x52'. The ordinance says that they must set back 50', but if they do that they would be building the building facing the residential area with all the equipment, etc. right out-in plain view of the residential area. The building is 24' tall. He stated that he has to use Draper Drive as access to the property. The apartment development just went in and at that time they put in the street called Kingbridge Road. The zoning of that development is RM-2G. He stated that he has owned the property since 1959 and there has been one small utility building on the property since then. That building is on the line now. The property has been used for his office and storage operation for heavy equipment by him since that time up until the present time. He stated that he does have quite a bit of heavy equipment that is unsightly to people residing on residential property. The lot is only 100' wide and he must also have room to maneuver equipment in and out of the property. Not only is the equipment unsightly, but it is also noisy. He stated that even though he was there before this residential development and can continue to operate as he is or can build on the other side by right, he would like to make the place more compatible with the residential area.

Mr. Smith read the justification that was in the file which stated that:

"The Lot was under present Ownership before the property on the North was zoned RM-2G and was the last lot of a subdivision, instead of being a corner lot due to the construction of Kingbridge Drive.

The present zoning of the lot, being I-L, would allow the building of the storage shed on the South lot line of the property, with the storage of equipment and materials facing the Residential area.

The Owner feels that by building on the North property line, which was allowable before the lot became a corner lot, and face the Storage Shed and Yard towards the South and adjoining Industrial properties, the buildings would form a much more pleasing barrier between the Residential area and the Industrial zone."

Mr. Smith asked if he planned to construct a solid brick wall.

Mr. Harrison stated that he does plan a solid brick wall with cinderblock backing with some windows toward the top to give some light. The wall will be part of the building. It will go down the entire property line. There will be an office on one end and some storage bays along the remainder of the building. This wall will also break the noise. The zoning of the property across the street when he purchased the property was R-A. This is the only property in this area that he owns.

There was no opposition to this application.

Mr. Runyon stated that the Board should keep a copy of the sketch showing the building and architectural facade and make as a condition to the granting, if the Board decides to grant, that this be constructed of brick material.

Mr. Smith read the Staff report into the record. Preliminary Engineering Branch stated that the proposed entrance to the site must meet State specifications. That is, the entrance can be located no nearer than 12.5 feet to the property line.

Mr. Barnes stated that he felt this arrangement would be a lot better than/should the developer construct the building on the other side of the property. it would be

Mr. Baker agreed.

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Beach Park Corp. (continued)

In Application No. V-99-73, application by Beach Park Corp. under Section 30-6.6 of the Zoning Ordinance, to permit construction of building closer to front property line than allowed, on property located at 3131 Draper Drive, also known as tax map 48-3(10)1, Providence District, County of Fairfax, Virginia, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 20th day of June, 1973, and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is I-L.
3. That the area of the lot is 30,483 sq. ft.
4. That Kingsbridge Dr. was built subsequent to the I-L zoning.
5. That this development will create a compatible use of the I-L property adjacent to the RM2G property.

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

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:

- (a) unusual condition of the location of existing zoning line.

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. This variance is conditioned on the construction being masonry with face brick as per plans submitted.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, Non-Residential Use Permit and the like through the established procedures.

Mr. Baker seconded the motion.

The motion passed unanimously.

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ROBERT C. WIELAND, app. under Sec. 30-6.6 of Ord. to permit enclosure of open porch at 1212 Ingleside Ave., 30-2(3)13B, Dransville District, (R-12.5) V-100-73 (1)1, Springfield District, (R-12.5) V-100-73 (1)1.
Mr. Wieland represented himself before the Board.

Notices to property owners were in order. The contiguous owners were Dunagan, 1208 Ingleside Avenue and George Allen, 6916 Hickory Hill Avenue.

Mr. Wieland submitted a signed letter from Mr. Allan.

Mr. Wieland stated that the lot is irregular and has a considerable slope on the side. The porch is presently 10.2' from the property line of lot 13A. The builder did not build the house in the center of the property and did not provide proper footings for the porch. Therefore, the porch has sagged. They will have to replace the porch and would like to enclose it at the same time. He stated that he only needs 1.8' of variance.

There was no opposition.

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In application No. V-100-73, application by Robert C. Wieland, under Section 30-6.6 of the Zoning Ordinance, to permit enclosure of open porch, on property located at 1212 Ingleside Ave., also known as tax map 30-2((3))13B, Dranesville District, County of Fairfax, Virginia, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 20th day of June, 1973, and

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

1. That the owner of the subject property is Robert C. & Marie T. Wieland.
2. That the present zoning is R-12.5.
3. That the area of the lot is 18,389 sq. ft.
4. That the request is for a minimum variance.

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

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:

- (a) exceptionally irregular shape of the lot,
- (b) exceptional topographic problems of the land.

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations.

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. Architecture and materials to be used in proposed addition shall be compatible with existing dwelling.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, Residential Use Permit and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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TAMARAK STABLES, app. under Sec. 30-7.2.8.1.2 of Ord. to permit riding school and add an indoor arena to existing facilities, 9801 Old Colchester Road, 114((1))1, Springfield District, (RE-2), S-93-73

Mrs. Lois Majewski represented the applicant before the Board.

Notices to property owners were in order.

Mrs. Majewski stated that she and her husband operate these stables and they are not incorporated. There is an existing Special Use Permit on their stables, but they would like to add an indoor arena because of all of the rain that they had this spring. The indoor arena is proposed to be 95' x 200' and will be of pole construction. They put in bath facilities for the present operation. They have 35 horses at the present time, but these horses are on land that they have leased. These are horses that they had up in West Virginia and they only brought them back here when it was time for them to drop foals. They have twenty-five horses there now that relate to the stable use.

Mr. Smith reminded her that her Special Use Permit only allowed her to have twenty-three.

In application No. S-93-73, application by Leon F. & Lois J. Majewski T/A Tamarak Stables under Sec. 30-7.2.8.1.2, of the Zoning Ordinance, to permit riding school and add indoor riding arena to existing facility, on property located at 9801 Old Colchester Rd., also known as tax map 114((1))1 Springfield District, Co. of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 20th day of June 1973.

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

1. That the owner of the subject property is Leon F. & Lois J. Majewski.
2. That the present zoning is R-A.
3. That the area of the lot is 23.4843 acres.
4. That Site Plan approval is required.
5. That the property is operating under S. U. P., S-128-70.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R. Districts as contained in Sec. 30-7.1.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the building and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

Mr. Baker seconded the motion, and the motion passed unanimously.

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Scheduled 2:20 P.M. case. Began at 2:55 P.M.
SAM FINLEY, INC., AMERICAN ASPHALT PAVING, INC., app. under Sec. 30-6.6 of Ord. to permit building to remain closer to property line than allowed, 112((1))1, Springfield District, (I-G), V-19-73

Mr. Royce Spence, attorney for the applicant, represented them before the Board.

Notices to property owners were not in order.

Mr. Smith stated that since Sam Finley, Inc. does not own the property, they are not a proper applicant. A variance can only be granted to the owner of the property. The owner must at least be a party to the application.

Mr. Spence explained that this land is leased and it is an oral lease. The land is owned by the estate of Lucian Blane Clarke.

Mr. Kelley moved that the application be amended to put this case under Section 30-6.6.5.4 of the Ordinance since this is the mistake section and the building in question is already there.

There was no objection to this, and the Chairman ruled that this was appropriate.

Mr. Smith asked the applicant's attorney to

1. Notify all property owners surrounding this property.
2. Amend the application to include the owners of the property and have them join in this application by written Agreement.
3. Having something to establish the fact that Sam Finley and American Asphalt have a right to occupy the land.

Mr. Smith inquired as to whether or not the Board of Supervisors were aware of the fact that a variance was needed at the time they granted the permit.

That information was not available and Mr. Smith asked the Staff to get this information prior to the deferred hearing on this case.

Mr. Smith stated that this case would have to be deferred.

Mr. Spence requested that it be deferred until the next available date.

Mr. Smith stated that the next available date would be July 25, 1973.

Mr. Smith asked if the Certificate of Good Standing was in the file for the two corporations.

Mr. Barnes stated that they were both in the file.

The case was deferred until July 25, 1973.

-- Hearing concluded at 3:10 P.M. --

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McLEAN VOLUNTEER FIRE DEPT., INC., app. under Sec. 30-4.2.7 of Ord. to permit addition to fire station, 1440 Chain Bridge Road, 30-2((1))25, Dranesville District, (C-D), S-112-73 OTH

Mr. Connary, 1440 Chain Bridge Road, McLean, Virginia spoke before the Board.

Notices to property owners were in order. Ralph Kaul was the only contiguous property owner at 6825 Redmond Drive. The next nearest property owner is Charles Mueller, 1455 Laughlin Avenue, McLean.

They plan to get an additional piece of equipment and they need the room to store it. Mr. Connary stated that this is the reason they need the addition to their building. They also need additional training room. They also need some more storage space.

This addition will be compatible with the existing structure, Mr. Connary stated.

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 MCLEAN VOLUNTEER FIRE DEPT., INC. (continued)

In application No. S-112-73, application by McLean Volunteer Fire Dept., Inc. under Section 30-4.2.7, of the Zoning Ordinance, to permit addition to fire station, on property located at 1440 Chain Bridge Rd., also known as tax map 30-2((1))25, Dranesville District, Co. of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 20th day of June 1973.

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is C-D.
3. That the area of the lot is 21,165 sq. ft.
4. That Site Plan approval is required.
5. That the station is operating pursuant to special use permit granted on Sept. 28, 1965.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I Districts as contained in Section 30-7.1.2 in the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the addition indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. Architectural details will conform with the present structure.

Mr. Baker seconded the motion.

The motion passed unanimously.

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DEFERRED ITEMS:

G. LANCE & JOYCE GILBERT, app. under Sec. 30-7.2.6.1.3 of Ord. to permit expansion of Montessori school to 104 children, 3035 Cedar Lane, 49-3(1)25A, Providence District, (RE-1), S-75-73 (Deferred from 5-23-73 for decision only and to allow applicant to work with the church regarding road dedication, etc.)

Mr. Gilbert appeared before the Board. He stated that Mr. Stevens, from the church, would like to speak before the Board on the questions regarding road dedication.

Mr. Stevens, 2832 Maple Lane, Fairfax, Chairman of the Board of Trustees for the Bruen Chapel United Methodist Church located at 3035 Cedar Lane. He read a statement that had been signed by the Board of Trustees of the Church. This statement stated that Bruen Chapel United Methodist Church would take no action to dedicate any portion of the frontage of the church property for future road widening of Cedar Lane at this time. The Board of Trustees stated that they could find no direct or indirect legal connection between the case of G. Lance Gilbert now before the EZA and the suggestion included in the comments of the Preliminary Engineering Branch which stated that a dustless surface is required for the parking lot in accordance with Section 30-1.7.4 of the Fairfax County Zoning Ordinance. Cedar Lane is proposed to be a 90' right-of-way. It was suggested by Preliminary Engineering that the owner dedicate to 45' from the existing center line of the right-of-way along Cedar Lane for the full frontage of the property for future road widening.

The Board went over the time of operation again.

In application No. S-75-73, application by G. Lance & Joyce Gilbert under Sec. 30-7.2.6.1.3 of the Zoning Ordinance, to permit expansion of Montessori school to 104 children, on property located at 3035 Cedar La., Providence District; also known as tax map 49-3(1)25A, Co. of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper; posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 23rd day of May 1973.

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

1. That the owner of the subject property is Bruen Chapel United Methodist Church.
2. That the present zoning is RE-1.
3. That the area of the lot is 2.654 acres.
4. That Site Plan approval is required.
5. That compliance with all county and state codes is required.
6. That applicants are operating the Montessori School of Cedar La., at Bruen Chapel United Methodist Church, pursuant to a S. U. P. which was granted May 11, 1971, S-65-71, which provided for a maximum 52 children.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

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4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLETED WITH.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. Ages of children are 2 1/2 to 6 years.

7. The hours of operation are 8:30 A.M. to 4:30 P.M. Monday through Friday.

8. There shall be no more than 30 individuals remaining over 4 hours at any one session.

Mr. Baker seconded the motion.

The motion passed unanimously.

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JACK H. MERRITT (SPRING & DALE SCHOOL), app. under Sec. 30-7.2.6.1.3 of Ord. to permit additional classroom, 6574 Edsall Road, 71-4((6))37, Annandale District, (RE-0.5), S-69-73 (Deferred from 5-16-73 for 30 days for new plats and additional information and for Board to view property)

The Board viewed the property on June 15, 1973.

Mr. Smith stated that this was a rather small lot to place another building on for additional students.

Mr. Kelley agreed with this.

Mr. Smith stated that the Board was in receipt of new plats and the additional information that was requested of the applicant. The applicant also had written a letter to the Board apologizing to Mr. Leigh, Zoning Inspector, for any personal affront he might have incurred in their telephone conversation. (The letter is in the file on this case)

Mr. Smith stated that at the present time, the applicant has forty-five students at this facility. He is not in violation at this facility, but wishes to add a new modular building and thereby expand this facility. The original Special Use Permit for this facility was granted in 1958 with the understanding that the applicant would meet all the requirements of the State Health Department and other agencies who have control over this type of operation.

In application No. S-69-73, application by Jack H. Merritt (Spring & Dale School) under Sec. 30-7.2.6.1.3, of the Zoning Ordinance, to permit additional classroom, on property located at 6574 Edsall Rd., Annandale District, also known as tax map 71-4((6))37, Co. of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 16th day of May 1973.

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

1. That the owner of the subject property is Jack H. & Dolores Merritt.
2. That the present zoning is RE-0.5.
3. That the area of the lot is 30,724 sq. ft.
4. That Site Plan approval is required.
5. That compliance with all county and state codes is required.
6. That property is subject to Pro Rata Share for off-site drainage.
7. The Health Dept. report states that the facilities are adequate for 62 four hour or 45 all day students.

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

1. That the applicant has not presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr. Kelley seconded the motion.

The motion passed unanimously.
(Hearing concluded at 3:55 P.M.)
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JACK H. MERRITT (SPRINGFIELD ACADEMY) app. under Sec. 30-7.2.6.1.3 of Ord. to permit additional enrollment to existing private school, 5236 Backlick Road, 71-4((3))11, Annandale District (RE-0.5), S-70-73 (Deferred from 5-16-73 for 30 days for new plats and additional information and for Board members to view property)

Mr. Donald Stevens was present to represent the applicant.

Mr. Smith gave some background on the case. He stated that Mr. Merritt originally applied for a Special Use Permit in 1961 and was granted a permit for 80 students. In 1963, he was granted permission to erect an addition to the school with the understanding that all other provisions of the existing use permit will continue unchanged and in full force. The number of children shall not be increased to 80, Mr. Smith stated the resolution stated. Since that time, Mr. Merritt has increased the number of students he has at this location. He has approximately 130 students. Now Mr. Merritt is back before the Board trying to rectify this violation by increasing his Special Use Permit.

In application No. S-70-73, application by Jack H. Merritt, Springfield Academy, under Sec. 30-7.2.6.1.3, of the Zoning Ordinance, to permit additional enrollment to existing private school from 80 to 130 children on property located at 5236 Backlick Rd., Annandale District, also known as tax map 71-4((3))11, Co. of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper; posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 16th day of May 1973.

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

1. That the owner of the subject property is Jack H. & Dolores Merritt.
2. That the present zoning is RE-0.5.
3. That the area of the lot is 4.7823 acres.
4. That Site Plan approval is required.
5. That compliance with all county and state codes is required.
6. That applicant has been operating under S. U. P. granted Sept. 12, 1961, #4913, and amended May 7, 1963, which limits enrollment to a maximum of 80 children.
7. The Health Dept. report states that the facilities are adequate for 126, four hour students or 90 all day students.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.

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Jack H. Merritt, Springfield Academy, (continued)

3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, change of the operator, changes in signs, and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. The maximum number of students is 126 part-day (ie. 4 hrs. or less) or 90 all day students. The applicant is not to exceed the 80 allowed until he has made the improvements.

7. The ages of the students will be 2 to 8 yrs. The hours of operation are 7 A.M. to 6 P.M.

8. Screening, fencing and landscaping shall be provided.

9. The parking areas and drive areas shall be paved.

10. Entrances to be constructed 30 feet wide with adequate turning radius for ingress and egress to the site.

11. This permit to run for 3 years with the Board of Zoning Appeals being empowered to grant 3 one year extentions.

Mr. Barnes seconded the motion.

The motion passed unanimously.

Mr. Smith stated that the school year is now over and before he has more than 80 students on roll, he will have to comply with all these requirements, pave the driveways and parking lot, entrances and exits, etc.

// AFTER AGENDA ITEMS

ANNANDALE BOAT MARINA

Mr. Covington brought the Board plats showing a building these people are planning to build. This will be an addition to the building they already have.

Mr. Smith asked if they plan any outdoor display.

Mr. Covington stated that they do plan outdoor display, but on C-G property.

Mr. Smith asked about the C-D zoned land.

Mr. Covington stated that they do not plan to use it/ for outdoor display. They plan to come with with an application for a Special Use Permit. for this change. The building will extend beyond the C-G zone line into the C-D property. The applicant want to know whether or not the Board would grant a Special Use Permit with the building extending over into C-D land.

Mr. Smith stated that this would be no problem as long as they do not have outdoor display.

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VEPCO, Gallows Road Substation, Special Use Permit No. S-159-72 to permit erection, operation and maintenance of ground transformer station, granted November 22, 1972.

Mr. Smith read a copy of a letter from Mr. Lawson to Mr. R. W. Carroll, Manager of the Northern Virginia Division of VEPCO. An inspection had been made regarding this letter and Jack Maize, Zoning Inspector, and Mr. Smith read this inspection report.

The report stated that "1. An inspection was made the 18th day of June, 1973 of the above property. Trees have not been removed. The tree line is essentially unchanged. VEPCO cleared some brush along their property line for transit sighting purposes when they surveyed the property lines. They also cleared some brush along their buffer zone. 2. In a telephone conversation with Mr. Carroll, Manager of VEPCO, I learned that the matter has been satisfactorily resolved. Mr. Carroll is sending us a copy of his letter of reply to Mr. Lawson. Essentially, it stated that when they are completed with the grading and planting prescribed under the BZA requirements, they will place a few additional trees in the vicinity of the complainant's property (Mrs. Parson) where the surveyors cut some small dogwood trees.

Case can be considered resolved in a fashion agreeable to all concerned." /s/J. Maize.

Mr. Smith stated that after the Board receives the copy of the letter from Mr. Carroll, it will draft a letter of reply to Mr. Lawson of the Holmes Run Civic Association.

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LAKE BARCROFT RECREATION ASSOCIATION

Mr. Smith read a letter from Messrs. Brown and Goodell regarding the street that runs in front of the Association's Recreational area. The letter stated that the builder of a townhouse development on the other side of the recreation area is using the street called Recreation Lane for that development when it was indicated at the original hearing on the Special Use Permit for the recreation area that that street would only be used for the recreation area itself.

The Board members decided to ask Messrs. Brown and Goodell and also Mr. Waterval, attorney for the recreation area, to appear before the Board and discuss the matter.

Mr. Kelley moved that this be brought back before the Board on July 25, 1973.

Mr. Baker seconded the motion and the motion passed unanimously.

The Clerk was directed to so notify the Recreation Association that this question has arisen and the Board will discuss it with them at the hearing of July 25, 1973 and also notify Messrs. Brown and Goodell.

This discussion will be on the proposed construction of the cluster development using the same Recreation Lane that was proposed for the recreation area only under the plan that was shown to the Board at the time of the original hearing.

Mr. Smith stated that they would discuss the reevaluation hearing and argue that point before they set the actual hearing.

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Hearing adjourned at 4:55 P.M.

By Jane C. Kelsey
Clerk


DANIEL SMITH, CHAIRMAN

Approved: August 3, 1973
(Date)

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The Regular Meeting of the Board of Zoning Appeals Was Held On Wednesday, June 27, 1973, in the Board Room of the Massey Building.
Present: Daniel Smith, Chairman; Loy P. Kelley, Vice Chairman; Joseph Baker and Charles Runyon. Mr. George Barnes was absent.

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10:00 - (OTH) LLIFF NURSING HOME, INC., app. under Sec. 30-7.2.6.1.8.8 of Ord. to permit relocation of 22 beds, now housed in two frame structures to permanent masonry buildings, 39-4((1))135, 136, 136A, 136B & 137 (R-12.5), Centreville District, S-123-73.

Mr. Paul Herrell, 1400 North Uhle Street, Arlington, Virginia, represented the applicant before the Board.

Notices to property owners were in order. The two contiguous property owners were Ruth Robey, 2500 Sandburg Street and Annie Robey, 2456 Sandburg Street.

Mr. Herrell stated that this property backs up to Route 495 right at Route 66.

The purpose of this application, he stated, is to permit the relocation of twenty-two beds that are already in existence. The twenty-two beds are located in two frame structures and over the course of years, the buildings have become run down. They were never designed for a nursing home. They originally were houses. They plan to construct a wing that would house these twenty-two beds and remove these two old frame structures. They started building a modern building in 1960 for this nursing home and at the present time there is ninety-six beds located in this modern structure. There is 14.2 acres of land here. This home has provided an extensive service to the community. He stated that he did not feel that the granting of this relocation building would have any adverse affect on the community. The only thing that will go into this new structure is the twenty-two beds and the medical facilities that are necessary to care for these patients. That would include a nursing station and a room for physical therapy. They will, of course, have to comply with the State Health Department's requirements in the building of this structure. There will also be an examining room that was not required by the State until this year. There will be a room for the social worker and for the keeping of the medical records and the Director of Nursing's office.

Mr. Smith asked if they have a room for the social worker in the existing building.

Mr. Herrell stated that that was not required prior to this time.

Mr. Smith asked if they provide Medicare service.

Mr. Russell, the owner of the nursing home, stated that they do not provide that service.

Mr. Smith stated that the Board is in receipt of a memo from one of the County Departments stating that they have no objection to this application, but hoped the Board would suggest to the applicants that they provide this service.

Mr. Russell stated they feel that there has never been a need for this.

Mr. Smith asked if he meant that they were filled up with people who are referred to their nursing home on a normal basis without having the medicare service.

Mr. Russell stated that that was what he meant.

Mr. Kelley stated that the materials and the architecture should be the same as in the existing structure.

Mr. Russell stated that it would be.

Mr. Smith stated that he felt there should be a time limit on the frame buildings that are on the property, as to how long they could be left on the property. He stated that he felt they should be removed as soon as possible after the new structure is completed.

Mr. Russell stated that they would be within a reasonable time after the structure is completed.

There was no opposition to this application.

Mr. Runyon asked if this would put all the operation together of all the nursing facilities.

Mr. Russell stated that it would.

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June 27, 1973
Iiff Nursing Home (continued)

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In application No. S-123-73, application by (OTH) Iiff Nursing Home, Inc. under Sec. 30-7.2.6.1.8.8 of the Zoning Ordinance, to permit relocation of 22 beds, now housed in two frame structures, to permanent, masonry buildings, on property located at 8000 Iiff Dr., also known as tax map 39-4((1))135-137, Co. of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners and a public hearing by the Board of Zoning Appeals held on the 27th day of June 1973.

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

1. That the owner of the subject property is Iiff Nursing Home, Inc.
2. That the present zoning is R-12.5.
3. That the area of the lot is 14.2398 acres.
4. That Site Plan approval is required.
5. That the property is subject to Pro Rata Share for off-site drainage.
6. That the property is operating under S.U.P. #2729 granted 4/11/61 and amended 2/26/63 by S.U.P. #1439.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with the application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The existing buildings shall be demolished within 60 days of occupancy of the new facilities.

Mr. Baker seconded the motion.

The motion passed 4 to 0. Mr. Barnes was absent.

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BETTY & ELMER WARD, app. under Sec. 30-6.6 of Ord. to permit enclosure of existing porch, 3042 Heather Lane, 51-3((19))(G)2, Mason District (R-12.5), V-101-73

Mr. Stanley Wilson, 3332 Curtis Dr., Apartment 103, Hillcrest Heights, Maryland, represented the applicant before the Board.

He stated that he works for Hechinger Company who is under contract to do this work.

He submitted the registered receipts to the Board. He stated that all the green slips did not come back.

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 BETTY & ELMER WARD (continued)

Mr. Smith stated that the letters had not been sent out ten days prior to the hearing and, therefore, the Board could not hear the case.

Mr. Stanley Wilson asked if they would also have to have new plats.

Mr. Smith, after looking at the plats, stated that they would need to have certified plats with the seal and signature of the person preparing the plats on them. The ones the Board has now do not have the seal and signature.

Mr. Kelley moved that this case be deferred to July 11, 1973 at 2:20 P.M. for proper plats and proper notification.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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GRACE LUTHERAN CHURCH, app. under Sec. 30-7.2.6.1.3.2 of Ord. to permit school, 3233 Annandale Road, 60-2((6))8, Mason District (RE-0.5). S-102-73.

Rev. Beekmann, pastor of the church, 7401 Masonville Drive, Annandale, Virginia, testified before the Board.

Notices to property owners were in order. The contiguous owners were Gerald Gray, 3305 Rose Lane and Mrs. K. P. Starnes, 3318 Beechtree Lane, Falls Church.

Rev. Beekman stated that they would like to operate a Christian Day School. They plan to have the same hours as Fairfax County elementary school and follow the school calendar as closely as possible. Kindergarten classes would be held half days and upper grades would meet for a full school day, Monday through Fridays, except holidays.

At the present time, they have 12 children enrolled. This number could be about 15 or 20 by the time they begin their classes in September. The indefinite status of their enrollment is due to the fact that each summer the church experiences a bit of a turnover in membership and some of the members will be moving.

It is the intention of their congregation to begin this fall with a student body made up of Kindergarten through Grade Three. If they can keep the enrollment within the number allowed by the Health Department's Report, they would plan to offer a Fourth Grade in the fall of 1974. Further expansion in future years would be made within the limitations set by the Health Department's Report.

This school is being started especially for the families of their congregation. Transportation will be provided by the parents.

There was no opposition to this use.

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Mr. Baker moved that the minutes for May 9, 1973 be approved as corrected.

Mr. Kelley seconded the motion.

The motion passed unanimously.

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In application No. S-102-73, application by Grace Lutheran Church under Sec. 30-7.2.6.1.3.2, of the Zoning Ordinance, to permit school, on property located at 3233 Annandale Rd., Mason District, also known as tax map 60-2((6))8, Co. of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 27th day of June 1973.

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

1. That the owner of the subject property is Grace Lutheran Church.
2. That the present zoning is RE-0.5.
3. That the area of the lot is 5 acres.
4. That Site Plan approval is required.
5. That the property is subject to Pro Rata Share for off-site drainage.
6. That compliance with all county and state codes is required.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, change of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. The maximum number of students shall be 60, ages 4 to 16 years.
7. The hours of operation shall be 9:00 A.M. to 3:00 P.M.
8. The operation shall be subject to compliance with the inspection report, the requirements of the Fairfax County Health Dept., the State Dept. of Welfare and Institutions, and obtaining a Non-Residential Use Permit.
9. Landscaping, screening, plantings and/or fencing shall be as approved by the Director of County Development.
10. That on-site dispersion of children is mandatory.

Amended 6-27-76 by BZA J. Kelley

Mr. Baker seconded the motion.

The motion passed unanimously.

Mr. Barnes was absent.

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June 27, 1973

NOLA BURLESON, app. under Sec. 30-7.2.6.1.7 of Ord. to permit antique shop in home, 1748 Dawson Street, 29-3(1)24, Centreville District (RE-1), S-103-73

Mrs. Burleson, 1748 Dawson Drive, Vienna, Virginia, represented herself before the Board.

Notices to property owners were in order. The contiguous owners were Dr. Lewis Leresche, 8510 Wall Street, Vienna, Virginia and Ray Carlson, 8520 Wall Street, Vienna, Virginia.

Mrs. Burleson stated that she does live at this location and has lived there for 13 years. She plans to continue to live there. They want to open a small antique shop in their basement. They have an outside entrance to the basement. She stated that she does not understand the comments from Preliminary Engineering which stated that it is suggested that the applicant dedicate a minimum of 22' for a travel access to the parking lot from Dawson Street in accordance with Sec. 30-11.7.(2). Also a dustless surface is required for all travel aisles and parking lots in accordance with Sec. 30-1.7.4. She stated that this shop will be open by appointment only.

Mr. Kelley stated that this will be under Site Plan control.

Mr. Runyon stated that he felt since the road out in front, Dawson Street, is only 18', the Board should remind Preliminary Engineering that they should examine this a little closer because making their access road 22' would do more harm than good as people might drive down it by mistake since it would be wider than the street.

Mr. Smith stated that it seemed like an excessive requirement.

Mr. Runyon stated that he felt the parking lot should be screened.

In application No. S-103-73, application by Nola Burleson under Sec. 30-7.2.6.1.7, of the Zoning Ordinance, to permit antique shop in home, 1748 Dawson St., also known as tax map 29-3(1)24, Co. of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 27th day of June 1973.

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

1. That the owner of the subject property is Quincy A. & Nola Burleson.
2. That the present zoning is RE-1.
3. That the area of the lot is 1.40806 acres.
4. That Site Plan approval is required.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the building and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the NON-RESIDENTIAL USE PERMIT on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. Hours of operation are 10:00 A.M. to 5:00 P.M. by appointment only, Wed. through Sunday.

7. Screening of the parking area will be required.

Mr. Baker seconded the motion.

The motion passed 3 to 1. Mr. Kelley voting No.

Mr. Runyon stated that Preliminary Engineering's suggestion for a 22' travel lane seems excessive as the public roadway is only 18'. We should remind Preliminary Engineering that they should examine that a little closer because he believed it would be more harmful to extend it to 22' than to leave it, as people might accidentally drive down that road.

Mr. Smith agreed that the request is excessive due to the circumstances, but, perhaps, they can get a Site Plan Waiver.

Mr. Runyon stated that they should be required to screen the parking lot.

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METRAH MAKELY, app. under Sec. 30-6.6 of Ord. to permit lot with less frontage than required by Ord., 6301 Colchester Road, 76-1((1))27, Springfield District (RE-1), V-104-73

John

Mr. Rogers represented the applicant.

Contiguous owners were L. J. Halterman, 6305 Colchester Road, and Robert Swink, 114 Tapawingo Road. Notices to property owners were in order.

Mr. Rogers stated that the lot is too narrow to permit the lots to be divided as far as frontage is concerned, but the lots do have the proper acreage. This variance is needed in order that Mr. Makely and his family can make full use of the land. One lot has 1.0552 acres and the other has 1.27 acres. Actually Lot 2b has the proper frontage requirement, but Lot 2a does not. Mr. Makely has owned this land for a long time as that property has been in the Makely family for generations. It is part of the farm that Mr. Earlick now owns and is to be subdivided.

Mr. Smith asked if they were planning to construct a house without the need for another variance.

Mr. Rogers stated that that is correct.

In application No. V-104-73, application by Metrah Makely, under Section 30-6.6 of the Zoning Ordinance, to permit lot with less frontage than required by Ord., on property located at 6301 Colchester Rd., also known as tax map 76-1((1))27, County of Fairfax, Virginia, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 27th day of June, 1973, and

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

1. That the owner of the subject property is Metrah & Leila Makely.
2. That the present zoning is RE-1.
3. That the area of the lot is 2.332 acres.

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

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or building involved:

- (a) Exceptionally narrow lot.

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the lot indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless proper plats have been recorded or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, Residential Use Permit and the like through the established procedures.

Mr. Baker seconded the motion.

The motion passed unanimously.

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FIRST BAPTIST DAY SCHOOL, app. under Sec. 30-7.2.6.1.3.2 of Ord. to permit expansion of nursery school to 225, 7300 Gary Street, 80-3((3))(39)3, Springfield District, (R-12.5) S-105-73

Mrs. Frances Sprill represented the applicant before the Board.

Notices to property owners were in order. The contiguous owners are Whitenberger, 7311 Gray Street and St. Christopher Episcopal Church, 6320 Hanover Avenue, Springfield, Virginia.

Mrs. Sprill stated that they have a Special Use Permit but they wish to increase the number of their students to 225. They plan to operate from 9:00 A.M. to 12:00 Noon. The original Special Use Permit was granted May 26, 1965, #24127 for thirty children. Later, they came in again to get an increase to 60 children.

Mr. Smith read the memo from the Health Department stating that they had space enough for 225 children.

There was no opposition to this use.

Mrs. Sprill stated that the transportation would be provided by the parents who bring the children in carpools. The children are disbursed on the property of the church.

In application No. S-105-73, application by First Baptist Day School under Sec. 30-7.2.6.1.3.2, of the Zoning Ordinance, to permit expansion of nursery school to 225 students, on property located at 7300 Gary St., Springfield District, also known as tax map 80-3((3))(39)3, Co. of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 27th day of June 1973.

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

1. That the owner of the subject property is the First Baptist Church of Springfield, Trs.
2. That the present zoning is R-12.5.
3. That the area of the lot is 3.3366 acres.
4. That Site Plan approval is required.
5. That the church is operating a day care facility under Special Use Permit #24127, granted May 26, 1964, for 30 children expanded to 60 children on March 23, 1965, and expanded to 120 on September 13, 1966.
6. That compliance with all county and state codes is required.

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FIRST BAPTIST DAY SCHOOL (continued)

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

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

2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.

3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. The maximum number of children shall be 225, ages 3 to 4 years.

7. The hours of operation shall be 9:00 A.M. to 12:00 noon.

8. The operation shall be subject to compliance with the inspection reports, the requirements of the Fairfax County Health Department, the State Department of Welfare and Institutions and obtaining a Non-Residential Use Permit.

9. Landscaping, screening, plantings and/or fencing shall be as approved by the Director of County Development.

Mr. Baker seconded the motion.

The motion passed unanimously.

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LEO N. FLANAKIS, app. under Sec. 30-6.6 of Ord. to permit carport closer to property line than allowed, 1701 Pebble Beach Drive, 29-3((11))18, Centreville District (R-12.5), V-106-73

Mr. Flanakis represented himself before the Board.

Notices to property owners were in order. Contiguous owners were Gavelko, 8725 Higdon Drive, Vienna and Col. John H. Harrington, Jr.

Mr. Flanakis stated that on one side of his house he has a VEPCO easement and on the other side he has a chimney that projects on the side of the house and steps and landing. The landing is approximately 50" from the side of the house. There is a C & P easement on the back. The lot also has a very irregular shape and is a corner lot. He stated that he has owned the house for one and one-half years and plans to continue to live there.

Mr. Smith asked if the other houses in the development have carports or garages.

Mr. Flanakis stated that they do have. There are only 3 that do not have carports out of the 150 that he counted.

Mr. Runyon stated that this is R-12.5 zoning. It is not cluster zoning. The setback is 40'. He needs a 5.9' variance. If this were cluster he could come within 30' of the front property line. This only involves the front corner of the carport.

Mr. Runyon asked Mr. Flanakis if Mr. and Mrs. Harris, their neighbors, approved this variance application.

Mr. Flanakis stated that they did. Mr. Harris drew the plats and he lives across the street.

There was no opposition to this application.

In application No. V-106-73, application by Leo N. Flanakis, under Section 30-6.6 of the Zoning Ordinance, to permit carport closer to property line than allowed, on property located at 1701 Pebble Beach Dr., also known as tax map 29-3((11))18, County of Fairfax, Virginia, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 27th day of June, 1973, and

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

1. That the owner of the subject property is Leo N. & Patricia Flanakis.
2. That the present zoning is R-12.5.
3. That the area of the lot is 14,066 sq. ft.

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

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:

- (a) exceptionally irregular shape of the lot,

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. The addition to be of similar style and architectural detail to that of the existing building.

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LEO N. PLANAKIS (continued)

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Baker seconded the motion.

The motion passed unanimously.

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KENA TEMPLE & KTS HOLDING CORP., app. under Sec. 30-7.2.6.1.1 of Ord. to permit expansion of existing club facilities, 9001 Arlington Blvd., 48-4((1))42A, Providence District (RE-1), S-108-73

Mr. W. L. Peele, one of the Directors of Kena Temple, represented the applicant before the Board. His home address is 6825 Clifton Road, Clifton, Virginia.

Notices to property owners were in order. The contiguous owners were Katie S. Tolson, Route 1, Box 445, Stafford, Virginia and Walton C. Thompson and Mary L. Curtis, Trustees, 3728 Richard Avenue, Fairfax, Virginia.

Mr. Peele stated that KTS is the Holding Corporation. It consists of the 2500 members of Kena Temple. This is the only way they can build this building. Otherwise, they might start the building one year and the next year when Kena Temple changes officers, they might decide not to build the building. They would have a mess. KTS Holding Corporation was not in existence at the time of the original application.

The building they plan to build is two story. They plan to use the upstairs for their banquets and dances and the downstairs is proposed for their meetings.

Mr. Smith stated that the pool that they propose will have to be fenced.

Mr. Peele stated that they do plan to put a fence around the pool. The pool is for the membership only.

Mr. Smith asked if the membership could exceed 2500.

Mr. Peele stated that it could, but that is what it has been for the past few years.

Mr. Smith stated that because of the size of the pool there could only be a maximum number of 200 people in the pool at any one time.

Mr. Feele stated that the total number of proposed parking spaces is 467, but this does not include the existing parking.

Mr. Coldwell, 3204 Barkley Drive, spoke before the Board. He stated that he is not really in opposition, but he would like to see the plans. He stated that he is the closest property owner to this facility.

Mr. Smith showed Mr. Coldwell the plans.

Mr. Smith asked if the buffer strip was being maintained properly.

Mr. Coldwell stated that it is being maintained properly.

Mr. Smith questioned the access road leading into the property from the rear.

Mr. Feele stated that this is only open for the people who use this building for voting.

Mr. Smith stated that it was o.k. to use this for that purpose.

There was no opposition to this use.

In application No. S-108-73 application by Kena Temple & KTS Holding Corp., under Section 30-7.2.6.1.1, of the Zoning Ordinance to permit expansion of existing club facilities, on property located at 8901 Arlington Boulevard, also known as tax map 48-4((1))42A, Providence District, County of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 27th day of June, 1973.

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

1. That the owner of the subject property is Kena Temple Masonic Lodge.
2. That the present zoning is RE-1.
3. That the area of the lot is 26.8897 acres.
4. That site plan approval is required.
5. That the lodge facilities are operating under S.U.P. #8320, granted on April 24, 1962, and amended on October 14, 1969, to permit a building addition.
6. That compliance with all County and State Codes is required.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this permit to be re-evaluated by this Board.

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These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. The hours of operation for the pool shall be 9:00 a.m. to 9:00 p.m. and the maximum number of persons allowed in the pool at any one time shall be 200.

7. Landscaping, screening, planting and/or fencing shall be as approved by the Director of County Development

8. The pool site shall be fenced with a chain link fence in conformity with county and state codes.

9. All loudspeakers and noise shall be directed to pool area and confined to said site.

Mr. Runyon seconded the motion.

The motion passed unanimously.

// DEFERRED CASES

CHARLES E. PIERCY, app. under Sec. 30-6.6.5.4 of Ord. to permit garage to remain at present location, 7307 Sportsman Drive, 40-1((17))24, Pimmit View Subdivision, Dranesville District, V-85-73 (Deferred from June 13, 1973 to get report from Inspections on compliance with Building Code)

Mr. Smith stated that the file indicates that an inspection has been made and it does comply with all County Codes.

In the above captioned application, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 13th day of June, 1973 and deferred to the June 27, 1973 meeting, and

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

1. That the owner of the subject property is Charles E. and Jane D. Piercy.
2. That the present zoning is R-10.
3. That the area of the lot is 13,916 square feet.
4. That the property is subject to Pro Rata Share for off-site drainage.
5. That this is a 2.5' variance.

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

1. That the Board has found that non-compliance was the result of an error in the location of the building subsequent to the issuance of a building permit, and
2. That the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted.

Mr. Baker seconded the motion.

The motion passed unanimously, 4 to 0.

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June 27, 1973

CEDAR KNOLL INN--HEARING ON REVOCATION NOTICE - MR. AND MRS. RAJ MALLICK, 9030 Lucia Lane, 111-1((1))5, Mount Vernon District (R-12.5), Permit originally issued to Mildred Linster in 1942. (Original Hearing on June 13, 1973, and deferred to allow Board members to view the property and to get additional information from various County Departments)

Mr. Mallick was present before the Board.

Mr. Smith asked if Mrs. Mallick had a copy of the Agreement with the National Park Service as to the deceleration lane.

Mrs. Mallick did not have this Agreement with her.

Mr. Smith asked who now occupies the house which is a part of the operation.

Mr. Mallick stated that Mr. Foley rents the house. He is not employed at Cedar Knoll Inn.

Mr. Smith asked if anyone lives in the restaurant building.

Mr. Mallick stated that there are two of the employees of the Cedar Knoll Inn that live upstairs in that building.

Mr. Smith asked if the Fire Marshall permitted them to have someone live over that restaurant.

Mr. Mallick stated that there has always been living quarters upstairs over that restaurant and no questions have been raised about it. They did request them to put a fire escape outside.

Mr. Smith stated that when the Board visited the property, there were several other additions other than the 18'x30' addition. There were two additions to the rear. Mr. Smith asked if building permits were acquired for these additions.

Mr. Mallick stated that they had made no other additions, but they had repaired a lot of the structures around there.

Mr. Smith stated that when they visited the property, there was a room in the back of the building. That room wasn't there the last time he visited the property previous to this time on June 15, 1973. Then they also noticed a cubicle out front that was not there previously.

Mr. Mallick stated that in the old days, the room to the rear was used for the well water and the structure was rebuilt.

Mr. Smith asked if this addition is 8'x10'.

Mr. Mallick stated that there was no addition to the rear of the kitchen except where the well water used to be. All they did was remove some rotten boards and put in some new ones.

Mr. Smith asked about the cubicle in the front where the door is and there is also a storage room there.

Mr. Mallick stated that there was a structure there also.

Mr. Smith stated that he had been in this building many times and has eaten there many times when Mrs. Linster owned it, and he did not remember these rooms.

Mr. Smith asked if they were operating a theatre now.

Mr. Mallick stated that they were not.

Mr. Smith asked why they were still advertising.

Mr. Mallick stated that they have tried to stop the ads, but have been unsuccessful as it takes them sometime to get them out of the paper.

Mr. Smith stated that the Board is in receipt of many letters that will be entered into the record. However, Mr. George Barnes, one of the members of the Board is not present and the Board would like to defer decision on this case until he is present and there is a full Board. He asked Mr. Mallick how long it would take them to get a copy of the Agreement from the National Park Service on the deceleration lane.

Mr. Mallick stated that he could get it in tomorrow.

Mr. Smith stated that if they could present some pictures of the building prior to the time he made these changes, it would be helpful for the case.

Mr. Baker moved that the case be deferred until all the members are present, or until July 11, 1973 at 2:40 P.M.

Mr. Kelley seconded the motion and the motion passed unanimously.

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BOARD POLICY

Mr. Smith stated that it is the Board policy that any changes in owner of a piece of property under Special Use Permit SHALL cause the new owner to come back to the Board of Zoning Appeals. He stated that it would not make any difference if it was 40 minutes after the case was granted, or forty years.

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POTOMAC SCHOOL

Mr. Smith read a letter requesting an out-of-turn hearing.

Mr. Baker moved that this be granted for July 25, if all of the Board's procedures have been followed.

Mr. Runyon seconded the motion and the motion passed unanimously.

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CITGO PROGRESS REPORT - Hoops Road

Mr. Smith read a letter from Mr. McIntyre, Field Supervisor, of CITGO, stating that they were making considerable progress and hoped to finish prior to the next Board meeting on this case.

Mr. Baker moved that there be another progress report in thirty (30) days from June 21, 1973, or at the July 25, 1973 meeting.

Mr. Kelley seconded the motion. The motion passed unanimously.

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Mr. Baker moved that the minutes for the May 9, 1973 meeting be approved as corrected.

Mr. Kelley seconded the motion and the motion passed unanimously.

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By Jane C. Kelsey
Clerk


DANIEL SMITH, CHAIRMAN

August 3, 1973
APPROVED (Date)

The Regular Meeting of the Board of Zoning Appeals Was Held On Wednesday, July 11, 1973, in the Board Room of the Massey Building. Present: Daniel Smith, Chairman; Loy P. Kelley, Vice-Chairman; George Barnes; Joseph Baker and Charles Runyon.

The meeting was opened with a prayer by Mr. Barnes.

10:00 - CARROLL G. & ELIZABETH C. JONES, app. under Section 30-6.6 of Ord. to permit enclosure of existing carport and construct garage closer to front property line than allowed, 4805 Springbrook Drive, 69-4((7))(6)1, Annandale District, (R-17), V-109-73

Mr. Jones represented himself before the Board.

Notices to property owners were in order. The contiguous owners were Bruce Glover, 4813 Springbrook Drive and Robert Hughes 4741 Playfield Street.

Mr. Jones stated that the angle made by the two streets causes him to need a variance to the front setback. The street starts curving slightly over 45 degrees and this causes the problem. He submitted plats with the lines drawn on them showing this problem. The existing corner of the house is 44.6' to Playfield Street and if the street were straight, his proposed addition would be 48' off of Playfield Street. Therefore, this is a problem of an irregular shape lot and the fact that he is on two streets. He stated that the reason he choose a 16' carport is because he also needs space to store bikes, etc.

Mr. Baker asked him if he could move the garage down toward Springbrook Drive.

Mr. Jones stated that he could, but he felt it would look better if he kept the roofline the same as the house.

Mr. Runyon stated that if this were cluster zoning, the setback would be 30', therefore, this request is not too far off.

Mr. Smith asked if this would impair site distance.

Mr. Knowlton, Zoning Administrator, stated that it would not.

Mr. Barnes asked if he expected to continue to live here.

Mr. Jones stated that he did plan to continue to live here and that this addition is for his family's use. He stated that he had owned the property for five years. He stated that he planned the construction of the addition to be compatible with the existing structure.

In application No. V-109-73, application by Carroll G. & Elizabeth C. Jones, under Section 30-6.6 of the Zoning Ordinance, to permit enclosure of existing carport and construction of garage closer to front line than allowed on property located at 4805 Springbrook Dr., also known as tax map 69-4((7))(6)1, County of Fairfax, Virginia, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 11th day of July, 1973, and

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

1. That the owner of the subject property is Carroll G. & Elizabeth C. Jones.
2. That the present zoning is R-17.
3. That the area of the lot is 17,701 sq. ft.

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

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
 - (a) exceptionally irregular shape of the lot,
 - (b) exceptional topographic problems of the land,
 - (c) unusual condition of the location of existing buildings.

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

- 1. This approval is granted for the locations and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
- 2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
- 3. The addition shall be of similar architectural materials and style to the existing structure.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, residential use permits and the like through the established procedures.

Mr. Baker seconded the motion.

The motion passed unanimously.

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CHRISTIAN & MISSIONARY ALLIANCE CHURCH, app. under Section 30-7.2.6.1.11 of Ord. to permit church, southeast corner Franconia Road and Wilton Road, 82-4((1))4C, Lee District (R-17), S-110-73

Mr. G. J. Wiedenkeller, 510 North Randolph Street, architect for applicant, testified before the Board on behalf of the applicant.

Notices to property owners were in order. The contiguous owners were William F. Mitchell and Harry Frazier, Trustees, 6005 Bangor Drive, Alexandria, Virginia and the Estate of Walter and Cordelia Crain, c/o John Aylor, 4017 Chain Bridge Road, Fairfax, Virginia, 22030.

Mr. Wiedenkeller stated that there is a covenant in the deed which states that this property would be used only for religious purposes for ten years. They started drawing the plans for this church prior to the time these churches required a Special Use Permit.

Mr. Smith stated that if the Board grants a Special Use Permit for this Church, it will run with the land. He asked if there was any thought to changing the use in five to ten years.

Mr. Wiedenkeller stated that there was not.

Mr. Smith stated that they would not be able to change the use in five or ten years.

Mr. Wiedenkeller stated that the members of this church is eight-six and this proposed church will accomodate 175 people at a future date. There are 35 parking spaces provided. The construction of the church is concrete block and brick veneer.

Rev. John Perry, Minister of this church since January of 1971, spoke before the Board. He stated that they purchased this property in 1970 from the Craine Estate with the understanding that the church would begin their operation within twenty-four months. They have had the time extended and they did have plans one year ago, but the return bids were in excess of their capabilities, therefore, they had to make modifications to their plans for construction. During this period of time, they have been meeting in the Wilton Woods School. They appreciate the County's allowing them to use this school, but they would like very much to have a church of their own.

There was no opposition to this use.

In application No. S-110-73, application by Christian & Missionary Alliance Church under Sec. 30-7.2.6.1.11, of the Zoning Ordinance, to permit church on property located at southeast corner Franconia Rd. and Wilton Rd., also known as tax map 82-4((1))4C, Co. of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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CHRISTIAN & MISSIONARY ALLIANCE CHURCH (continued)

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 11th day of July, 1973.

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

1. That the owner of the subject property is Christian & Missionary Alliance Church, Trs.
2. That the present zoning is R-17.
3. That the area of the lot is 87,123 sq. ft.
4. That Site Plan approval is required.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of the Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The maximum membership to be 175.
7. Parking, screening, landscaping to be in accordance with requirements of the Department of County Development.

Mr. Baker seconded the motion.

The motion passed unanimously.

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10:40 - MURRAY WEINBERG, TR., app. under Section 30-6.6 of Ord. to permit office building closer to side property line than allowed, 6066 Leesburg Pike, 61-2((1))6, Mason District (C-0H), V-111-73

Mr. Hansbarger, 10523 Main Street, attorney for the applicant, represented them before the Board.

Notices to property owners were ruled improper because he had not notified the property owners at least ten (10) days prior to the hearing date. They were mailed on the 3rd of July.

Mr. Hansbarger argued that there is no law that requires a ten day notice.

Mr. Smith stated that the Code does say that the Board of Zoning Appeals can set procedures relative to this notification and they have set as a procedure the notification requirement of ten (10) days. This has been a standard procedure of the Board of Zoning Appeals for quite a few years. The applicant was notified of this in writing at the time he was notified of this hearing.

Mr. Smith stated that this case would have to be deferred until the next available hearing date which would be August 1, 1973, at 11:20 A.M.

Mr. Forcier came forward and stated that he had just arrived and wished to be apprised of what had transpired.

Mr. Smith explained this to him.

Mr. Forcier stated that they had taken time off from work for this hearing and he felt the Board should hear the case as all the interested people were present today.

Mr. Smith apologized that they could not hear the case, but stated that this is a procedural requirement and they must defer the case until this requirement can be met.

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JERUSALEM BAPTIST CHURCH, app. under Section 30-7.2.6.1.11 of Ord. to permit addition to church of Educational Building and Bus Shelter, 5424 Ox Road, 68-3((1))52,54,55A, Springfield District (RE-1), S-113-73

Rev. William F. Revis, Pastor of the Church, testified before the Board.

Notices to property owners were in order. The contiguous owners were Joe Mullander, 11023 Pope's Head Road and Frederick Jones, 5428 Ox Road.

Rev. Revis stated that this is a request for an addition to the existing church. This addition will be to the new building that they occupied in 1968. The frame building that is on their property has been there since the Civil War days. They have one of the oldest sites in the County. The original building was constructed in 1856. George Washington was a Vesterman in that Church. This was built on the middle ridge and this was a fine brick building. The Church was named after Edward Payne, the builder. The Federal troops tore this building down and used the bricks for their winter encampment. In 1856, the frame building that is on the property now was built.

Rev. Revis stated that their present membership is 375. He stated that they do plan a bus shelter, but it will be completely hidden in the woods. This building is for practical purposes so that the men can make minor repairs on the busses.

Mr. Smith stated that they would have to brick it, so that it will be compatible with the church and in harmony with the neighborhood.

There was no opposition to this use.

Rev. Revis asked if they could have a site plan waiver.

Mr. Smith stated that that problem was not within the jurisdiction of this Board. This is something they will have to take up with Preliminary Engineering on the 7th Floor.

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July 11, 1973

JERUSALEM BAPTIST CHURCH (continued)

In application No. S-113-73, application by Jerusalem Baptist Church under Sec. 30-7.2.6.1.11, of the Zoning Ordinance, to permit addition to church of Educational Building & Bus Shelter, on property located at 5424 Ox Rd., also known as tax map 68-3(1)52,54,55A, Co. of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 11th day of July, 1973.

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

1. That the owner of the subject property is Jerusalem Baptist Church, Trs.
2. That the present zoning is RE-1.
3. That the area of the lot is 14.6671 acres.
4. That Site Plan Approval is required.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

Mr. Baker seconded the motion.

The motion passes unanimously.

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MICRO SYSTEMS COMPANY, app. under Section 30-7.2.10.5.9 of the Ordinance to permit motel 250 feet north of intersection of Route 1 and Old Mill Road, 109 ((2))11, 12, Mount Vernon District (C-G), S-114-73

Mr. Ronald Tydings, 4085 Chain Bridge Road, Fairfax, attorney for the applicant, testified before the Board on behalf of the applicant.

Notices to property owners were in order. The contiguous owners were George and Jack Lucas, 8847 Richmond Highway; Statewide Stations, Inc., Texaco, Inc., 2100 Hunters Point Avenue; and Jack and Ester Coopersmith, 15th Street, N.W., Washington, D. C.

Mr. Tydings stated that this application is for a transfer of a Special Use Permit that was granted to RBD Associates on May 10, 1972. This was extended for six months from May 10, 1973. The only change is the change in ownership. The seller, RBD Associates, will retain a small interest in this. Micro Systems will be the principal owner and operator. RBD will retain a small ownership interest in the actual motel itself. It will be a limited partnership status. RBD sold this to Micro Systems on June 29, therefore, they have taken title.

Mr. Smith stated that there is a letter in the file showing that this has been cleared with the Architectural Review Board.

There was no opposition to this application.

In application No. S-114-73, application by Micro Systems Company under Sec. 30-7.2.10.5.9, of the Zoning Ordinance, to permit motel on property located at intersection Rt. 1 and Old Mill Rd., also known as tax map 109((2))11,12; Mt. Vernon District, Co. of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 11th day of July, 1973.

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is C-G.
3. That the area of the lot is 85,642 sq. ft.
4. That site plan approval is required.
5. That Special Use Permit #S-40-72 was granted to R.B.D. Associates on May 10, 1972, and extended for six months from May 10, 1973.
6. That compliance with all county codes is required.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I Districts as contained in Section 30-7.1.2 in the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

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MICRO SYSTEMS COMPANY (continued)

4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. Approval from the Architectural Review Board is required.

7. There shall be a minimum of 113 parking spaces.

8. The owner is to dedicate the service drive for the full frontage of the property along Route 1 prior to site plan approval.

9. No direct entrance from U.S. Route 1 to site to be allowed.

10. All planting, screening, landscaping, and brick walls, as shown on plans shall be as approved by the Director of County Development.

11. All signs must be approved by the Architectural Review Board and must comply with the Fairfax County Sign Ordinance.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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FRANCONIA ALLIANCE CHURCH, app. under Section 30-7.2.6.1.11 of Ord. to permit addition to existing church, 6315 Beulah Street, 81-3((9))39, Lee District (RE-1), S-115-73

Mr. Huber, 7121 Judith Avenue, Alexandria, represented the Church before the Board.

Notices to property owners were in order. The Contiguous owners were Leonard Milliken 6808 Newington Road, Lorton, Virginia and Francis P. Rebholtz, 6047 Clames Drive, Alexandria, Virginia 22310.

Mr. Huber stated that the purpose for this addition to their church is for an educational wing.

Mr. Kelley asked if they were willing to dedicate as suggested by Preliminary Engineering along Beulah Road.

Mr. Huber stated that they were.

Mr. Julius Staley, 8000 S.W. 99th Court, Miami, Florida, spoke before the Board. He stated that the property next to the church belongs to his mother. He wanted to know what the Church was planning to do.

Mr. Smith told him that the Church is planning on adding an addition. He asked Mr. Staley to come forward and look over the plans for that addition.

Mr. Staley did this and afterwards stated that he had no objections.

There was no one in the room to speak with regard to this application, either for or against.

In application No. S-115-73, application by Franconia Alliance Church under Sec. 30-7.2.6.1.11, of the Zoning Ordinance, to permit addition to existing church, on property located at 6315 Beulah Street, also known as tax map 81-3((9))39, Co. of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 11th day of July, 1973.

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FRANCONIA ALLIANCE CHURCH (continued)

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

1. That the owner of the subject property is Franconia Alliance Church, Trs.
2. That the present zoning is RE-1.
3. That the area of the lot is 83,957 sq. ft.
4. That Site Plan approval is required.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. Addition shall be of similar architectural style and material to existing structure.
7. The applicant agrees to dedicate an additional 15 feet along Beulah Road.

Mr. Baker seconded the motion.

The motion passed unanimously.

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2:20 P.M.

BETTY & ELMER WARD, V-101-73, Deferred from 6-27-73 for proper notices and certified plats -- application under Sec. 30-6.6 of Ord. to permit enclosure of existing porch, 3042 Heather La., 51-3((19))(G)2, Mason District (R-12.5).

Mr. Stanley Wilson, 3332 Curtis Drive, Apartment 103, Hillcrest Heights, Maryland, represented the applicant.

Notices to property owners were in order. The contiguous property owners are Marjorie Kay, 6111 Wooten Drive, Robert Cunningham, 6117 Wooten Drive and Mr. Clohan, 3044 Heather Lane.

Mr. Wilson stated that this house was purchased in 1961.

Mr. Runyon stated that it is a pretty old subdivision and probably goes back to the 40's.

Mr. Wilson stated that this is an existing porch which has become rundown and in need of repair and the applicants would like to enclose the porch at the same time they repair it. The property is very narrow. They cannot put the addition on the rear as they have oil heat and there is a very large oil tank in the rear of the house that cannot be moved very easily. There is also a large air conditioning unit to the back. Both of these would have to be not only moved, but the complete heating and air conditioning system would have to be reworked.

He submitted letters from some of the nearby property owners in favor of this application.

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 BETTY & ELMER WARD (continued)

Mr. Smith accepted the letters for the file.

There was no opposition to this application.

In application No. V-101-73, application by Betty & Elmer Ward, under Section 30-6.6 of the Zoning Ordinance, to permit enclosure of existing porch, on property located at 3042 Heather Lane, also known as tax map 51-3((19))(G)2, Mason District, County of Fairfax, Virginia, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 11th day of July, 1973, and

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

1. That the owner of the subject property is Elmer H. & Betty P. Ward.
2. That the present zoning is R-12.5.
3. That the area of the lot is 7,824 sq. ft.
4. That property is subject to Pro Rata Share for off-site drainage.

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

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:

- (a) exceptionally narrow lot

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, Residential Use Permit and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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12:20 A.M.

WILLIAM L. SMYTH et ux, H. A. SALIH, M.D., T/A Foresight Institute, app. under Section 30-7.2.6.1;3 of Ord. to permit Diagnostic Center and School, Western Terminal of Woodbine Lane, 59-3((1))part parcel 11, Providence District (RE-0.5), S-116-73.

Mr. William Smyth represented the applicant before the Board.

Notices to property owners were not in order. The applicant had not notified property owners ten days prior to the hearing.

The hearing was rescheduled for August 3, 1973 at 10:20 A.M.

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July 11, 1973
RUDOLF STEINER SCHOOL

2:00 - RUDOLF STEINER SCHOOL, app. under Section 30-7.2.6.1.3 of Ord. to permit primary school and kindergarten, 75 children, 9 A.M. to 3 P.M., 5 day per week, 3241 Brush Drive, 60-1((1))79, Providence District (R-10), S-87-73 (Deferred from June 13, 1973 for proper notices).

Mrs. Ellen Taylor represented the applicant.

Notices to property owners were in order. The contiguous owners were Mrs. Goodwin, 3230 Locker Street, Falls Church, Virginia; Mr. and Mrs. Miller, 3302 Brush Drive, Falls Church, Virginia and Mr. and Mrs. Williams, 3240 Locker Street, Falls Church.

Mrs. Taylor stated that this is an existing school. They presently have a permit for 60 students from the State and from the Health Department. They have space enough for 75 students, but the toilet facilities limit them to 60. They now have 48. The age will be from 3 to 11. It will be Kindergarten to Third Grade. The school has been in operation since 1970.

She stated that there is a letter in the file from Mr. John Daughterty in favor of this use.

There was no opposition to this application.

In application No. S-87-73, application by Rudolf Steiner School under Section 30-7.2.6.1.3, of the Zoning Ordinance, to permit primary school and kindergarten, on property located at 3241 Brush Dr., also known as tax map 60-1((1))79, Providence District, Co. of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 13th day of June 1973.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is St. Patrick's Episcopal Church.
2. That the present zoning is R-10.
3. That the area of the lot is 5.5973 acres.
4. That Site Plan approval is required.
5. That compliance with all county and state codes is required.
6. That property is subject to Pro Rata Share for off-site drainage.
7. That the applicant has been operating a primary school and kindergarten at this location, pursuant to Special Use Permit granted September 15, 1970. That permit has expired.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

July 11, 1973

RUODLF STEINER SCHOOL (continued)

4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMITS AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. The maximum number of children shall be 60, ages 3 to 11 years.

7. The hours of operation shall be 9:00 A.M. to 3:00 P.M., 5 days per week, during the normal school term as set by the Fairfax County School Board.

8. The operation shall be subject to compliance with the inspection report, the requirements of the Fairfax County Health Department, the State Department of Welfare and Institutions, and the obtaining of a certificate of occupancy.

9. All buses and/or vehicles used for transporting students shall comply with county and state standards in color and light requirements.

10. This permit is granted for 1 year, with the Zoning Administrator being empowered to extend for 1/2, 1-year periods upon presentation of proper lease, 60 days prior to lease expiration.

Mr. Baker seconded the motion.

The motion passes unanimously.

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2:40 P.M.

CEDAR KNOLL INN, Hearing on Revocation Notice Held June 13, 1973 and deferred to 7-11-73 for decision, 9030 Lucia Lane, 111-1((1))5, Mount Vernon District (R-12.5), Permit originally issued to Mildred Linster in 1942, now owned by Mr. and Mrs. Raj Mallick.

Mr. Smith stated that there had been several letters received between the time of the original hearing and this hearing. Those will be entered into the record in the file. The Board members have already read these letters. These letters were from:

B. R. Eggegan, 2102 Prices Lane, Alexandria, Virginia; Joel T. Broyhill, Congress of the United States; The United States Department of Interior; E. R. Heiberg, III, 2005 Prices Lane, Alexandria, Virginia; The World Wide Baraca Philathea Union, Mount Vernon, Virginia; Turner and Helen Timberlake, 8904 Bridgehaven Court, Alexandria, Virginia; a letter from Mr. Raj Mallick, owner of the Cedar Knoll Inn.

Mr. Smith stated that the violations that were brought to the attention of the Board were numerous. The expansion of the use was not consistent with Fairfax County's Zoning Ordinance. The Board has spent considerable time trying to come to a decision that would be equitable for all concerned and still protect the safety, health and welfare of the citizens of the county and protect the Zoning Ordinance as it now exists. The public hearing is now complete. He asked the Board for a decision.

(See July 18, 1973 RESOLUTION on this case. BZA read for clarification and approval on July 18, 1973)

Mr. Runyon made the following motion:

With regard to the Cedar Knoll Inn owned by Mr. and Mrs. Raj J. Mallick at 9030 Lucia Lane, 111-1((1))5, Mount Vernon District (R-12.5) Permit originally issued to Mildred Linster, I have the following motion:

FINDINGS OF FACT:

1. There was a Special Use Permit granted on September 8, 1941 and an Occupancy Permit issued February 16, 1942 for the operation of a Tea Room in the existing dwelling zoned Rural Residential.

2. The only zoning change was from one residential zoning category to another. The present zoning being R-12.5

3. All indications are that the operation has continued over a period of years in the dwelling that existed at the time of the original granting as a Tea Room.

4. This is a conforming use under the existing Fairfax County Zoning Ordinance, Section 30-4.2.7. Any use for the establishment of which a permit from the Board of Zoning Appeals is required under the use regulations for a particular district as set forth in Subsection 30-2.2.2, whether such use is existing in such district at the time of the adoption of this chapter or is subsequently established therein on the obtaining of such a permit shall be deemed to be a conforming use in such a district; provided,

This Motion was Read for Clarification on July 18, 1973

that any subsequent replacement or enlargement of such use or of any building in which the same is conducted or the construction of any additional building for such use beyond the extent specified in any such permit (or the extent to which such use existed at the time of the adoption of this chapter) shall be subject to the obtaining of a further permit therefore from the Board of Zoning Appeals.

5. The appellants purchased the property in excess of two and one-half years ago.

6. The Zoning Administrator's Office received a complaint of an expansion of a parking area. Upon inspection of the premises, notice was given to obtain a construction permit for the parking area.

7. Records indicate that on 4-13-71, appellants signed a construction agreement with the County of Fairfax. The testimony and the existing record indicate that appellants have not, as of this date, complied with this Agreement to complete the improvements of parking lot, repair existing sewerage disposal facilities and install 6" water main and fire hydrant from Prices Lane. Disturbed areas to be seeded and mulched upon completion.

8. Captain Peck from Fire Services Administration stated in his testimony at the public hearing on June 13, 1973 that there are two areas in question as far as their Department is concerned. One area is the construction classification which, according to his interpretation of the Building Code, would not be permitted. The other problem is with respect to the waiver of the fire protection for the facility. It was his understanding that when the applicants applied for this addition, there was no site plan submitted. If it had been submitted and gone through the regular procedure, it would not have been approved without the provision of providing a fire hydrant. As the situation is now, the only water that is available is from existing hydrants on Price's Lane, or trucking the needed water into the facility; or, if conditions were exactly right, use the water from the Potomac River. However, as to the latter probability, there is no hard surface road which comes within a reasonable distance to the edge of the embankment of the river; and, if the ground is wet, the trucks would not be able to take their vehicles off the road to get down to the river, or the tide might be out.

Under Section 306.2 of the Building Code for Fairfax County, it is unlawful to increase the height or area of an existing building or structure unless it is of a type of construction permitted for a new building. In this case, the Cedar Knoll Inn was of a non-conforming construction for the type of use. Section 418.13 of the Building Code prohibits the construction for F-1 Use Group out of frame (Type 4) construction. Since the Cedar Knoll Inn has a dinner theatre, therefore, again, it would be in violation. Table 6 of that Code which would refer you to the area limitations, because this is a two story structure, this type construction is not permitted under any type of classification and with respect to the F1-A Use, it is strictly not permitted. Their office would like to know why the waivers were granted with respect to the site plan and, also, why this type of construction was permitted.

9. Mr. Reeves from the Fairfax County Health Department testified that their latest inspection was March 6, 1973 by Mr. Walker, the area sanitarian. The inspection was a check to see if they were keeping all foods covered and health cards were posted, etc. They found that the dishwasher rinsing temperature was only 140 degrees and it should have been 180 degrees. There was a dog in the storage room which was removed. They have asked Mrs. Mallick to put in a hand basin and a mop sink and a dipper well for the ice cream scoop; but, as yet, she has not done this. These items were required by the County and State Code and, also, by the Plumbing Department. These items have been requested to be put in continuously since 1971 and they still have not been installed. They were told by the Mallicks that these items would be put in at the time they put in toilet facilities in the addition, but they never put in the toilet facilities that they had planned to put in and they never put in these items they had asked them to put in either. Before they renewed their license in December, these fixtures would have to be put in.

10. Upon inspection by the Board of Zoning Appeals members on June 15, 1973, the Board found that there had been at least three (3) additions to the existing dwelling that was originally granted a Special Use Permit in 1941. At least two of these additions were constructed without building permits.

11. The major addition was approximately 18' x 30'. Records indicate that a building permit was obtained for this addition after construction had begun and footings poured and Notice of Violation was made.

12. These expansions and additions took place in violation to Section 30-4.2.7 of the Fairfax County Code as per letter to Mrs. Theodore Mallick dated November 4, 1971 from William J. Barry, Senior Zoning Inspector which also indicated that this major addition requires a hearing before the Board of Zoning Appeals.

13. The 18' x 30' addition is not in harmony with, nor compatible with the residential character of the area, nor is it in keeping with the United States Department of Interior's National Park Service's plan for the George Washington Memorial Parkway.

14. The addition is in violation to the setback requirements of the Fairfax County Zoning Ordinance.

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

1. Based on the findings of fact, the Board of Zoning Appeals does hereby find that the appellants have not complied with all the requirements of the law with respect to the maintenance and conduct of the use and have expanded the use without complying with Section 30-4.2.7 of the Fairfax County Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Zoning Appeals does hereby suspend the Revocation for a period of Ninety (90) days to allow the appellants to bring the use into conformity with the original conditions that existed at the time of the purchase of the property by the appellants.

This is to include the following:

1. Discontinue all theatre performances.
2. The 18' x 30' addition is to be removed.
3. Discontinue all outside dining facilities and all activities pertaining to the use will be confined to the original dwelling.
4. Any future expansion, construction or changes in use, or changes in ownership will be subject to review by this Board:

IF, after ninety (90) days, the appellants have not complied with these items, the original revocation will be enforced.

Mr. Baker seconded the motion.

The motion passed unanimously with all the members of the Board present.

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QUARLES ROBERTSON OIL COMPANY, Special Use Permit granted August 2, 1972 for service station.

Mr. Smith read a letter from Mr. Hanes, attorney for the applicant, requesting a six month extension as they have not been able to get their site plan approved by the County and have not begun construction.

Mr. Baker moved that the request be granted for a six month extension from August 2, 1973.

Mr. Runyon seconded the motion.

The motion passed unanimously.

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NATIVITY LUTHERAN CHURCH SCHOOL, Special Use Permit application

Mr. Smith read a letter from the applicant requesting an out of turn hearing in order that they might be able to begin the school at the beginning of the school year.

Mr. Baker moved that this request be granted for the out of turn hearing and that this hearing be scheduled for August 1, 1973.

Mr. Runyon seconded the motion.

The motion passed unanimously.

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B. BLAINE LILJENQUIST, S-147-73

Mr. Smith read a letter from the applicants requesting an out-of-turn hearing.

Mr. Baker moved that this request be granted for the August 1, 1973 meeting date.

Mr. Runyon seconded the motion.

The motion passed unanimously.

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Mr. Baker moved that the minutes of June 13, 1973 and June 15, 1973 be approved with corrections as noted.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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ALLEN GASNER, THE RICHARDS GROUP, Variance

Mr. Smith read a letter from the applicant requesting an out of turn hearing as they had made a mistake and started constructing the house closer to the property line than allowed in the Ordinance and therefore, they have had to stop construction until the Board can hear their request to allow the house to remain.

Mr. Baker moved that the request be granted for the August 1, 1973 meeting.

The Runyon seconded the motion.

The motion passed unanimously.

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WEST DEUTAR, INC., Variance

Mr. Smith read a letter from the applicant requesting an out of turn hearing as they also had made a mistake and started constructing the house closer to the property line than allowed in the Ordinance and therefore, they have had to stop construction until the Board can hear their request to allow the house to remain.

Mr. Barnes moved the request be granted and the hearing set for August 3, 1973.

Mr. Baker seconded the motion and the motion passed unanimously.

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July 11, 1973

YWCA, Special Use Permit Application for a Preschool.

Mr. Smith read a letter from the applicant requesting an out of turn hearing for August in order that their school could begin in September at the beginning of the school year.

Mr. Barnes moved that the request be granted and that the hearing be set for 10:00 August 3, 1973. Mr. Baker seconded the motion and the motion passed unanimously.

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AMERICAN HERITAGE INC.

Mr. Thomas H. Woods, President wrote a letter to the Board requesting an out of turn hearing based on financial hardship.

The applicant had not submitted an application, nor any plats or other supporting documents.

Mr. Barnes stated that he felt the applicant should be granted an out of turn hearing if he could get all the necessary items in by Thursday afternoon in order that the case could be advertised for the August 3rd meeting. He stated that he would make this his motion.

Mr. Runyon seconded the motion and the motion passed unanimously.

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SCHOOL FOR CONTINUING EDUCATION , Special Use Permit

Mr. Smith read a letter from the architect requesting that they be allowed to change the building location. They would still be within the proper setbacks.

The Board ruled that the applicants would have to come back before the Board of Zoning Appeals with a new application as this is the third time they have been back to the Board with minor changes.. They would schedule the case for August 3, 1973, if the applicants could get the application and proper plats and supporting documents in by Thursday afternoon, July 12, 1973.

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MADIERA SCHOOL, Special Use Permit

Mr. Smith read a letter from the applicant requesting that they be allowed to put an extension on the stable and also build a small toolshed on the property. The applicant stated in their letter that these items were minor in relation to the area of their land and the existing building on the property.

Mr. Smith stated that unless the Board gets new plats for the file, there is no way to keep a record of these additions.

The Board ruled that the applicants would have to file a new application, pay the fee and submit new plats and supporting documents. If they are able to do this by July 12, 1973, they could be scheduled for the Special Meeting on August 3, 1973.

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COL CUMINGS, Variance

Mr. Smith read a letter from Col. Cumings requesting a rehearing on his variance that the Board denied for the bubble around his swimming pool as he felt the Board might not have been aware that this bubble is removed in the early summer and is not put up again until late fall and therefore is only a temporary bubble. He stated that the neighbor who had objected to this bubble has moved and the new neighbors have no objection to this bubble.

Mr. Kelley stated that his feelings were the same as before.

Mr. Smith stated that his feelings are also the same and he also felt that the Board had enough information at the time of the hearing to make a proper decision. He stated that he was aware that this bubble was not up all year round, but it is up a great portion of the year. The fact that he had the bubble up before he asked for the variance would also be taken into account. There was no indication of a bubble at the time the Board granted the variance for the pool to go in.

Mr. Kelley moved that the request be denied since there is no new information.

Mr. Barnes seconded the motion. He stated that he also did not feel there was any new information or change from the information at the original hearing.

Mr. Runyon stated that his firm worked on the drawing for this project, therefore, he

The motion passed unanimously.

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FAIRFAX COUNTY VOCATIONAL EDUCATION, INC., Variance

Mr. Smith read a letter from the applicants requesting an out of turn hearing on this case as there had been a mistake on the house that the high school students had built and this house is ready for settlement and this error was holding up the Residential Use Permit. The Board needs to hear this case in order that this problem can be cleared up.

Mr. Baker moved that they be granted an out of turn hearing for August 3, 1973.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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Mr. Knowlton brought before the Board a question of interpretation regarding electrolysis shops in Fairfax County. He stated that he is informed that the people who perform electrolysis are not licensed with a medical license. He stated that it was his interpretation that this is not a home occupation and also is not a professional office as defined in the Ordinance, therefore, it is not permitted in a residential zone in any form.

The Board members discussed this matter and it was their decision to concur with the Zoning Administrator.

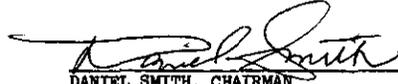
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The Board directed Mrs. Kelsey, Clerk to the Board of Zoning Appeals, to work overtime if she was agreeable to this, and type the motion for the Cedar Knoll Inn case in order that the applicant could have a copy of this motion as soon as possible.

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The meeting adjourned at 5:13 P.M.

By Jane C. Kelsey
Clerk


DANIEL SMITH, CHAIRMAN

APPROVED September 19, 1973
(Date)

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The Regular Meeting of the Board of Zoning Appeals Was Held On Wednesday, July 18, 1973, in the Board Room of the Massey Building. Present: Daniel Smith, Chairman; Loy P. Kelley, Vice-Chairman; George Barnes; Joseph Baker and Charles Runyon.

The meeting was opened with a prayer by Mr. Barnes.

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10:00 - THEODORE J. DOWD, app. under Sec. 30-6.6 of Ord. to permit aluminum awning and screen enclosure closer to rear property line than allowed, 2503 Appian Court, 93-3((25)) (3) 18, Mount Vernon District (R-12.5), V-117-73

Mr. Joseph Roe, 2500 North Van Dorn Street, Apartment 720, Alexandria, Virginia, represented the applicant before the Board.

Notices to property owners were in order. The contiguous owners were Charles Crismon, 2501 Appian Court and John E. Melon, 2505 Appian Court.

Mr. Roe stated that there is already a concrete slab in the rear of the house and they want to put an aluminum roof and screen enclosure there. He needs this enclosure as he has two small children and needs a play area for them.

Mr. Smith asked what the topographic problem is.

Mr. Roe didn't know.

Mr. Smith asked if he had read the section of the ordinance that this variance could be granted under.

Mr. Roe stated that he had not.

Mr. Smith stated that he had to present to the Board what that hardship is under the Ordinance. Otherwise, the Board has no power to grant the variance.

Mr. Baker moved that the case be postponed until the end of the Agenda to allow Mr. Roe time to read the ordinance and see if there was a topographic problem with the land that causes them to need the variance.

Mr. Barnes seconded the motion.

The motion passed unanimously.

Mr. Kelley asked why Mr. Dowd was not present to present his own case.

Mr. Roe stated that the aluminum company was under contract to install this aluminum screened enclosure and they get the proper permits.

This case was recalled later in the day.

Mr. Roe stated that this lot is on a cul-de-sac. The Board approved a variance last year for a similar screened enclosure across the street from the Dowds. The lot has an unusually shallow rear yard which deprives the owner of the reasonable use of the land. The enclosure will not be detrimental to the enjoyment of the property owners nearby. It will be harmonious with the other buildings in the area. The lot is pie-shaped.

Mr. Smith stated that under the ordinance the shape of the lot and the fact that the lot has an irregular shape would apply under the ordinance as a reason to grant this request.

Mr. Kelley agreed.

There was no opposition to this application.

Mr. Smith told Mr. Roe that if his company was going to operate in Fairfax County, they should be aware of the Zoning Ordinance and should have a copy for quick reference and become familiar with it.

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In application No. V-117-73, application by Theodore J. Dowd, under Section 30-6.6 of the Zoning Ordinance, to permit aluminum awning and screen enclosure closer to rear property line than allowed by Ordinance, on property located at 2503 Appian Ct., also known as tax map 93-3((25))(3)18, Mt. Vernon District, County of Fairfax, Virginia, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 18th day of July, 1973, and

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

1. That the owner of the subject property is Theodore J & Florence Dowd.
2. That the present zoning is R-12.5.
3. That the area of the lot is 15,819 sq. ft.
4. That the property is subject to Pro Rata Share for off-site drainage.
5. That the applicant is requesting a 2.9' variance.

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

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and buildings involved:
 - (a) exceptionally irregular shape of the lot,
 - (b) unusual location of existing buildings

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, residential use permit, and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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10:20 - FRANCES CHINN, app. under Sec. 30-7.2.6.1.3 of Ord. to permit preschool in existing church, 1860 Beulah Road, 28-3(1)20, Centreville District (RE-1), S-118-73

Mrs. Chinn represented herself before the Board.

Notices to property owners were in order. The contiguous owners were J. D. Lewis, 1350 Beulah Road, and Peggy Williams, 1864 Beulah Road, Vienna, Virginia.

Mrs. Chinn stated that the school would be located in the Antioch Church. They have been operating in this church for six years. Her mother had the school previously and they did not know that they needed a Special Use Permit until earlier this year when the Health Department told them. They plan to operate from 9:30 A.M. until 12:30 P.M. 5 days per week. They will teach a maximum of forty-five children. The ages are 2 to 5. The transportation will be provided by the parents.

There was no opposition to this application.

In application No. S-118-73, application by Frances Chinn T/A Antioch Christian Church, under Sec. 30-7.2.6.1.3, of the Zoning Ordinance, to permit pre-school in existing church, on property located at 1860 Beulah Rd., also known as tax map 28-3(1)20, Co. of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 18th day of July, 1973.

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

1. That the owner of the subject property is Antioch Christian Church.
2. That the present zoning is RE-1.
3. That the area of the lot is 1.15379 acres.
4. That compliance with all County and State codes is required.
5. That Site Plan approval is required.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
5. The maximum number of children shall be 45, ages 2 to 5 years.
6. The hours of operation shall be 9:30 A.M. to 12:30 P.M., 5 days per week, Monday through Friday.
7. The operation shall be subject to compliance with the inspection report, the requirements of the Fairfax County Health Department, the State Department of Welfare and Institutions and obtaining a Non-Residential Use Permit.
8. This permit shall run for 3 years with the Board of Zoning Appeals being empowered to extend this permit for 2, 1-year terms.

Mr. Baker seconded the motion and the motion passed unanimously.

AMERICAN OIL CO., app. under Sec. 30-7.2.10.3.1 of Ord. to permit amendment to Special Use Permit No. S-238-70, to permit 6x8' sign, 6703 Backlick Road, 9042(1)27, Springfield District, (C-D), S-119-73

Mr. Grayson Hanes, 10409 Main Street, Fairfax, Virginia represented the applicant.

Mr. Hanes stated that he had with him Mr. Jeff Boyer of the firm of Dewberry, Nealon and Davis, the engineers for this site, to answer any technical questions the Board might have.

Notices to property owners were in order. The contiguous owners is: B. Mark Fried, who abuts the property on two sides. His address is The Executive Building, Springfield, Virginia.

Mr. Hanes asked to be made part of the record the report and the slides that they will present and the pictures that he would present. He stated that it is important to understand what they are not asking for and what they are asking for. They are not asking this Board for the right to erect the sign, because they do not feel this is within the jurisdiction of the Board. They are asking the Board to delete Condition Number 6 of the Special Use Permit granting this American Oil Company service station. This condition says that all signs must conform to the sign ordinance and their position is that there are problems within the sign ordinance that they can take on with the County. If there was no sign ordinance in existence, the Board of Zoning Appeals would have the right to impose as a condition that there be no signs where it is arbitrary and capricious. He stated that they were not asking the Board to allow them to erect the sign, but remove the statement regarding the sign ordinance, because it then becomes the condition of the Board of Zoning Appeals. With that condition in there, if they do not do what the sign ordinance says, then the Board could possibly bring the station back and revoke their use permit even though the sign ordinance was invalid.

There is a specific problem with that particular site, which they intend to prove, that causes them to need this sign.

Mr. Hanes stated that on January 26, 1971, this Board granted a Special Use Permit for the erection of a service station with three bays on this site. There was a plat submitted with the application. That plat showed a sign to the rear which was a high rise sign 10'x17'. The Board specifically said that that sign should be removed. Along the front and side property line, another sign was shown, 10'x6'. The Board did not specifically require removal that sign. He stated that it was his interpretation in light of this that the Board did not intend to remove this sign. They feel they should be allowed to erect this sign to show the public that they are there. Without a sign at this location, it is dangerous to the public as they cannot see the station until they are upon the site. This is a question of being treated fair and equal. Coming toward the station there are three signs, one for Shell, one for Texaco and one for Sunoco. These stations are doing a very good business. American's station is only pumping 18,000 gallons per mo. on a 24 hour basis and, therefore, is doing a very poor business. This station does not even pump enough gas to come up to its allocation. Its allocation is 27,000 gallons per month. Based on the traffic count, this station should pump 50,000 gallons of gasoline per month. They contend that the reason is because the motorists do not see the site and do not know it is there in time to stop. Even if they do stop, they would violate the laws of the State of Virginia; as, by the time a motorist sees the station and slows enough to turn into the station, they are past the station. The other three stations were there before the sign ordinance and are nonconforming.

Mr. Smith asked if the other stations along there meet their quota every month.

Mr. Hanes stated that he could not answer that, but it is his understanding that most of the stations are running out by the end of the month.

Mr. Smith asked when this station began operation.

Mr. Hanes stated that it began operation in November, 1972.

Mr. Smith stated that he believed that this station would not have the quota system that the other stations have as the other stations have the same quota as they had a year ago and a year ago this station was not in operation.

Mr. Smith asked if the other American Oil Stations that have been operating more than a year sell 50,000 gallons of gasoline per month.

Mr. Hanes stated that he could not answer that.

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Mr. Smith stated that no free standing signs are permitted in a commercially designed shopping center.

Mr. Hanes stated that they would have no problem if the shopping center was there because that would alleviate the site distance problem and people could see the station.

Mr. Smith stated that this site was originally zoned for a shopping center or a new car dealership, but it is C-D zoning which means that it is a designed shopping center.

Mr. Hanes stated that they would be prepared to concede that at such time as the surrounding property is developed, they would remove the sign.

Mr. Smith asked what the owner, Mr. Fried, intended to do with the rest of the commercial property.

Mr. Hanes stated that it was his understanding that he has an application in for a motel on a portion of that site.

Mr. Jeff Boyer, Engineer for the firm of Dewberry, Nealon and Davis, gave the Board a slide presentation to present the situation they were talking about. There were aerial photos showing the site and a slide showing the site distance problem and a report which they discussed at length regarding the site distance.

Mr. Kelley asked why they did not go into all these situations before they came in here and built this particular station. All of this should have been brought out at the time they came in for the original Use Permit.

Mr. Boyer stated that at the time of the original hearing, they showed two signs, one of which they were told to remove, but they were not told to remove this one. By the time they were to the point of erecting the sign, the new sign ordinance had been adopted which caused them not to be able to begin the erect this sign without a permit. The County refused to issue them a sign permit.

Mr. Kelley stated that in their testimony they had stated that this was a dangerous situation for the people, but he did not feel thirty-five miles per hour was dangerous. This is an area that people travel every day to and from work and they know that this station is there. He stated that he also disagrees that it takes 200' driving at 35 mph to stop and turn into this station.

Mr. Boyer stated that the figures he used were based on the pavement being wet.

Mr. Smith asked what percentage of the time was the pavement wet.

Mr. Boyer stated that he did not know.

Mr. Smith stated that he felt they were making a good case for some type of sign ordinance if they showed as many signs as they are showing here. If the Board allows this sign, they would be creating more of this type/thing and the area would soon look like U.S. Route 1.
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Mr. Kelley stated that that is exactly why the Board places conditions such as this on these stations and that is to eliminate conditions such as exist on No. 1 Highway.

Mr. Smith stated that in the testimony, they stated that this station was not selling enough gas. This station was granted to be in a commercial designed shopping center. The center is not there yet. Perhaps this station at this location was a little premature. Perhaps there are too many gasoline stations along this road at this location to serve the local motorists. Mr. Smith stated that if he remembered correctly, this station was supposed to have a State Inspection Station there. This is a local thing and people go here because of their knowledge that it is an inspection station.

Mr. Kelley stated that he was quite familiar with some of the oil companies and they always set the quota high for these stations and if the dealer does not meet his quota, he must make up the difference. He stated that he felt that 50,000 gallons is high quota and is not fair for the operator. He asked the hours of operation.

Mr. Hanes stated that he operates seven days per week from 6:00 A.M. to 10:00 P.M. It has been lease operated by an individual since it opened in November.

Mr. Smith stated that it is normal for a station to not pump as much gas when it has just opened up.

There was no one to speak in opposition, nor any one to speak in favor of this case.

In application No. S-119-73, application by American Oil Co., under Section 30-7.2.10.3.1 of the Zoning Ordinance, to permit amendment of Special Use Permit #238-70, to permit sign 6 x 8, on property located at 6703 Backlick Road, also known as tax map 90-2((1))27, Springfield District, Co. of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 18th day of July, 1973.

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is C-D.
3. That the area of the lot is 36,237 sq. ft.
4. That the applicant is operating under Special Use Permit #238-70, granted January 16, 1971.

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

1. That the applicant has not presented testimony indicating compliance with Standards for Special Use Permit Uses in C. or I Districts as contained in Section 30-7.1.2 in the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr. Barnes seconded the motion.

The motion passed with Messrs. Smith, Kelley and Barnes voting yea, and Messrs. Runyon and Baker voting no.

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SERGASCO, INC., app. under Sec. 30-7.2.10.2.1 of Ord. to permit remodeling of existing gas station, 2600 Sherwood Hall Lane, 102-1((7))17-B, Mt. Vernon District (C-N) S-120-73

Mr. William E. Astle, attorney for the applicant, represented them before the Board.

Notices to property owners were ruled improper by the Chairman as the applicant had only notified four difference property owners, even though he had notified five property owners (owners of five different properties). Two of the contiguous properties were owned by the same person.

There were numerous people in the room in connection with this application.

The case was set for September 12, 1973.

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Mr. Smith read a letter from the Pastor of the Grace Presbyterian Church requesting an out of turn hearing.

Mr. Baker moved that the request be granted for September 12, 1973.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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GUNSTON BAPTIST CHURCH, app. under Sec. 30-7.2.6.1.11 of Ord. to permit addition to church, 10226 Gunston Hall Road, 114((1))17, Springfield District (RE-2), S-121-73

Rev. Harold Kive, 802 Tennessee Avenue, Alexandria, Virginia, represented the applicant before the Board.

Notices to property owners were in order. The contiguous owners were Vaugh, c/o R.W. Murray, 10219 Belmont Blvd. Lorton, Virginia and Murray, 10219 Belmont Blvd., Lorton, Virginia.

Rev. Kive stated that this will increase their educational facility and will also be used for a large fellowship hall related to the church itself. This will be a one story building. The other two buildings on the property are also one story buildings. The total membership of the church is 175. The active membership is around 100. There are twenty-five parking spaces required, but they have thirty-two. This church is on a septic tank. They have received approval from the Health Department.

Mr. Kelley asked if the parking lot is paved. He stated that the report from Preliminary Engineering states that the parking lot must be paved with a dustless surface.

Rev. Kive stated that it is not paved and they had gotten waivers from the County before regarding the improvements with the agreement that at such time that Gunston Hall Road is widened they would provide the necessary improvements.

Mr. Runyon stated that this has been under review within the County.

Mr. Kelley asked if they planned to use the same type of material as is in the present building.

Rev. Kive stated that they do. It will be white on the outside.

There was no opposition.

In application No. S-121-73, application by Gunston Baptist Church under Section 30-7.2.6.1.11, of the Zoning Ordinance, to permit addition to church, on property located at 10226 Gunston Hall Road, also known as tax map 114((1))17, Springfield District, County of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 18th day of July, 1973.

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

1. That the owner of the subject property is Gunston Baptist Church, Trs.
2. That the present zoning is RE-2.
3. That the area of the lot is 1,996 acres.
4. That Site Plan approval is required.
5. That compliance with all County Codes is required.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

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NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in uses or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening shall be as approved by the Director of County Development.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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GEORGE K. & HELEN M. BASSFORD, app. under Sec. 30-6.6 of Ord. to permit enclosure of porch closer to side property line than allowed in Ordinance, 6630 Hallwood Avenue, 40-4(5)46, Dranesville District (R-10), V-122-73

Mr. Bassford represented himself before the Board.

Notices to property owners were in order. The contiguous owners were C. D. Jeckell, 6628 Hallwood Avenue, Falls Church and Theodore J. Jackie, 6632 Hallwood Avenue, Falls Church, Virginia.

Mr. Barnes asked if he was also adding a couple more additions to the house.

Mr. Bassford stated that he was. He stated that the house on Lot 45 next door is approximately 15' from the property line. All of the houses are about the same. This addition is for a bathroom and bedroom for his father who is ill. This is the only place he can add this bathroom because the house is on a slab. The house also has radiant heat in the floors and he would be unable to go through these floors to hook in the plumbing.

Mr. Barnes stated that this is a very narrow lot. He asked how long they intend to live at this location.

Mr. Bassford stated that they have owned the property since 1947 when they purchased it new and they do plan to continue to live there. This addition will be constructed of frame and center blocks and finished in a finish similar to stucco. It will blend in with the present house.

There was no opposition to this application.

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GEORGE K & HELEN M. BASSFORD (continued)

In application No. V-122-73, application by George K. & Helen M. Bassford, under Section 30-6.6 of the Zoning Ordinance, to permit enclosure of porch closer to side property line than allowed, on property located at 6630 Hallwood Avenue, also known as tax map 40-4((5)) 46, Dranesville District, County of Fairfax, Virginia, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 18th day of July, 1973, and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-10.
3. That the area of the lot is 14,603 sq. ft.

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

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
 - (a) exceptionally narrow lot,
 - (b) exceptional topographic problems of the land.

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. Architectural detail and material are to be in conformance with the existing house.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, Residential Use Permit, and the like through the established procedures.

Mr. Baker seconded the motion.

The motion passed unanimously.

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CHILDREN'S ACHIEVEMENT CENTER, app. under Sec. 30-7.2.6.1.3.2 of Ord. to permit educational program for children with learning disorders, 6519 Georgetown Pike, 22-3((1)) 4, Providence District OTH, (RE-1), S-124-73

Mr. Robert McIntyre from the Center spoke before the Board.

Notices to property owners were in order. The contiguous owners were Millicent Gerrwig, 6539 Georgetown Pike and Frances B. Chase, 1101 Dogwood Drive, McLean.

Mr. McIntyre stated that this is a private, non-profit corporation, which proposes to use the educational facilities of the McLean Church of Christ, 6519 Georgetown Pike, McLean, Virginia beginning in September, 1973, to house its already existing classes and services for children with learning disorders. The present facilities are no longer adequate because of the space needs of the Resource Staff working with the children. Primary and Elementary school aged children (6 thru 12 years of age) will be at the Center from 9:00 A.M. until 3:00 P.M., five days each week. Pre-school and Kindergarten children (3 thru 5 years of age) will be in attendance at the Center for no longer than four hours daily. The teaching and administrative staff will be in the building from 8:30 A.M. until 5:00 P.M. the same days. They are requesting a permit for 75 children. They offer no "day care" and no food service will be provided. The Children's Achievement Center is licensed/approved by the following agencies:

- Virginia State Department of Education
- Virginia Tuition Grant program
- Virginia Board of Hospitals and Institutions
- Maryland State Department of Education & Tuition Grants
- U.S. Military Medicare
- National Association of Private Schools for Exceptional Children
- Virginia Association of Independent Special Education Facilities

They have a one year lease on the property. They hope to get a structure of their own and they will then move to that facility. They will occupy these premises as long as it is mutually agreeable. They have properly packaged vans to transport the children. The vans will be taken home by the drivers.

The Board was in receipt of a memo from the Health Department stating that the sewage system is adequate to serve a total of 75 persons for four or more hours daily. Space is sufficient, but there are toilet facilities only for 60 persons for 4 or more hours daily. The outdoor play area must be fenced along the side bordering the highway and an effective barrier placed across the parking lot if a portion is to be used as the play area.

Mr. Runyon stated that, in view of the request from the Northern Virginia Association for Children with Learning Disabilities, they should stipulate in any case where the Board does not have the verification they need from the State that the Special Use Permit would not be valid until such time as this validation and verification is made a part of the record.

Mr. Kelley suggested that if the school becomes accredited and then loses its accreditation, then the Special Use Permit would then become invalid.

The file indicated that this school was approved by the State Board of Education as a school for learning disabled, mildly emotionally disturbed, specific language disturbance and delay, and developmental motor disabilities. The approval certificate was in the file. This school was also approved by the State Hospital Board as an institution for children who have specific learning disabilities. The certificate was also in the file.

Mr. Richard Norman, minister of the Church of Christ, was present to indicate his concurrence of this application.

There was no opposition to this application.

Mr. McIntyre stated that approximately 80% of their students are funded by Fairfax County and the State of Virginia because the public schools are unable to provide appropriate educational programming for them.

He stated that their primary goal is to prepare the children to enter or return to a regular education setting.

All of their teachers are required to have Virginia's Teacher Certification.

In application No. S-124-73, application by Children's Achievement Center under Section 30-7.2.6.1.3.2 of the Zoning Ordinance, to permit educational program for children with learning disorders, on property located at 6519 Georgetown Pike, also known as tax map 22-3(1)4, Providence District, Co. of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 18th day of July, 1973.

WHEREAS, the Board of Zoning Appeals has made the following findings of Fact:

1. That the owner of the subject property is McLean Church of Christ, Trs.
2. That the present zoning is RE-1.
3. That the area of the lot is 2.3836 acres.
4. That Site Plan approval is required.
5. That compliance with all county and state codes is required.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMITS AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The maximum number of children shall be 75, ages 4 to 12 years.
7. The hours of operation shall be 9:00 A.M. to 4:30 P.M., 5 days per week, Monday through Friday.
8. The operation shall be subject to compliance with the inspection report, the requirements of the Fairfax County Health Department, the State Department of Welfare and Institutions and the obtaining of a non-residential use permit.

9. All buses and/or vehicles used for transporting students shall comply with county and state codes in light and color requirements, etc
10. This permit is granted for a period of 2 years with the Zoning Administrator being empowered to extend for 2, 1-year periods.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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WASHINGTON GAS LIGHT CO., app. under Sec. 30-7.2.2.1.8 of Ord. to permit liquid propane railroad tank car unloading, intersection Rolling Road & Southern Railroad, 79-1(1.1) parcel B, Annandale District (R-17), S-127-73 OTH

Mr. Charles Hougland, attorney for the applicant, 1100 H Street, N.W., Washington, D. C. represented the applicant before the Board.

Notices to property owners were in order. The contiguous owners were the Yeonas Company and the Fairfax County Park Authority.

Mr. Hougland introduced Mr. Donald White, Vice President, Gas Supply, and Mr. John Scott, Engineer for Washington Gas Light Company. He stated that they were requesting a Special Use Permit for 9.6 acres zoned R-17 which is contiguous with the Ravensworth Station. They are requesting this permit to construct a second railroad siding adjacent to the existing single siding of Southern Railway. It will increase their capability for bringing propane tank cars onto this site. They will then be able to bring on 20 cars rather than the present 9 cars onto this siding. These cars will put liquid propane into the cavern for operation of the Ravensworth Station. By increasing the number of tank cars, they will then be able to double the rate at which they can place this liquid propane into storage at the station. This will greatly increase the efficiency of their operation. From the standpoint of location and size, this track will only occupy 150x25 feet on the R-17 land. Only two tank cars will actually be on the R-17 property. This siding will also be fenced from the public. From the standpoint of the nature of the facility, there will be no noise involved in the unloading of the tank cars, the only noise would be the shifting of cars when they are brought in and removed from the siding. They only plan to change the cars about five times per month. During the bad weather months, they would be changed about 20 times per month. They have owned this property for approximately twelve years.

Mr. Smith stated that at the time of the original Special Use Permit, they had 42 acres of land and this was in 1962 as he recalled.

Mr. Hougland stated that that was correct. This is an addition to the original property.

Mr. Smith asked how far this siding is from the original siding.

Mr. Hougland stated that it is about 24' and it parallels the original siding. This is a restricted area and there will be no public access to it. It is fenced and the gates are locked. There will be no building and as shown on the drawings, only the second spur is on residential property. The reason they are requesting this is that there is no other facility within the Washington Gas system that can be upgraded to meet the demands for natural gas and this is very important at this time of a gasoline shortage.

Mr. Smith asked if this plat shows the entire facility.

Mr. Hougland stated that it shows 25.5198 and the 9.6369 acres where they are requesting the Special Use Permit.

Mr. Smith stated that apparently some of the land has been sold off.

Mr. Hougland stated that they did sell some land to VEPCO for a power line.

Mr. Smith stated that he felt they would need new plats. Mr. Smith stated that this land should not have been deleted from the Special Use Permit without first coming back before this Board. He stated that the Board needs new plats showing the complete detail and outline of the underground storage areas, the pumping setup and anything above ground.

Mr. John Scott, Engineer for Washington Gas Light Company, testified before the Board.

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WASHINGTON GAS LIGHT COMPANY (continued)

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Mr. Scott stated that this station was originally designed as a peak saving station and was only operated in extremely cold weather and possibly only three weeks per year. With the advent of the natural gas shortage, they will become, in effect, a retailer. The Washington area uses 170 billion cubic feet of gas per year. We are now only allowed to get 125 billion cubic feet of gas. Therefore, this necessitates a search for other solutions. He stated that they plan to build a synthetic gas plant at Potomac Station in Prince William County. This is to be built from the ground up and will take two to three years before operation. Ravensworth is the only place where they can improve their facilities and generate the gas that is needed by the Washington area. If you really want to bring it down, you can compare it with a can. The can has a hole in it that supplies the Washington area and the can is Ravensworth. Now, they had nine cars which supplied 270,000 gallons of propane to this can. At the same time, they were removing 2,000 gallons a minute from the cavern so they would like to add the 20 cars so it would be 20 times 30,000 gallon, or 600,000 gallon per day while they are still taking out 2,000 gallon per minute out of the cavern. They are actually using the equivalent of one car's load every fifteen minutes. The cavern is acting as a reservoir and they want to try to add to it while they are removing from it.

Mr. Scott then explained the difference between natural gas and propane.

Mr. Scott stated that this siding is basically needed in order to handle more tank cars so they can have a better reserve during peak use periods.

Mr. Smith asked if they still used the tank cars in Rockville.

Mr. Scott stated that they do, but it does not have the capacity as the Ravensworth Station. It is a pressure bottle instead of a cavern.

There was no opposition to this use.

Mr. Smith read the memorandum from the Planning Commission requesting the BZA to defer this case for decision until they had had an opportunity to hear the case. They plan to hear the case on August 2nd, 1973.

Mr. Smith also read the note stating that Supervisor Moore from the Annandale District had called to request the BZA to defer this case until the Planning Commission had had an opportunity to hear it.

Mr. Smith read a note from Supervisor Herryty which also requested the BZA to defer this case until the Planning Commission had had an opportunity to hear it.

Mr. Smith stated that in view of these requests and the fact that the Board needs new plats, he felt the Board should honor these requests.

Mr. Smith asked the depth of this cavern.

Mr. Scott stated that it is 450'.

Mr. Smith asked him to so indicate this on the plats and also indicate the underground capacity of the caverns and any other information they have.

This case was deferred until August 3, 1973 for decision only, after the Planning Commission hearing on August 2, 1973.

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JEFFREY SNEIDER & CO., BUILDER, (JOHN M. COLDWELL, AGENT), app. under Sec. 30-6.6.5.4 of Ord. to permit dwelling to remain closer to street property lines than allowed by Ordinance, 8725 Etta Drive, 89-1((9))210, Springfield District (R-12.5C), OTH, V-133-73

Mr. Coldwell represented the applicant. His address is 10560 Main Street, Fairfax, Virginia.

Notices to property owners were in order. There was only one contiguous property owner and that was Stitler.

Mr. Coldwell stated that he was the engineer in this case.

Mr. Smith asked Mr. Coldwell if this was his error.

Mr. Coldwell stated that it is entirely possible, the stakes are gone. The front setback is

The house is presently under construction to the first floor. The walls are poured reinforced concrete. The error was discovered when the wall check was ordered by the builder. Construction ceased on this house at that time due to the fact that it was cited much closer to the two particular roadways than it should have been. The house in its present position does not extend into the horizontal sight distance requirement that is required for corner lots. It is well beyond the 30' minimum requirement which is measured from the intersection of the two streets and beyond the line drawn 30' from the beginning of the curve. He stated that he had submitted numerous photographs and a diagram of where these photographs were taken in relation to the house.

Mr. Smith asked if this was the first house built in this subdivision.

Mr. Coldwell stated that it was not.

Mr. Smith asked if there were any topographic problems.

Mr. Coldwell stated that there were not. All of the homes in this subdivision are in the proper location with the exception of this one. He stated that he had been in business since 1964 and his crews have staked out in excess of 1,000 homes and he had never been before this Board prior to today. The rear wall should have been the front of the house, so if the error was in staking, instead of turning left, they turned right. Since it was a corner lot, it was not apparent as curb and gutter was not in place. This error was not apparent to the crew chief.

Mr. Kelley stated that if all the stakes were knocked down or removed, that would have been the time to recheck it.

Mr. Coldwell stated that the stakes could have been destroyed during the grading around the house during construction.

Mr. Logan Jennings, Vice-President of Jeffrey Snieder and Company, spoke before the Board. He stated that in answer to Mr. Kelley's question he had been before this Board before and he had warned all his crew chief's to be extra careful to check out these houses so they would not have to come back to the Board again. He stated that their best guess as to why this house was built in error was it was either staked out improperly or the man installing the basement just went out and started digging in the wrong spot. It is the first error made on that job.

Mr. Kelley stated that evidently what they were saying is that this is the error of the Crew Chief.

Mr. Jennings stated that the off-set stakes were set last year and the basement was excavated and one has to assume that it was excavated off of the stakes. The walls were brought up and now they can only find one stake.

Mr. Runyon stated that it looked to him like an honest error.

Mr. Ricard Pake, 6927 Sydenstricker Road, spoke before the Board in opposition to this application. He stated that he does not live in this subdivision, but is the last house in Orange Hunt. They are the first property owner that joins the Jeffrey Snieder subdivision going west. He stated that he felt this house sits out like a sore thumb. It is disruptive to the appearance of the neighborhood. This is not a small error. This house is just prior to a curve. There have been occasions when people have missed that curve.

Mrs. Stitler, 6943 Sydenstricker Road, spoke in opposition to this application. She stated that she is right next door to the property in question. The back yard of this house will be in her front yard, she stated. They have lived by that foundation and they have seen for a long time that it was too close to the street. They have owned the house for six years.

Mr. Garnet Payne, 406 Esterbrook Drive, spoke in opposition. He stated that his daughter lives in the house near this property. He stated that he feels this house could cause a dangerous situation since it is on a curve and a car that missed the curve could very well go right through it. This speeding is a problem in this area.

Another lady at 8717 Carey Lane, spoke in opposition to this application. She stated that this is just not in order with the rest of the houses.

Mr. Kelley moved to defer this case until the Board could view the property.

Mr. Barnes seconded the motion and the motion passed unanimously. The case was deferred until August 3, 1973, for final decision.

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AFTER AGENDA ITEMS

PHILLIP J. FARMER, application under Sec. 30-6.6 of Ord. to permit pool closer to property lines than allowed in Ord.

Mr. Smith read a letter from Mr. Farmer asking for this case to be withdrawn without prejudice.

Mr. Barnes so moved.

Mr. Kelley seconded the motion and the motion passed unanimously.

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LUTHER RICE COLLEGE, S-88-72, Granted July 26, 1973.

Mr. Smith read a letter from the applicant requesting a 6 month extension because they have been unable to get sewer tap permits.

Mr. Baker moved that this request be granted and the Special Use Permit be extended six months from July 26, 1973, or until January 26, 1974.

Mr. Runyon seconded the motion.

The motion passed unanimously.

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GRACE PRESBYTERIAN CHURCH, Special Use Permit

Mr. Smith read a letter from William D. Peake, Chairman, Building Committee, requesting an out-of-turn hearing. They stated that if the project is delayed until late Fall, there is a very real indication from the bank that they may lose their financial commitment. They requested it be heard at the earliest possible time.

Mr. Knowlton stated that they had called him and asked that it be put on August 1st.

Mr. Smith stated that the advertising deadline was passed for the August 1st meeting.

The Board directed the Clerk to schedule the case for the first meeting in September, which would be September 12, 1973.

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The Board earlier in the meeting passed a Resolution to have a Special Meeting on August 3rd, 1973, to try to hear some of the out-of-turn hearing requests, particularly the schools that wants to start their operation the 1st of September to coincide with the public schools.

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GEORGE MASON UNIVERSITY DAY CARE CENTER, INC., located in the St. George's Methodist Church, 4500 Robert's Road.

Mr. Smith read their letter requesting an out-of-turn hearing and stated that the Board had previously accepted this letter and granted the out-of-turn hearing, but they needed an official resolution.

Mr. Baker moved that the request be granted.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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ROACH, John E. & Eleanor E. -- Annandale-Springfield Country Day School

Mr. Smith read numerous letters concerning a summer camp that the citizens said was being operated at 6525 Ox Road, contrary to the zoning ordinance and zoning laws.

Mr. Knowlton submitted a Notice of Violation for this address and stated that they had 30 days to comply with that notice, but could not operate during this time. In addition he also placed the Annandale-Springfield Country Day School in violation. The Board discussed this at length and stated that she did have a Special Use Permit for two other locations and if she was bringing the children from the other locations, then she was endangering her Special Use Permit for those locations also.

Mr. Smith stated that the Board should issue a Revocation Notice on that school. He stated that the Board would wait until the next meeting to see if she is still operating and if she is, then the Board would take action.

*11 * August 3, 1973 - Violation lifted, appl. Complying with SUP as per Inspector Honeycutt.*

CEDAR KNOLL INN

Mr. Runyon stated that he would like to make some clarifications on the Resolution granted July 11, 1973, involving the above-captioned case. He moved to reopen the case.

Mr. Baker seconded the motion and the motion passed unanimously.

Item No. 13 should read "Specifically, but not exclusively, the 18' x 30' addition is not in harmony with, nor compatible with the residential character of the area, nor is it in keeping with the United States Department of Interior's National Park Service's plan for the George Washington Memorial Parkway."

Add No. 14 "The 18' x 30' additbn is in violation to the setback requirements of the Fairfax County Zoning Ordinance."

Add No. 15 "That, since the patio is being used for dining facilities, it is in violation of the setback requirements of the Fairfax County Zoning Ordinance."

A few other words changes as will be noted in the last three paragraphs.
The entire Resolution will read as follows:

FINDINGS OF FACT:

1. There was a Special Use Permit granted on September 8, 1941 and an Occupancy Permit issued February 16, 1942 for the operation of a Tea Room in the existing dwelling zoned Rural Residential.
2. The only zoning change was from one residential zoning category to another. The present zoning being R-12.5.
3. All indications are that the operation has continued over a period of years in the dwelling that existed at the time of the original granting as a Tea Room.
4. This is a conforming use under the existing Fairfax County Zoning Ordinance, Section 30-4.2.7. Any use for the establishment of which a permit from the Board of Zoning Appeals is required under the use regulations for a particular district as set forth in Subsection 30-2.2.2, whether such use is existing in such district at the time of the adoption of this chapter or is subsequently established therein on the obtaining of such a permit shall be deemed to be a conforming use in such a district; provided, that any subsequent replacement or enlargement of such use or of any building in which the same is conducted or the construction of any additional building for such use beyond the extent specified in any such permit (or the extent to which such use existed at the time of the adoption of this chapter) shall be subject to the obtaining of a further permit therefore from the Board of Zoning Appeals.
5. The appellants purchased the property in excess of two and one-half years ago.
6. The Zoning Administrator's Office received a complaint of an expansion of a parking area. Upon inspection of the premises, notice was given to obtain a construction permit for the parking area.

7. Records indicated that on 4-13-71, appellants signed a construction agreement with the County of Fairfax. The testimony and the existing record indicate that appellants have not, as of this date, complied with this Agreement to complete the improvements of parking lot, repair existing sewerage disposal facilities and install 6" water main and fire hydrant from Prices Lane. Disturbed areas to be seeded and mulched upon completion:

8. Captain Peck from Fire Services Administration stated in his testimony at the public hearing on June 13, 1973, that there are two areas in question as far as their Department is concerned. One area is the construction classification which, according to his interpretation of the Building Code, would not be permitted. The other problem is with respect to the waiver of the fire protection for the facility. It was his understanding that when the applicants applied for this addition, there was no site plan submitted. If it had been submitted and gone through the regular procedure, it would not have been approved without the provision of providing a fire hydrant. As the situation is now, the only water that is available is from existing hydrants on Price's Lane, or trucking the needed water into the facility; or, if conditions were exactly right, use the water from the Potomac River. However, as to the latter probability, there is not hard surface road which comes within a reasonable distance to the edge of the river; and, if the ground is wet, the trucks would not be able to take their vehicles off the road to get down to the river, or the tide might be out.

Under Section 306.2 of the Building Code for Fairfax County, it is unlawful to increase the height or area of an existing building or structure unless it is of a type of construction permitted for a new building. In this case, the Cedar Knoll Inn was of a non-conforming construction for the type of use. Section 418.13 of the Building Code prohibits the construction for F-1 Use Group out of frame (Type 4) construction. Since the Cedar Knoll Inn has a dinner theatre, therefore, again, it would be in violation. Table 6 of that Code which would refer you to the area limitations, because this is a two story structure, this type construction is not permitted under any type of classification and with respect to the F1-A Use, it is strictly not permitted. Their office would like to know why the waivers were granted with respect to the site plan and, also, why this type of construction was permitted.

9. Mr. Reeves from the Fairfax County Health Department testified that their latest inspection was March 8, 1973 by Mr. Walker, the area sanitarian. The inspection was a check to see if they were keeping all foods covered an health cards were posted, etc. They found that the dishwasher rinsing temperature was only 140 degrees and it should have been 180 degrees. There was a dog in the storage room which was removed. They have asked Mrs. Mallick to put in a hand basin and a mop sink and a dipper well for the ice cream scoop; but, as yet, she has not done this. These items were required by the County and State Code and, also, by the Plumbing Department. These items have been requested to be put in continuously since 1971 and they still have not been installed. They were told by the Mallicks that these items would be put in at the time they put in toilet facilities in the addition, but they never put in the toilet facilities that they had planned to put in and they never put in these items they had asked them to put in either. Before they renewed their license in December, these fixtures would have to be put in.

10. Upon inspection by the Board of Zoning Appeals members on June 15, 1973, the Board found that there had been at least three (3) additions to the existing dwelling that was originally granted a Special Use Permit in 1941. At least two of these additions were constructed without building permits.

11. The major addition was approximately 18' x 30'. Records indicate that a building permit was obtained for this addition after construction had begun and footings poured and Notice of Violation was made.

12. These expansions and additions took place in violation to Section 30-4.2.7 of the Fairfax County Code as per letter to Mrs. Theodore Mallick dated November 4, 1971 from William J. Barry, Senior Zoning Inspector which also indicated that these additions require a hearing before the Board of Zoning Appeals.

13. Specifically, but not exclusively, the 18' x 30' addition is not in harmony with, nor compatible with the residential character of the area, nor is it in keeping with the United States Department of Interior's National Park Service's plan for the George Washington Memorial Parkway.

14. The 18' x 30' addition is in violation to the setback requirements of the Fairfax County Zoning Ordinance.

15. That, since the patio is being used for dining facilities, it is in violation of the setback requirements of the Fairfax County Zoning Ordinance.

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

1. Based on the "Findings of Fact," the Board of Zoning Appeals does hereby find that the appellants have not complied with all the requirements of the law with respect to the maintenance and conduct of the use and that the use has been expanded in violation of Section 30-4.2.7 of the Fairfax County Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Zoning Appeals does hereby suspend the Revocation that was issued January 17, 1973, for a period of ninety (90) days to allow the appellants to bring the use into harmony and compatibility with the residential character of the area.

This will consist of the following:

1. Discontinue all theatre performances.
2. The 18' x 30' addition is to be removed.
3. Discontinue all outside dining facilities and confine all activities pertaining to the use to within the original dwelling.
4. Bring the use into compliance with sewerage, water main and fire hydrant agreement.
5. Bring use into compliance with Health laws.
6. Any future expansion, construction, or changes in use, or changes in ownership will be subject to review by this Board.

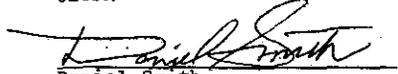
If, the above conditions are met, the Board of Zoning Appeals finds that this use will be harmonious and compatible with the residential character of the neighborhood and a New Special Use Permit will be reissued.

IF, after ninety (90) days, the appellants have not complied with these items, the original revocation will be enforced.

Mr. Baker seconded the motion; the motion passed unanimously with all the members of the Board present.

The meeting adjourned at 4:15 P.M.

Jane C. Kelsey
Clerk


Daniel Smith
Chairman

Approved: September 19, 1973
Date

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The Regular Meeting of the Board of Zoning Appeals Was Held On Wednesday, July 25, 1973, in the Board Room of the Massey Building. Present: Doy Kelley, Vice-Chairman; Joseph Baker, George Barnes and Charles Runyon. Mr. Daniel Smith was absent.

The meeting was opened with a prayer by Mr. Barnes. Mr. Kelley announced that Mr. Smith, the Chairman would not be present as he was ill.
10:00 - GREAT FALLS SWIM & TENNIS CLUB, INC., app. under Sec. 30-7.2.6.1.1 of Ord. to permit three additional tennis courts and lights, 13-1((1))pt. 28, 716 Walker Road, Dranesville District (RE-1), S-125-73

Mr. Robert Barlow, 902 Leigh Mill Road, Great Falls, Virginia 22066, spoke before the Board on behalf of the applicant.

Notices to property owners were in order. The contiguous property owners were John C. Wood, P.O. Box 369, Fairfax, Virginia and the C & P Telephone Company, 930 H Street, N.W. Washington, D. C.

Mr. Barlow stated that three years ago, they requested a Special Use Permit for the swimming pool and tennis courts, but they had problems and only constructed two of the tennis courts. They are now in existence. In the past two years, they have increased their membership and therefore are now able to add two additional courts. They also now have a better layout in that they acquired 3/4 acres of ground adjacent to their original property and this is where they would like to put the two courts.

Mr. Barnes stated that the report from the Staff indicates that they would have to have a dustless parking lot.

Mr. Barlow stated that this was waived originally in order that they could retain the trees in the parking area.

Mr. Barnes stated that they would have to get it waived again.

Mr. Barlow stated that they are only requesting that they be allowed to construct two additional tennis courts on the additional acreage.

Mr. Kelley stated that conditions can be changed with any addition that is put on the permit.

Mr. Barlow stated that they are authorized 400 family memberships and they have no plan to change this.

Mr. Barnes stated that any time there is a change made, the entire area is affected.

Mr. Barlow stated that he would like to make as a part of his application that they be allowed to waive the requirement for the dustless surface.

Mr. Covington stated that the Board of Zoning Appeals cannot waive this as it is part of the Site Plan requirement. He should see Mr. Hendrickson.

Mr. Barnes asked how many bike racks they have.

Mr. Barlow stated that they have space for ten bikes.

Mr. Barnes stated that they needed to have more than that.

Doris Mout, 823 Walker Road, spoke in opposition to this use. She stated that they live out in that area because of the peace and tranquility of the area. In the last couple of weeks, however, there has been no peace at all because of the loud speakers at the pool. These courts will attract more people and therefore they will have to use the speaker system more and more to page people who are wanted on the telephone, etc. A party last Sunday night lasted until 11:00 P.M. and the speaker system was going the entire time with extremely loud music. They could not even entertain guests on the patio. One day even inside her home, the music from the pool vibrated inside her house. They live one-fourth of a mile from the site.

Mr. Barnes stated that they should have complained to the Zoning Administrator as this comes under a Special Use Permit.

Mr. Barlow, in rebuttal, stated that they have put in a new speaker system and this is the reason for the increased noise in the last couple of weeks. It is a different unit and is set too high. They have not had time to adjust it. Last Sunday night, there was a teen party and this was the first time they had used the speaker system. He stated that he would do what he could to see that it was turned down.

Mr. Barnes stated that all noise must be confined to the site, or the entire pool would have to close.

In application No. S-125-73, application by Great Falls Swim and Tennis Club, Inc., under Section 30-7.2.6.1.1, of the Zoning Ordinance, to permit 3 additional courts and lights, on property located at 716 Walker Road, also known as Tax map 13-1(1)pt. 28, Dranesville District, County of Fairfax, Mr. Barnes moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 25th day of July, 1973.

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 5.524 acres.
4. That Site Plan approval is required.
5. That compliance with all county codes is required.
6. That the applicant is now operating under Special Use Permit #S-177-71, granted September 21, 1971.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

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

2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.

3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMITS, AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. The maximum number of family memberships shall be 400.

7. The hours of operation shall be 9 A.M. to 9 P.M. (tennis is from 7 A.M. to 9 P.M.). Any after hours party will require written consent from the Zoning Administrator and such parties shall be limited to six (6) per year.

8. All loudspeakers, noise and lights shall be directed and confined to said site.

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 GREAT FALLS SWIM & TENNIS CLUB, INC. (continued)

9. The minimum number of parking spaces shall be for 134 cars and a stand for 25 bicycles.

10. Landscaping, screening and fencing shall be as approved by the Director of County Development.

Mr. Baker seconded the motion.

The motion passed unanimously.

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 JUDITH CLARKE, T/A MONTESSORI SCHOOL OF HOLMES RUN, located in the FRIENDSHIP UNITED METHODIST CHURCH, app. under Section 30-7.2.6.1.3 of Ord. to permit Nursery School, 3527 Gallows Road, 60-1(1)25, Providence District (R-12.5), S-126-73

Mrs. Judith Clarke represented the applicant before the Board.

Notices to contiguous property owners were in order. The contiguous owners were MacDonald, 3519 Gallows Road and Milton E. Hastley, 7510 Masonville Drive, Falls Church.

The case had been advertised as the application of Friendship United Methodist Church incorrectly. It should have been Judith Clarke, T/A Montessori School of Holmes Run. The Board corrected their application.

Mrs. Clarke submitted a new lease from the church. She stated that transportation would be by carpool. There will be 37 children. She is using the same facilities as the Merrifield Montessori Preschool, an application that is to come up later in the day. There are adequate facilities in the church for both schools. Mrs. Clarke stated that she would be the teacher and she would have one assistant.

There was no opposition.

In application No. S-126-73, application by Judith W. Clarke, under Section 30-7.2.6.1.3, of the Zoning Ordinance, to permit nursery school, on property located at 3527 Gallows Road, also known as tax map 60-1(1)25, Providence District, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 25th day of July, 1973.

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

1. That the owner of the subject property is Friendship United Methodist Church.
2. That the present zoning is R-12.5.
3. That the area of the lot is 2.8385 acres.
4. That Site Plan approval is required.
5. That compliance with all county and state codes is required.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

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

2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.

3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to OBTAIN NON-RESIDENTIAL USE PERMITS AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. The maximum number of children shall be 37, ages 2 1/2 to 6 years.

7. The hours of operation shall be 9 A.M. to 2 P.M., 5 days per week, Monday through Friday.

8. The operation shall be subject to compliance with the inspection report, the requirements of the Fairfax County Health Department, the State Department of Welfare and Institutions and obtaining a Non-Residential Use Permit.

9. The play area shall be screened to the satisfaction of the Director of County Development.

10. This permit is granted for a period of 3 years with the Zoning Administrator being empowered to extend that period for 3, 1-year periods.

Mr. Baker seconded the motion.

The motion passed unanimously.

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10:40 - M. NURI CAY, app. under Section 30-7.2.6.1.10 of Ord. to permit office for general practice of medicine and related parking, 8700 Arlington Blvd., 49-3(1)24, Providence District (RE-1), S-128-73

Mr. Russell Rosenberger, attorney for the applicant, 9401 Lee Highway, Fairfax, Virginia, represented the applicant before the Board.

Notices to property owners were in order. The contiguous owners were Bruen Chapel Methodist Church, 3035 Cedar Lane and Dr. Yasuaki Takagi, 8636 Arlington Blvd., Fairfax, Virginia.

Mr. Rosenberger stated that Dr. Cay would like to utilize the existing residential structure for an office for the practice of medicine. The property is located at the intersection of Cedar Lane and Arlington Blvd. and runs in an east west direction (Arl. Blvd. and Cedar Lane runs North. The property contains 3.1 acres of land and is presently zoned RE-1. The house has been standing vacant for some period of time. This property was the subject of a prior Special Use Permit application, S-66-72, made by the Young Americans For Freedom. The application was granted for the headquarters of this organization. However, it was never utilized for this purpose as it was sold to Dr. Cay. It is anticipated that in accordance with the Code, it will be the office of two physicians and the number of employees will be limited to two. They have provided sufficient parking to provide for four employees. There will be a maximum of four patients on the property at any one time. The entrance to this property is on Cedar Lane. They have provided for a turn around on the property. The hours of operation is established by the ordinance. They will agree to dedicate 5 feet on Cedar Lane and Arlington Boulevard. They have had a problem with siltation control on the property. They did initiate some measures to control this siltation, but they have not been totally effective. They do plan to take appropriate siltation control measures.

Mr. Rosenberger stated that traffic in and out of this facility would be minimal. The only change would be the addition of the parking area as shown in the plats. They are on public sewer and water.

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DR. NURI CAY (continued)

Mr. Kelley asked who cut all the trees down.

Mr. Rosenberger stated that this property was cleared by the applicant. It was his intention at that time to run the sewer line from the residence to the existing sewer line at Arlington Boulevard. The applicant intends to have his personal garden there also.

Mr. Kelley stated that he would have liked to have seen the trees left.

Mrs. Ogensteiner, 2931 Cedar Lane, one block from the property in question, spoke in favor of the application.

Mr. Smith called for the opposition. There were nine hands raised.

Dr. Takagi, 8636 Arlington Boulevard, spoke in opposition to this application. He stated that he wanted to clarify some misinformation regarding this property. When the Young Americans For Freedom applied for this Special Use Permit, they were not in possession of the property. They were under a contract to purchase. The neighbors were in favor of them provided that the Board restrict certain things. There is a church right next to this property and this church asked for additional time to consider the matter. The Board postponed the hearing for two weeks and during that time the Young Americans For Freedom's contract on the land expired and it was not renewed and Dr. Cay purchased it. The Young Americans For Freedom never had a chance. Just after Dr. Cay purchased the property he began bulldozing and cutting trees. The Board had granted the permit for the Young Americans For Freedom with the stipulation and condition that they leave a strip of land undisturbed as a buffer between the property and the adjoining neighbors. They have a problem with flooding in this area anyway and this clearing of land has caused the problem to be greater. These things have been done and there is no way of replanting those trees. Before this application is granted the neighbors would like to have specific conditions put on the application. One pertains to parking. Dr. Cay has provided more parking spaces for his employees than he has for his patients. He stated that he feels the Doctor plans to expand this facility without anyone knowing about it.

Cedar Lane is very heavily traveled. He stated that as he recalled the Board stipulated that the Young Americans For Freedom put in a 25 foot deceleration lane so that ingress and egress would be safer.

Mr. Baker asked if since the removal of the trees the flooding had increased.

Dr. Takagi stated that it had increased. The washing and erosion is very bad.

Mr. Baker asked if it moves any soil.

Dr. Takagi stated that it does.

Mr. Kelley stated that there was a limit to the areas where the trees were to be maintained in the Special Use Permit granted to the Young Americans for Freedom.

Dr. Takagi stated that those trees are gone.

Mrs. Inman, 8628 Cedar Lane, next door to this property, spoke in opposition to this application. She stated that there is a culvert that originally took care of the wash, but now it is more than it can take care of. She stated that she would like for the Board to see the amount of washing that has taken place. She stated that she did not feel it was necessary to clear three acres of land and of trees for the reasons that they are giving. She stated that she felt the trees should be reset. Young trees should be put in there, much more than has already been put in and appropriate engineering methods should be devised to keep the overflow from coming down in the neighbors properties. She stated that she did not understand why they removed these trees unless they were planning on building a much larger building.

She asked if the entrance was to be on Cedar Lane, why they cut an entrance to Arlington Boulevard and put up a mailbox.

Mr. Kelley stated that they should advise the proper County authority about this erosion and siltation problem and it should be taken care of regardless of the outcome of the application before the Board.

Mr. Covington stated that they should contact Mr. Payne Johnson in County Development.

Eleanor Chesley, 3000 Cedar Lane, spoke in opposition to this application. She stated that she has lived at this above address for nearly four years. This will be the first nonresidential use on Cedar Lane. She stated that she is very disturbed about this proposal. They would like to keep the residential character of the neighborhood.

Mrs. Lawson, 3042 Cedar Lane, spoke in opposition to this application. She lives across

the street from the property under this application. She stated that she felt this use would cause the area to go commercial and it is taking away from the residential character of the neighborhood. They are all aware of the problem they have there with the traffic congestion and this will just create more traffic accidents. There have been a lot of accidents at this location as you can verify with the Police Department. The property is now very unsightly because all of the screening is gone and now the large parking area will be exposed. They will bring in more cars which will bring in more pollution. There is no service road on Arlington Boulevard. Each time there is an accident, the people come to their house and since this will create more traffic and thereby create more accidents, this will cause a greater impact on them.

Mrs. Jean Row, a nearby property owner, spoke in opposition to this application. She stated that this owner has shown no intention to maintain the residential character of the neighborhood, therefore, they have no confidence that he will now make any effort after this is granted to maintain the residential quality of the neighborhood.

Mr. Charles B. Walker, 3054 Cedar Lane, directly across Cedar Lane from the entrance to the property, spoke in opposition to this use. He stated that the present screening surrounding this property consists of 3' feet of scrub type trees. He stated that as he remembered there was to be a 50 foot buffer maintained around this property. It is gone. There is nothing to prevent the neighbors from having to view the bare parking lot and nothing to preserve the residential quality of the neighborhood. There is no way those trees, which were the best type screening can be replaced. As late as yesterday afternoon, eight people went to the hospital because of an accident at this location. Cedar Lane draws traffic all the way down to Tyson's Corner and runs over and connects with Gallows Road and Annandale Road. There was more property zoned for townhouses just down the road toward Tyson's Corner and this will bring more traffic to Cedar Lane. The neighbors are very upset about this application. Particularly, in view of the actions by Dr. Cay. The attorney for Dr. Cay came over and talked with him, he stated. They went to the roadway and counted 20 cars waiting for the traffic light. Cedar Lane has practically become a raceway and this use will not help the situation at all, but make it worse and it will also be dangerous for the people using the facility.

Mr. Barnes stated that he couldn't help but agree that there was not a sufficient buffer there.

Mr. Nicholas Blackford, 2945 Cedar Lane, 4 doors up from this property, spoke in opposition to this application. He stated that he felt this would be a beachhead for other commercial ventures in this area. People trying to get out of this property will find it very difficult because of the traffic backup.

Mr. Rosenberg spoke in rebuttal to the opposition. He stated that the traffic problem is there already and is not caused by this use. The number of physicians is determined by the ordinance and they cannot have more than two. There are many problems with the siltation, but under this section of the ordinance they must submit a site plan and these problems must be properly considered by this applicant at the time of site plan approval. The address of the building is 8700 Arlington Boulevard. The applicant has no control over the address. They are not anticipating an entrance to Arlington Boulevard from this property. There has been a mailbox erected for the purposes of identifying the property. He stated that he did not feel this applicant would change the residential character of the neighborhood.

Mr. Kelley stated that how could he say they were not changing the residential character of the neighborhood when they have gone out and cut all the trees down. He stated that he drove by there at 1:15 yesterday afternoon and he could hardly get into Arlington Boulevard. There is a traffic problem and he stated that he saw no reference on the plat to the proposal of a deceleration and acceleration lane.

Mr. Kelley asked when Dr. Car had purchased the property.

Mr. Rosenberger stated that he purchased the property in June of 1972.

Mr. Kelley stated that the public hearing for the application was held on June 14.

Mr. Rosenberg stated that the owner of the property was not the applicant to the Special Use Permit that was granted on June 14, 1973. The owner was Mr. VanZieller, Trustee and he sold it to Dr. Cay.

Mr. Kelley asked if there was a contingency in this contract.

Mr. Rosenberg stated that Dr. Cay purchased the property and is the sole owner of it.

Dr. Cay then testified that he owned the property and there was no contingency involved.

Mr. Runyon moved that the Board defer this case for a maximum of sixty (60) days for viewing and a study done on this property. This is for decision only.

Mr. Baker seconded the motion.

The motion passed unanimously.

The Board set the date for decision for September 19, 1973.

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11:00 - ALBERTA GASPARIDES, app. under Sec. 30-7.2.9.1.7 of Ord. to permit real estate office, 4416 Roberts Avenue, 71-2((5))Lots 9 thru 15, Annandale District (R-17), S-129-73

Mrs. Gasparides represented herself before the Board.

Notices to property owners were in order. The contiguous owners were W.C.W. Corp. P.O. Box and Robert C. Wiell, P. O. Box 455.

Mrs. Gasparides stated that she wished to have a small real estate office at this location. There had been a school at this location that had 30 children being dropped off and picked up here every day. There is an off-street parking area existing.

Mr. Kelley asked if the owner of the property was aware of the dedication to be made along Route 236.

Mrs. Gasparides stated that she did not know if he was aware of it or not. She stated that her lease is only for one year with an option to renew and she could not do all that construction under these circumstances.

Mrs. Gasparides stated that there had not been a team inspection done and she would like one done to see what repairs would have to be made.

Mr. Covington stated that the County is no longer doing team inspections except for schools. They are done individually by the applicant by calling each department and asking for an inspection.

This case was deferred until after the end of the Regular Agenda for decision only.

Mr. Runyon made the motion, Mr. Baker seconded the motion and it passed unanimously.

Mr. Kelley stated that the Board would need a written lease before they could make a decision, unless the Board granted the use and held up the permit until a new lease was in the file.

The Board called this case later in the afternoon and the following motion was made:

In application No. S-129-73, application by Alberta Gasparides, under Section 30-7.2.9.1.7, of the Zoning Ordinance, to permit real estate office, on property located at 4416 Roberts Avenue, also known as tax map 71-2((5))9-15, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 25th day of July, 1973.

whereas, the Board of Zoning Appeals has made the following findings of fact:

- 1. That the owner of the subject property is Raymond & Marion W. Spagnolo.
- 2. That the present zoning is R-17.
- 3. That the area of the lot is 42,007 sq. ft.
- 4. That the property is subject to Pro Rata Share for off-site drainage.

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

- 1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
- 2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
- 3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
- 4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMITS AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
- 5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
- 6. Subject to the requirements of the various inspection reports for property improvements now needed.
- 7. This permit shall expire in 2 years.
- 8. It is subject to proper lease agreements.

Mr. Baker seconded the motion.

The motion passed unanimously.

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MERRIFIELD MONTESSORI PRESCHOOL, app. under Sec. 30-7.2.6.1.3 of Ord. to permit preschool, 3527 Gallows Road, 60-1((1))25, Providence District (R-12.5), S-130-73

Patricia Kurelick, 8700 Duvall Street, Fairfax, Virginia, represented the applicant before the Board.

Notices to property owners were in order. The contiguous owners were Mr. and Mrs. Milton Hartley, 7510 Masonville Drive, Falls Church and Mr. and Mrs. Donald J. Olivola, Lot 61, 3445 Surrey Lane, Falls Church, Virginia.

Mrs. Kurelick stated that she would like a preschool for twenty-five children. She has agreed to this number in an Agreement signed by them and agreed to by Mrs. Clarke who had the previous application and is operating the Holmes Run Montessori School in this church also. They have a lease agreement with the church for one year, but it is open-ended. They will have a carpool arrangement and will not have busses.

In application No. S-130-73, application by Merrifield Montessori Preschool, under Section 30-7.2.6.1.3, of the Zoning Ordinance, to permit a preschool, on property located at 3527 Gallows Road, also known as tax map 60-1((1))25, Providence District, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 25th day of July, 1973.

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

1. That the owner of the subject property is Friendship Methodist Church.
2. That the present zoning is R-12.5.
3. That the area of the lot is 2.8385 acres.
4. That Site Plan approval is required.
5. That compliance with all county and state codes is required.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMITS AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property 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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- 6. The maximum number of children shall be 42, ages 3 to 6 years.
- 7. The hours of operation shall be 9:30 A.M. to 2:30 P.M., 5 days per week, Monday through Friday.
- 8. The operation shall be subject to compliance with the inspection report, the requirements of the Fairfax County Health Department, the State Department of Welfare and Institutions and obtaining a non-residential use permit.
- 9. This permit is granted for a period of 1 year with the Board of Zoning Appeals being empowered to extend that period for 4, 1-year periods, upon presentation of proper lease papers.

Mr. Baker seconded the motion.

The motion passed unanimously.

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MICRO SYSTEMS CO., app. under Sec. 30-7.2.10.5.9 of Ord. to permit motel, 1834 Howard Avenue, 29-3((4))4a, 4b, Providence District (G-G), S-131-73

Mr. Ronald Tydings, attorney for the applicant, testified before the Board on their behalf.

Notices to property owners were in order. The contiguous owners were Ski-Chalet, Inc., 2704 Columbia Pike, Arlington, Virginia and Rousseau Rives and Madeline Rives, 2029 Chain Bridge Road, Vienna, Virginia.

Mr. Kelley read a letter from James D. Pammel, Director, Zoning Administration, dated July 24, 1973, but just received by the Board before the meeting, which stated that

" The Tysons Corner Area Traffic Circulation Plan and Recommended Improvements prepared by the Virginia Department of Highways is scheduled to be presented, with some modifications by the Office of Planning, to the Board of Supervisors on September 17, 1973. This plan provides for adequate access to the various large shopping and industrial centers, both existing and proposed, in the Tysons Corner area, as well as, improving circulation at the highway interchanges.

Additional right-of-way will be needed at most of these interchanges. Approval of development on land which may be needed for ramps should be withheld until the Board of Supervisors acts on this plan in order that right-of-way acquisition costs may be held to a minimum.

Rezoning case C-456 and Special Permit S-131-73 are two cases in point. They fall within the southeast quadrant of the Leesburg Pike/Chain Bridge Road interchange. It is the feeling of this office that action on these cases should be deferred until the Board of Supervisors makes its decision."

Mr. Runyon stated that the Board could either hear this case and postpone decision, or make the decision subject to the additional requirements depending on what the applicants want to do. Mr. Baker moved that this be deferred/NOT decision until September 19, 1973. Mr. Barnes seconded the motion and the motion passed unanimously. Mr. Kelley suggested that the Board postpone any action until after the Board of Supervisors has heard this on September 17, 1973. He asked Mr. Tydings to proceed with his presentation.

Mr. Tydings stated that this would be a 98 unit motel, 3 stories in design. He submitted a sketch of how the motel would look. It was prepared by Mr. Barkley, an architect. The owner is the contract purchaser. A copy of the contract is in the file. The applicant was here before this Board on July 11, 1973, at which time they obtained a transfer of a Special Use Permit for a motel in Alexandria. It is to be called the Happy Inn motel in the Woodlawn area. This will be a modular unit and will comply with the Code. The engineer for the project is Trico who has a small ownership interest in the project and both Mr. Dove, the engineer, and Mr. Barkley are present should the Board have any questions.

Mr. Barnes asked if they were familiar with Preliminary Engineering Branch's comments.

Mr. Tydings stated that they were.

These comments suggested that an additional 5' be dedicated for service drive, widening, and sidewalk along the full frontage of the property along Route 123, Chain Bridge Road. If access is to be provided to Howard Avenue, then road improvements will be required along the full frontage of that road. These improvements will be provided under site plan control.

Mr. Hyatt, 623 Springvale Road, stated that he was a real estate broker in the Tyson's area and is familiar with this plan discussed in Mr. Pammel's letter and he has had meetings regarding this plan and requests that this Board approve this application subject to site plan approval and this will take into consideration any problem that might exist with the road. He stated that their plans will take from three to four months to work out after it gets the approval of this Board.

Mr. Kelley stated that a motion has been made that no action be taken in this case until after the Board of Supervisors has heard the road case.

There was no opposition to this application.

This case was deferred until September 19, 1973, for decision only.

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12:20 - POTOMAC SCHOOL, app. under Sec. 30-7.2.6.1.3 of Ord. to permit swimming pool and locker room, 1301 Potomac School Road, 31-1((1))pt. 5, Dranesville District (RE-1), S-142-73 OTH

Mr. Avery Faulkner, architect, 2000 L Street, N.W., Washington, D. C. represented the applicant before the Board. He stated that he is the coordinating architect and also a Trustee of the school. Mr. Kimbel is also present from the school.

Notice to property owners were in order. The contiguous owners were Mr. Frederick Lee, 1327 Potomac School Road, McLean and John M. Page, 6219 Hardy Drive, McLean, and General Goodhand, 6307 Stonehaven Lane, McLean, Virginia.

The Board was in receipt of detailed plats showing the entire school property and the location of the pool on that property. Mr. Faulkner stated that this pool will be located in a tree enclosed area. He submitted some photographs to indicate the trees. The pool will not be in view of any property except that of the school. The pool's primary use will be for the day camp in the summer, but some of the families living near the school may use it after camp hours. The Board of Trustees has suggested that they limit the family membership to fifty (50) and if it is popular they would increase it to a greater number.

Mr. Barnes asked if they were keeping the pond.

Mr. Faulkner stated that they were. One of their concerns has been to be sure that there was no interrelationship between the pool water and the pond and the pond is a key part of the school's biology class.

There was no opposition to this application present at the time opposition was called by the Chairman.

In application No. S-142-73, application by Potomac School, under Section 30-7.2.6.3, of the Zoning Ordinance, to permit swimming pool and locker room, on property located at 1301 Potomac School Road, also known as tax map 31-1(1)part 5, Dranesville District, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 25th day of July, 1973.

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 70.327286 acres.
4. That Site Plan approval is required.
5. That compliance with all county and state codes is required.
6. That the applicant is operating under Special Use Permit #1159, originally granted May 17, 1949, and amended to permit classroom addition April 29, 1969 under Special Use Permit #S-84-69.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMITS AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The maximum number of family memberships shall be 100.
7. The hours of operation shall be 9 A.M. to 9 P.M., 5 days per week, Monday through Friday.

8. All other provisions of the existing Special Use Permit and amendments shall apply.

Mr. Baker seconded the motion.

The motion passed unanimously.

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12:20 - SAM FINLEY, INC., AMERICAN ASPHALT PAVING, INC. app. under Sec. 30-6.6 of the Ordinance to permit building to remain closer to property line than allowed, 112((1))1 Springfield District (I-G), V-19-73 (Deferred from 6-20-73 for proper notices and lease)

Notices to property owners were in order. The contiguous owners were Mildred C. Peak and Elaine Clark, 2851 Chesterfield Place and Fairfax County Water Authority, 4121 Chatelain Road, Annandale, Virginia and Walter Washington, District Building, Washington, D. C. Mr. Washington, Mayor of Washington D. C. was notified because the land where Vulcan Quarries is located is owned by the District of Columbia.

Mr. Runyon moved the the application be amended to include the names of the owners, Jack Rephan and John Davis, Adm., cta, Estate of Lucian Blaine Clarke, deceased. and change the section under which the Board would hear this case to Section 30-6.6.5.4 of the Ordinance. Mr. Baker seconded the motion and the motion passed unanimously.

Mr. Royce Spence, attorney for the applicant, with offices in Falls Church on Park Avenue, represented the applicants before the Board.

Mr. Spence stated that this was an engineering mistake in that the building was set closer to the property line than is allowed by the ordinance. The building was constructed some time ago and the engineering work was done by a firm in Alexandria who staked out the buildings.

Mr. Runyon asked if the Board was in receipt of a copy of the building permit. He stated that the Board has to have that under the mistake section of the ordinance. He stated that the Board has to have legal evidence that the permit was granted. The applicants need a total variance of 16.0'.

He moved to defer this case until after lunch in order for Mr. Spence to obtain a copy of the building permit.

Mr. Baker seconded the motion.

The motion passed unanimously.

After lunch Mr. Spence presented the Board with a copy of the building permit.

Mr. Runyon stated that this met the requirement. He made the following motion.

In application No. V-19-73, application by Sam Finley, Inc. American Asphalt Paving, Inc. and Jack Rephan and John Davis, under Section 30-6.6.5.4 of the Zoning Ordinance, to permit building to remain closer to side property line than allowed, 84.1 feet, on property located at 8900 Ox Rd., also known as tax map 112((1))1, Springfield District, County of Fairfax, Virginia, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 25th day of July, 1973, and

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

- 1. That the owner of the subject property is Michael Blaine Clarke and Edgar A. Wren, Trustees.

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SAM FINLEY, INC., AMERICAN ASPHALT PAVING, INC. (continued)

2. That the present zoning is I-G.
3. That the area of the lot is 14.79545 acres.
4. That Site Plan approval is required.
5. That the applicant is operating pursuant to a Special Use Permit (SP-91), granted by the Board of Supervisors on May 29, 1973.

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

1. That the Board has found that non-compliance was the result of an error in the location of the building subsequent to the issuance of a building permit, and,
2. That the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, non-residential use permits and the like through the established procedures.

Mr. Baker seconded the motion.

The motion passed unanimously.

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2:00 - LAKE BARCROFT RECREATION CORP., INC., S-142-69, on east side of Whispering Lane, Mason District, community recreation facility, granted 9-8-70. Discussion between attorney for Lake Barcroft Recreation Corp., Inc. and attorney for nearby property owners.

Mr. Kelley stated that Mr. Daniel Smith, Chairman of the BZA, was not present today because of illness and there are only two members present that were on the Board at the time this original permit was granted, Mr. Baker and Mr. Barnes. He stated that it is his personal feelings that this case should be deferred until Mr. Smith could be present.

Mr. Baker agreed. Mr. Barnes also agreed.

Mr. Kelley stated that this is not a public hearing, but a discussion to hear some additional facts.

Mr. Baker moved that the case be deferred until August 3, 1973, if Mr. Smith is able to be present.

Mr. Barnes seconded the motion.

Rufus Brown, citizen of Belvedere and representing the citizens of Belvedere stated that They are opposing Lake Barcroft Clusters development using the road that was shown in the original hearing as an ingress and egress road to the association recreation facility only. Mr. Waterval, the attorney for Lake Barcroft Recreation Association, has made a great point in his letters about the expenses they were incurring and every day a decision is not made, it becomes more and more expensive.

Mr. Kelley stated that he could leave with the Board for their review anything that he might have in writing for their consideration, but the Board could not hear the discussion.

Mr. Baker's motion to defer passed unanimously.

Mr. Waterval requested the record reflect that he was present to respond to the Board's letter requesting him to be present for this discussion.

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AFTER AGENDA ITEMS (continued)

FOX HUNT SWIM CLUB -- Mr. Kelley read a letter requesting that Fox Hunt Swim Club be allowed to further expand their geographical membership area to Sections 1 and 2 of Keene Mill Station. These sections of Keene Mill Station do not have access to a community pool and they, Fox Hunt Swim Club, also need memberships for their pool to get underway.

Mr. Runyon moved to allow Fox Hunt Swim Club to allow Sections 1 and 2 of Keene Mill Station to be included, but with the stipulation that when they have reached their maximum membership, or have requests from their original geographic area, that first consideration be given to this original geographic area for incoming members.

Mr. Baker seconded the motion.

The motion passed unanimously.

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LESTER F. MARKELL, SR. & AMOCO OIL COMPANY, INC., S-198-72 - Request to remove AMOCO OIL COMPANY, INC. }

Mr. Kelley read a letter from Peter A. Cerick, 11 Pine Street, Herndon, Virginia, dated July 19, 1973, attorney for Mr. Markell. Mr. Cerick stated that Mr. Markell and his son had operated the gasoline station on the corner of Route 606 and Route 7 for quite a few years. Over the years, they have enjoyed their relationship with Amoco. At the time of the hearing in 1972 and again in February of 1973 for the car wash, it was represented that Amoco would construct the car wash jointly with Mr. Markell and would operate the same. This was based on an oral understanding which was then in existence between Mr. Markell and Amoco. Mr. Markell and his son own the parcel containing approximately two acres, which includes the 40,000 square feet upon which the gas station is located and the location of the proposed car wash. They sold the operation of the gas station business in 1972, but still own the land. During the hearing January 23, 1973, it was suggested by the Board that the lease with Amoco, dated September 1, 1972, for 40,000 square feet be amended to include the entire parcel. There was a copy of a Lease Modification Agreement providing for 2.00 acres filed with the Board of Zoning Appeals in good faith, based on good faith negotiations between Amoco and Mr. Markell concerning the consideration for the erection of the building and the lease of the additional land for the car wash operation to Amoco by Mr. Markell. The Lease Modification Agreement has not been delivered to Amoco because the additional necessary terms which were to be in a separate writing have not been agreed upon. Discussions have ceased due to reasons unknown to Mr. Markell and perhaps beyond the control of the Amoco representative. The original proposal of Mr. Markell has been substantially changed and the parties have reached an impasse. There has been a substantial reduction in the monthly rental and a substantial increase in the components of the building to be constructed by Mr. Markell.

Under the circumstances, Mr. Cerick stated, it is Mr. Markell's desire to go forward with the car wash and a site plan has been filed, prepared by Mr. Matthews at Mr. Markell's request. Mr. Markell would, therefore, desire to revert to the original plan as the sole applicant and sole permittee.

Mr. Runyon stated that the Board would need some type of statement from Amoco stating that they wish to be deleted from the application.

The Board then decided to ask Mr. Markell and a representative from Amoco to come in and discuss this at the earliest possible time, perhaps August 1st or August 3rd, 1973.

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PROGRESS REPORT FROM CITGO ON HOES ROAD - Letter from Mr. McIntyre from Citgo was read into the record stating that they were having difficulties but hoped to continue on the construction soon. A report from Zoning Inspector, Douglas Leigh, stated that "all machinery and work on this project has ceased. In the last two weeks, there has been no indication of continuance in the near future. This project has been in a state of on and off again construction for nearly one year. The non-residential use permit has expired and the area of the site plan #132 does not meet minimal standards." /s/ Douglas S. Leigh, Zoning Inspector. He also submitted a copy of Site Plan #132.

Mr. Runyon moved that Citgo be allowed sixty days to complete the work on the site and if this is not done, the Special Use Permit will be revoked.

Mr. Baker seconded the motion. The motion passed unanimously.

Mr. Barnes stated that in the letter of notification, be sure to include Mr. Leigh's comments.

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AFTER AGENDA ITEMS (continued)

B.P. OIL CORPORATION - Request for an out-of-turn hearing based on the fact that their contract expires the middle of September.

Mr. Runyon stated that the Planning Commission will probably wish to pull this case and he felt they should take their normal turn, as they did not explain why they could not have had the file in earlier.

Mr. Baker moved that it be heard on September 12, 1973.

There was no second to his motion and therefore the motion died for a lack of a second.

Mr. Kelley stated that the applicant should be notified that his request was turned down because of lack of sufficient reason for an out-of-turn hearing based upon a hardship.

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FALLS CHURCH CHILDREN'S HOUSE OF MONTESSORI, S-186-70 Mr. Kelley read a letter from Don Stevens, attorney for the applicant, stating that this school had been granted a permit for three years. At the time of the hearing there was no mention as to why it was only granted for three years. There have not been any problems created during this period, nor have there been any complaints made to the Zoning Administrator's staff regarding this facility. Due to these factors, there seems to be no compelling reason why this three year stipulation was imposed upon the Hardings. The Hardings request that the reference to the three year time period be deleted as there seems to be no apparent reason for requiring the Hardings to incur the engineering expense to prepare a plat, the filing fee, counsel fees, and the public concern occasioned by seeing a zoning sign when in fact no change in zoning or proposed land use is contemplated.

He further stated that where there are violations of the provisions of the zoning ordinance, or of conditions of use permits under which private schools, among other special permit uses operate, the Board does not and has not in the past hesitated to call the permittee before it to show cause why the permit should not be revoked. Since that is the case, it appears that no real purpose is served by requiring periodic reapplication for use permits other than to cause the unnecessary expenditure of funds by the applicant, and the unnecessary expenditure of time by the Board.

Mr. Runyon moved that this request be deferred until there is a full Board as Mr. Stevens has a good point. The Board has discussed this before and perhaps the Zoning Administrator could give the Board some guidance and the Board should reexamine this in light of all the facts.

Mr. Baker seconded the motion.

The motion passed unanimously.

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REQUEST FOR OUT OF TURN HEARING - SHARON TEMPLE (Masonic Temple).

Mr. Kelley read a letter from G. Byron Massey, of Massey Engineers and Consultants, requesting an out of turn hearing as the present temple in the community of McLes has been sold and the corporation has made financial arrangements with the purchaser to lease the building and property for a limited period of time. Because of this, they requested an out of turn hearing at the August 3rd meeting.

Mr. Runyon stated that the advertising deadline is gone for that meeting, but in view of the circumstances, he would move that the Board place it on the agenda for the 1st meeting in September.

Mr. Baker seconded the motion.

The motion passed unanimously.

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July 25, 1973
AFTER AGENDA ITEMS (continued)

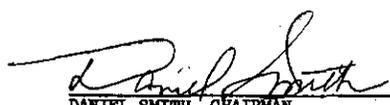
Mr. Kelley read a letter from Lee Ruck, County Attorney, from Alan Magazine, Supervisor, regarding the possibility of an automatic six month deferral for people who did not notify property owners as they should have and caused their case to be deferred. Now the BZA defers the case until the earliest possible hearing date which does not inconvenience the applicant too much, but it does inconvenience the citizens who wish to be present for the hearing. He stated that it could be that some applicants do this on purpose hoping the citizens who oppose their use will loose interest and not appear at the next meeting on the case.

The Board agreed that something should be done and asked the Zoning Administrator if he would check with the County Attorney to see if the BZA could legally defer cases automatically for six months for lack of proper notification.

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The meeting adjourned at 3:15 P.M.

By Jane C. Kelsey
Clerk


DANIEL SMITH, CHAIRMAN

APPROVED: September 19, 1973
(Date)

The Regular Meeting of the Board of Zoning Appeals Was Held On Wednesday, August 1, 1973, in the Board Room of the Massey Building. Present: Daniel Smith, Chairman; Loy Kelley, Vice-Chairman; George Barnes, Joseph Baker and Charles Runyon.

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The meeting was opened with a prayer by Mr. Barnes.

10:00 - COUNTY OF FAIRFAX, VIRGINIA, app. under Section 30-6.6 of Ord. to permit erection of 70' Microwave Tower closer to property line than the required fall area of the height of the tower, 6121 Franconia Road, 81-3((5))2B, Lee District (C-N & RE-1), V-132-73

Mr. Archie Lewis, Director of Communication for Fairfax County, Massey Building, represented the applicant before the Board.

Notices to property owners were in order. The contiguous owners were Statewide Stations, Inc., 2100 Hunters Point Avenue, New York and Olivet Episcopal Church, 6107 Franconia Road, Alexandria, Virginia and Franconia Volunteer Fire Department, 6300 Beulah Street, Alexandria, Virginia 22310.

Mr. Lewis stated that each time they build a new substation, they will require a microwave tower on the top of the building. There is one in Annandale, Lorton and Chantilly and they have a strata-com tower at Tyson's. As they continue to expand the police substations and fire stations, they are requiring more towers to insure complete coverage. This is a planned step to place another link in their microwave system.

They need a 4' variance in order to construct the tower in this location. If they moved the tower 4', it would be at the overhead drive-in doors and if they put it on either corner, it would place it where it would fall on property not owned by the County. The height of the tower has been reduced from 90' to 70'. This tower is essential to the public safety of Fairfax County. The tower is to be anchored to the building 20' above the ground, so that its effective height for setback purposes is 50 feet. The tower is to be so located as to meet the setback requirement on all property lines except the east side lot line, from which it is to be setback 46 feet. Therefore, a variance of four feet is needed.

Mr. Runyon stated that on the plats, the location on one plat is not exactly the same as the other plats.

Mr. Lewis stated that the variance is 4' toward the Texaco property. It is 46' from the Texaco property line. 131' from the front property line that fronts on Franconia Road. 54' from the Smith property on the west side. 135' from the rear property line of the Franconia Volunteer Fire Department. The lot is 100' wide and the tower will be 54' from the center of the 100' side property in the direction of the Texaco property.

Mr. Runyon stated that he felt there is enough merit in the case to go ahead with it, but the Board should stipulate that the plats should be in the file before it is officially approved.

In application No. V-132-73, application by County of Fairfax, Virginia under Section 30-6.6 of the Zoning Ordinance, to permit erection of 70' Tower closer to property line than allowed (4 foot variance), on property located at 6121 Franconia Road, also known as tax map 81-3((5))2B, County of Fairfax, Virginia, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 1st day of August, 1973, and

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

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:

- (e) the location of existing buildings

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, non-residential use permits and the like through the established procedures.

Mr. Baker seconded the motion.

The motion passed unanimously.

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BRUCE R. FOSTER, app. under Section 30-6.6 of Ord. to permit addition closer to street property line than allowed by Ord., 1200 Olde Town Road, 83-4((2))(42)20-25, Mount Vernon District, (R-12.5), V-134-73

Mrs. Esther Bennett, 6400 Boulevard View, represented the applicant before the Board. She stated that the applicant was not present, but she was representing him. She is a friend and a neighbor. She is with Routh Robbins Real Estate.

Mr. Smith asked her if she was aware that a variance was granted originally when this house was built.

She stated that she was. This variance is for the addition, she stated.

Notices to property owners were in order. The contiguous owners were Mrs. Catherine Consi, 1204 Olde Town Road, Alexandria and Mr. Brooklyn B. Hill, 6307 10th Street, Alexandria, Virginia. They had also notified the Fairfax County Board of Supervisors who owns the easement next to their property.

The Staff report stated that the applicant wants to construct an addition to his residence on Olde Towne Road in the New Alexandria Subdivision, such that it would be 13.47 feet from the lot line fronting on Mt. Vernon Memorial Boulevard. This is an old subdivision with an established setback requirement of 25 feet, so a variance of 11.53 feet is needed. A variance to permit the original house construction was approved by the BZA on November 13, 1956.

Mrs. Bennett stated that this is an unusual shaped piece of property. Mr. Foster has owned the property for one and one-half years.

Mr. Smith stated that a variance was granted all the way around the house in order for him to build there.

Mr. Covington stated that there are houses in that area that back right up to the street. Most of them do not meet the setback.

Mr. Barnes asked if the Fosters plan to continue to live there.

Mrs. Bennett stated that to the best of her knowledge they do plan to continue to live there. Since he purchased the house, he has gotten married and now needs more space.

Mr. Kelley asked what type materials he plans to use.

Mrs. Bennett stated that as far as she knows he will use materials that are similar to the existing structure, brick.

Mr. Kelley asked if she was sure of this. This is the reason the applicant should be here, to answer these questions.

Mr. Smith stated that if the applicant would have the easement vacated, then he might feel differently about this case.

Mr. Smith stated that he should have been aware of this problem when he purchased the house.

Mrs. Bennett stated that up until the time Mr. Foster purchased the property, it was rental property. Mr. Foster has completely restored the house inside and out and has established himself in the neighborhood as a permanent resident. Before he occupied the house it was very rundown. There is a lot of difference between the right-of-way line and the paved area. The paved area is much farther away.

Mr. Runyon stated that he did not believe they plan to widen or expand the George Washington Memorial Parkway. The right of way is 300' wide, but the paved area is 50 feet.

Mr. Kelley and Mr. Barnes and Mr. Smith stated that they felt this was a lot of house for the amount of land area.

There was no opposition to this application.

Mrs. Bennett stated that she wanted to make it clear that it would be a hardship if this is not granted as this is the only area of the house that can be added to because of the way the house is designed.

In application No. V-134-73, application by Bruce R. Foster, under Section 30-6.6, of the Zoning Ordinance, to permit addition closer to street property than allowed by Ordinance, on property located at 1200 Olde Town Road, also known as tax map 83-4((2))(42)20-25, Mt. Vernon District, County of Fairfax, Virginia, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 1st day of August, 1973, and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 6,888 sq. ft.
4. That a variance to permit the original house construction was approved by the Board of Zoning Appeals on November 13, 1973.

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

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

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr. Barnes seconded the motion.

Mr. Runyon stated that he would still like to see this treated more like a parkway rather than a street line, but the area is the limiting factor in Mr. Kelley's motion. He stated that he would like to ask what would be the area for a standard lot and did he get a variance from the area in the beginning.

Mr. Smith stated that he felt the fact that variances were granted originally to construct the house is the main factor here.

Mr. Baker agreed.

The vote was 4 to 1 with Mr. Runyon voting No.

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PATRICK E & BARBARA T. DEVINE, app. under Section 30-6.6 of Ord. to permit erection of addition closer to street property lines than allowed by Ord., 4105 Nellie Custis Court, 110-2((11))16, Mt. Vernon District, (RE-0.5), V-135-73

Mr. Devine represented himself before the Board.

Notices to property owners were in order. The contiguous owners were Irving R. Baldwin, 9015 Cherry Tree Drive, Alexandria and William Georgi, 4103 Nellie Custis Court, Alexandria.

Mr. Devine stated that this is his permanent home of record and he is retiring here. He and his wife recently had a son which makes four children and there are only four small bedrooms and he would like to add an addition. When he contacted the architect the architect told him that the rear of the yard is in flood plain. The house is also not placed parallel on the lot, it is cocked, therefore when they add the addition they are closer to the property line than they would be if the house was placed squarely on the lot. He had contacted Mr. Cross, an architect, in order to find the place to add this addition that would look the best from the neighborhood's point of view.

Mr. Runyon stated that if this were cluster zoning, he could come within 30' of the street property line by right.

Mr. Barnes stated that this is also a corner lot which means he has two front yards and must set back from both streets instead of the usual one street. He stated that he felt this is definitely a situation that the Board can grant.

Mr. Baker stated that there are several topographic reasons why he cannot utilize the rest of his lot. One of the main reasons is because of the flood plain in the rear and this is an odd shaped lot.

Mr. Barnes asked how long they had lived at this address.

Mr. Devine stated that they had lived here for two years and they do plan to continue to live here. He stated that he plans to construct this addition of the same type material as is used in the house. The second floor of the house is aluminum siding and the base is brick and block. He intends to match the materials so this addition will look like it is all one instead of an add-on.

Mr. Smith stated that this will require a variance from the streets of 4 feet and 4 feet.

There was no opposition to this application.

In application No. V-135-73, application by Patrick E. and Barbara T. Devine, under Section 30-6.6 of the Zoning Ordinance, to permit erection of addition closer to street property lines than allowed (46' & 47'), on property located at 4105 Nellie Custis Court, also known as tax map 110-2((11))16, County of Fairfax, Virginia, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 1st day of August, 1973, and

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

1. That the owner of the subject property is Patrick and Barbara T. Devine.
2. That the present zoning is RE-0.5.
3. That the area of the lot is 27,503 sq. ft.

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

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:

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PATRICK E. AND BARBARA T. DEVINE (continued)

- (a) exceptional topographic problems of the land,
- (b) unusual condition of the location of existing buildings

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. Architectural style and materials shall match the existing structure.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, residential use permits and the like through the established procedures.

Mr. Baker seconded the motion.

The motion passed unanimously.

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EDWARD R. CARR & ASSOCIATES, INC., app. under Section 30-7.2.6.1.1 of Ordinance to permit swimming facility, Newport Drive and Penwith Court, 44-2((5))Parcel A1 & 125-132, Centreville District (RTC-10

Mr. Donald Stevens, P. O. Box 547, Fairfax, Virginia, represented the applicant before the Board. Mr. Stevens requested that the Board defer this case as the Brookside Citizens Association has expressed a desire to see the plans and they haven't had time to get together with them and work out all the details. Therefore, they would like a deferral in order to try to work this out.

Mr. Harry Payne, President of Brookside Homeowners Association, stated that they had discussed this with Mr. Carr on Thursday of last week and at that time it was agreed that there would be a request for a postponement hoping that all the problems could be worked out.

Glive Schwinger, Lot 92, which is directly across from where the pool is going to be, stated that he was in agreement with the deferral.

Mr. Baker asked if the 9th of September would be satisfactory with everyone.

This was agreed to by everyone.

Mr. Smith stated that Mr. Stevens would be notified of the time.

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NANCY H. & ROBERT S. MURPHY, app. under Section 30-6.6 of Ord. to permit less frontage than required in Ordinance and to permit 40' setback from centerline of streets, Outlot Road off Potomac School Road, 31-1((1))6, Dranesville District (RE#1), V-136-73

Mr. Smith read a letter requesting that this application be withdrawn without prejudice as they feel they have worked out their problems within the County staff.

Mr. Baker moved that the case be withdrawn without prejudice.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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MURRAY WEINBERG TR., app. under Section 30-6.6 of Ordinance to permit office building closer to side property line than allowed, 6066 Leesburg Pike, 61-2((1))6, Mason District (C-OH), V-111-73 (Deferred from July 11, 1973)

Mr. William Hansbarger, attorney for the applicant, 10523 Main Street, Fairfax, Virginia, represented the applicant before the Board.

Notices to property owners were in order. The contiguous owners were William L. Reno, Jr., P.O. Box 1065, Falls Church and R. A. Miller, 6021 Munson Hill Road, Falls Church, Virginia and Daniel O'Flaherty, 6371 Burton Circle, Falls Church, Virginia.

Mr. Smith asked for an agreement to limit the applicant to ten minutes and the opposition to ten minutes in order to stay on schedule.

Mr. Hansbarger stated that in order to fully understand the case he needed to present a little case history. He stated that he would also like to compare what is proposed to what was proposed at the time of the rezoning and at the time the original variance was granted.

This property was rezoned in 1968 and a variance was granted in 1970 and extended in 1971. He submitted a comparison statement of the proposal at each stage; rezoning, at the time of the original variance and the present proposal. The original plan, and the plan that was submitted to the Board of Supervisors at the time of rezoning and also to the citizens association showed a building 100' in height and had a ground dimension of 150'x80', 9 stories, 346 parking spaces and the gross area of the building was 102,740 square feet; at the time of the request for the original variance, the height of the building was 90', the dimensions were 137'x80', 8 stories, 78,600 square feet (gross area of building) and 254 parking spaces. Now, this proposal is for a 100' building, 9 stories, dimensions of the building is 94'x94', gross area of building 76,530 square feet and the parking spaces 238. Therefore, they now have a much smaller building.

He stated that at the time of the rezoning in 1968, everyone was of the opinion that residential was no longer a desirable use along Route 7 because of the traffic that existed at that time and which has increased since that time. The citizens did not take any stand, either for or against. If there had been violent opposition at the time of the rezoning, it would have surfaced then. When they came before the Board of Zoning Appeals in 1970, no one complained about it. The building at those times was a larger building than what is proposed today. In reducing the size of the building, they have reduced the exposure from the residential area. This is a very practical building and is the only way to develop the property in a fashion that is architecturally pleasing. This building has a lesser impact upon the neighborhood and it is one that is an asset to the County and the neighborhood.

He stated that the parking is shown where it was shown all along. In the original application they could not get all the required parking above ground and had to have some underground parking. The building has been moved forward and has been turned around. They moved it 78' toward Route 7. As far as he knows there is no objection from all sides of this building except two. They have letters and some people are present to speak for themselves, Mr. O'Flaherty, Mr. Reno. He stated that he did not feel that this land could be sold for residential. He stated that this building is still 81' off the residential property line to the east

Mr. Smith stated that the minimum height in this zone is 90'. He stated that at the time of the rezoning if the Staff had done adequate research they could have told the Board of Supervisors that a building of the minimum height of 90' could not have been constructed on this piece of property without a variance. This could have made a difference in whether or not they rezoned the property.

Mr. Hansbarger stated that one couldn't penalize the owner because of this.

Mr. Hansbarger stated that the owner knew that the Board of Zoning Appeals is empowered to grant the necessary variances to permit the reasonable use of the property.

Mr. Smith stated that the applicant was aware of the limitation on the construction on this tract of land when he purchased it. No one is guaranteed a variance on any piece of land in this County.

Mr. Hansbarger stated that the land is the same land that the Board granted a variance on several years ago. Three years have passed and they have been unable to move forward with the building.

Mr. Daniel O'Flagerty spoke in favor of the application.

Mr. W. L. Reno, 6080 Leesburg Pike, spoke in favor of the application. He stated that he owns the property that is contiguous with this piece of property. He stated that Mr. Hollingsworth who owns the property immediately to the west of his property has asked him to speak on his behalf also.

Mr. Smith stated that unless he had something in writing, he would have to restrict his remarks to his own feelings. This is the procedure of this Board. Mr. Reno stated that he supports the application because it is much better than what is on the property at the present time. The property now presents a hazard. This property has become a hippy jungle which is unsightly and dangerous. The house was torn down and there are no structures at the present time.

Mr. Gerald Forcier spoke in opposition to this application. His address is 6027 Fairview Place, Falls Church, Virginia. Mr. Forcier stated that in July, 1968, this parcel of land was rezoned under strong opposition of the local residents. Mr. Hansbarger assured the citizens of the Long Branch Citizens Association that all ordinances regarding the construction of the commercial office building would be strictly adhered to and he specifically promised that the setback ordinance would be followed. With these promises together with drawings and landscape designs, they were able to simmer down some of the opposition. He stated that it was the best "con" job ever perpetrated on the people of a community in his long years as a civic leader.

Mr. Forcier stated that Mr. Weinberg promised in 1968 that he would provide a proper buffer zone as provided by existing ordinances. Later the County adopted an ordinance that gave the developer the option of placing a masonry wall on the property line rather than the twelve feet of planted area. The older ordinance would save hundreds of existing trees.

The Board of Zoning Appeals denied Mr. Weinberg's 1970 application, but allowed him to place a masonry wall on the property line which was not part of the application nor was the Board of Zoning Appeals aware of the promise made by the developer regarding the buffer zone. In 1970, the application had a one year limitation and has expired. He asked the BZA to deny the application before them today and save the trees by insisting that the 12 foot buffer zone be maintained. The County now realizes its mistake in rezoning this property. In its "Limited Growth Alternative Plan" for Bailey's Planning District this parcel is recommended a return to the more appropriate zoning category to avoid the wedging of commercialism into well established residential areas.

Mr. Forcier further stated that he represented the citizens of the Pinehurst Community Association as well as the Long Branch Citizens Association. He stated that his property also abuts the property in question. Mr. Forcier stated that there are 53 letters in opposition in the file.

Mr. Forcier stated that at the time of the rezoning, there was no representative on the Board of Supervisors from the Mason District as Mr. Harold Miller asked to be excused because he had an interest in the case. He was the only one that knew the impact this would cause as this was in his district.

Mr. Hudson Nagel, 3304 Glen Carlyn Road, in the Pinehurst Subdivision, spoke in opposition.

Mr. Smith asked him to be as brief as possible as the application had taken 45 minutes and Mr. Forcier had taken 40 minutes.

Mr. Nagel stated that he wanted to clear up a statement made by Mr. Reno and Mr. Hansbarger stating that they had a letter from the property owners in the first house on Leesburg Pike that adjoins this property. The Board also has a letter in the file in opposition to this application from Mr. and Mrs. Rowe who owns the property that Mr. Hansbarger and Mr. Reno spoke of. Perhaps they were referring to a different piece of property, but he wanted to clear this up. Mr. Reno spoke in favor of this building because of the need to do something with the property since it constitutes a hazard. Mr. Weinberg is responsible for this hazard. The Dove property originally had a very attractive house on it. It was a Hillard house and if this property had been kept as a residence, it would not have to have been torn down and would have made a fine residence. The people who are present, two, who are in favor of this variance are people who want to develop their land as commercial. This would be a detriment to the people who wish to live here as they have for many many years.

Mr. Forcier asked to be able to speak again in summary as he stated he did not get a chance to do so in his earlier statement. He stated that he also is a member of the Planning and Land Use Committee of Mason District Council and is speaking on behalf of that council and also on behalf of the Mason District Council Executive Committee. He stated that he would like to stress that on behalf of all these associations and council he would like to ask the Board to deny this application. He also asked the Board if they had read the letters from the property owners in the nearby area that were opposed to this application. He stated that on behalf of all these property owners and in keeping with the Resolution passed recently by the Board of Supervisors in relation to this case he would ask the Board of Zoning Appeals to "don't send this hardship on the citizens of this community and deny Mr. Weinberg's application and insist that all promises made to the citizens at the time of the rezoning be kept so they can have faith again in developers and in their government."

Mr. Runyon stated to Mr. Forcier that that was a pretty dramatic statement. He stated that he was born and raised in this area and his father was at one time a Supervisor from this district. He asked Mr. Forcier what he wanted on this property.

Mr. Forcier stated that he wanted the residential character of the community to be maintained and the best way to treat this parcel of land is to leave it as open space, but he knew this is an idealistic approach.

Mr. Runyon stated that this land is already zoned C-OH, so what would he have the Board do, this Board or the Board of Supervisors.

Mr. Forcier stated that according to the plan that they discussed last fall, this particular piece of land is to be downzoned to R-12.5. This is the thinking of the County staff.

Mr. Baker asked if the Finhurst people would be willing to buy the land at the price that the developer needs.

Mr. Forcier stated that they would not be able to do that.

Mr. Smith stated that the Board has to be reasonable. The Board cannot be arbitrary in these matters.

Mr. Forcier stated that he felt his testimony was very clear. Mr. Weinberg promised that there would be no variance to setbacks from the residential area.

Mr. Smith stated that the zoning ordinance states that the property owners should be allowed the reasonable use of his land.

Mr. Hansbarger spoke in rebuttal to the opposition. He stated that the plan that is before the Board today shows the plan presented to the citizens and the Board of Supervisors at the time of the rezoning. It shows a building 100' high.

Mr. Baker asked if the Board of Supervisors was aware that a variance would be needed.

Mr. Hansbarger stated that he did not remember, but the plan did show the building as being 100 feet high. He stated that it was the Board of Zoning Appeals that felt at the time of the original hearing on the variance that a solid brick wall would be better than a 12 foot buffer strip. A brick wall alleviates the possibility of headlights shinning into the residential area. The old type stockade fences that were used earlier usually fell down within a few years.

Mr. Hansbarger then submitted a covenant for the record that stated that Fairview Place will not be extended across, on or over the premises for either public or private use. This was to meet the opposition of Mr. Forcier as he recalled. He stated that he wanted to stress that this present proposal has less impact than did the earlier proposal.

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WEINBERG (continued)
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The Board then recessed the hearing and stated that they would return after lunch at 2:20 P.M. and make all the letters they had received as a part of the record. The Board members have read all these letters. The Board may have to put this decision off until Friday. If this is the case, it will not be necessary for anyone to appear. All parties will be notified of the decision.

The Board then returned at 2:20 P.M. and took up the above case.

Mr. Smith read the letters into the record. These were letters of opposition to this case. They were:

Gerald O. Forcier, 6027 Fairview Place, Falls Church, Virginia, Pinehurst Subdivision.
Hudson F. Nagle, 3304 Glen Carlyn Road, Falls Church, Virginia, Pinehurst Subdivision.
James B. Gregory, 3220 Apex Circle, Falls Church, Virginia.
Thelma J. Crosier, 6116 Munson Hill Road, Falls Church, Virginia.
Barbara P. Morrison and Robert E. Morrison, 6102 Afton Court, Falls Church, Virginia.
Jack M. Smith, Jr., 3229 Magnolia Avenue, Falls Church, Virginia
Paul D. and Linda A. Naylor, 3206 Apex Circle, Falls Church, Virginia.
Alfred C. Griffin, D.D.S., 3117 Glen Carlyn Road, Falls Church, Virginia.
Gerald F. Small and Theodora G. Small, 3221 Hallrun Road, Falls Church, Virginia.
Joseph Satriano, 3315 Kaywood Drive, Falls Church, Virginia, President, Glen Forest Assoc.
Preston G. Atkins, 6058 Leesburg Pike, Falls Church, Virginia.
A. J. Lorusso, 3204 Olds Drive, Falls Church, Congressional Acres Subdivision.
Lt. Col. Donald A. Needham, 6014 Jan Mar Drive, Falls Church, Long Branch Civic Assoc.
Gustav A. Sallas, 3200 Olds Drive, Baileys Crossroads, Virginia
Andrew and Mary Petruska, 3215 Magnolia Avenue, Falls Church, Virginia.
Douglas J. Scruggs, 3201 Magnolia Avenue, Falls Church, Virginia.
John M. Hotchner, 6121 Vista Drive, Falls Church, Virginia.
Margaret D. Manser, 6040 Hardwick Place, Falls Church, Virginia.
Stanley and Emma Glassner, 3221 Glen Carlyn Road, Falls Church, Virginia.
Gordon and Elizabeth L. Butler, (no address on letter)
Elizabeth R. DuVal and George C. DuVal, 6013 Munson Hill Road, Long Branch Citizens Assoc.
Gerhard Kruger, 6025 Fairview Place, Pinehurst Subdivision.
Robert H. Trisdale, 6011 Munson Hill Road, Falls Church, Virginia.
Ralph Bodemann, 6026 Fairview Place, Falls Church, Virginia.
George and Mary Griffiths, 6023 Fairview Place, Falls Church, Virginia.
Daniel F. Curtin, 6014 Munson Hill Road, Falls Church, Virginia.
Lloyd W. Pomeroy, 6021 Fairview Place, Falls Church, Virginia.
Martin Faga, President, Lee Blvd. Heights Citizens Assoc. Lee Blvd. and N. Munson Hill Road.
Benny and Elizabeth Oliver, 3220 Magnolia Avenue, Falls Church, Virginia.
Brandon B. Shea, 6017 Munson Place, Falls Church, Virginia
Rev. John M. Nagels, Pastor, St. Anthony Catholic Church, 3305 Glen Carlyn Road, Falls Church.
Gerard A. Cerand, President, Publishing Computer Service, Inc., 6028 Fairview Place, Falls Church, Virginia.
Mrs. A. J. Cruciolli, 6025 Munson Place, Falls Church, Virginia.
Emit Prin, Street Representative, Hallrun Subdivision and member, Executive Committee, Long Branch Citizens Association.
James H. Bott, Jr., 6020 Fairview Place, Falls Church, Virginia.
Paul M. Glassner, Area Representative, Long Branch Civic Association, 3221 Glen Carlyn Road, Falls Church, Virginia.
William C. Sawyer, 3242 Glen Carlyn Road, Falls Church, Virginia, Pinehurst Subdivision.
Alexander B. Costea, Jr., 3200 Glen Carlyn Road, Falls Church, Virginia.
(former address 6064 Leesburg Pike, next door to subject property)
John W. Roche, 3321 Magnolia Avenue, Bailey's Crossroads, Virginia, member, Executive Committee, Longbranch Citizens Association.
J. David Pratt, 3223 Magnolia Avenue, Falls Church, Virginia.
Henry J. Schneider, 5935 Kimble Court, Falls Church, Virginia, representative, Congressional Acres Subdivision of the Long Branch Citizens Association.
Harry L. Kaicely, 6022 Fairview Place, Falls Church, Virginia, Pinehurst Subdivision.
E. M. Rowe, 6062 Leesburg Pike, Falls Church, Virginia.
Roy F. Simino and Barbara B. Simino, 6021 Munson Place, Falls Church, Virginia.
Paul J. Kauffmann, 6022 Munson Place, Falls Church, Virginia.
Ferdinand J. Bartiluoci, 6024 Fairview Place, Falls Church, Virginia.
Phil D. Gilliland, 6018 Fairview Place, Falls Church, Virginia.
C. L. Cook, 6041 Munson Hill Road, Falls Church, Virginia.
Paul Dietz, 6027 Munson Place, Pinehurst Subd., Falls Church, Virginia.
Richard T. Ball, 6012 Jan Mar Drive, Falls Church, Virginia.

Mr. Smith then read the letter in favor of this variance from Dorothy L. Del Campo. and Christos Gasparis, 6054 Leesburg Pike. Dorothy L. Del Campo is one of the owners at 6064 Leesburg Pike, Bailey's Crossroads.

Mr. Kelley moved that this case be deferred until August 3, 1973 at 12:00 Noon for decision only.

Mr. Barnes seconded the motion and the motion passed unanimously.

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NATIVITY LUTHERAN CHURCH, app. under Sec. 30-7.2.1.3.2 of Ord. to permit operation of a pre-school, 1300 Collingwood Road, 102-4(1)13B, Mt. Vernon District (R-12.5), S-144-73, OTH

Rev. Truax, represented the applicant before the Board.

Notices had not been sent out ten days prior to the hearing, therefore, the Board ruled that the notices were improper.

Mr. Baker moved that the hearing be deferred until Friday, August 3, 1973, and that the notices would then comply with the ten day requirement.

Mr. Smith stated that this was highly irregular and the Board has never done this before.

Mr. Baker stated that this would have to be done in order for the school to begin operation at the beginning of the school year. This was the reason for the out-of-turn hearing being granted.

Rev. Truax stated that he was on vacation and left this notification job to the secretary of the church and she perhaps did not realize the importance of the ten day requirement.

Mr. Barnes seconded Mr. Baker's motion. The motion passed unanimously and the case was deferred until 12:30 P.M. Friday, August 3, 1973.

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L. BLAINE & BLAINE LEE LILJENQUIST T/A POJO OF VIRGINIA, app. under Section 30-7.2.10.3.6 of Ord. to permit family oriented recreation and amusement center, 6347 Rolling Road, 79-3(1)7, Springfield District (C-D), S-147-73 OTH

Mr. Blaine Lee Liljenquist represented the applicant before the Board.

Notices to property owners were in order. The contiguous owners were Springfield Golf and Country Club and Southland Corporation.

They presented a 5 minute film showing Pojo in action. He stated that this is a version of miniature golf with the same rules but is played indoor on tables. The primary source of income is Pojo games. They charge \$1.00 to play the game. He stated that in an operation of this type, it lends itself to other things such as food vending machines and other amusement machines. These are family oriented machines.

Mr. Smith stated that under the section of the ordinance under which he applied it is limited to billard games and food would be allowed, but no amusement machines are allowed in a C-D zoned area. Mr. Smith read the ordinance to him that pertains to this.

Mr. Smith stated that it is his interpretation that if you get into coin operated amusement machines, it is an amusement arcade which is not allowed in this zone. The Zoning Administrator apparently has interpreted this as being similar to billard tables and has allowed this application for the Pojo to be in a C-D area, but not for the amusement machines

Mr. Knowlton, Zoning Administrator, stated that he too felt that coin operated machines were prohibited. The ordinance is very specific on this.

Mr. L. Blaine Liljenquist, 1234 Myer Court, McLean, Virginia, then spoke before the Board. He stated that they could not afford to operate this center without the amusement machines. It will only use fourteen percent of the space. He stated that they had had difficulty finding a location in which to operate.

Mr. Smith stated that they could operate in C-G, I-L or I-G, or in a shopping center with 400,000 square feet with a Special Use Permit such as a Regional Shopping Center. This was confirmed by Mr. Knowlton and Mr. Covington.

Mr. Liljenquist stated that they could not operate without the amusement machines.

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In application No.-S-147-73, application by L. Blaine & Blaine Lee Liljenquist T/A Pojo of Va., under Section 30-7.2.10.3.6 of the Zoning Ordinance, to permit family oriented recreation and amusement center, on property located at 6347 Rolling Road, also known as tax map 79-3 ((1))7, Springfield District, County of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 1st day of August, 1973.

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

1. That the owner of the subject property is H & F Development Corp.
2. That the present zoning is C-D.
3. That the area of the lot is 113,367 sq. ft.

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

1. That the applicant has not presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I Districts as contained in Section 30-7.1.2 in the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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12:30 - ALLAN H. GASNER, TRUSTEE, RICHARDS GROUP, INC., app. under Section 30-6.6.5.4 of Ord. to permit house to remain closer to front property line than allowed, 6105 Juneberry Court, 82-4((29))19, Lee District (R-12.5 Cluster), V-153-73, OTH

Mr. William Matthews, civil engineer, 4085 Chain Bridge Road, Fairfax, Virginia, spoke before the Board on behalf of the applicant.

Notices to property owners were in order. The contiguous owners were Rhoda Arrington, 6210 Telegraph Road, Alexandria, and W. M. Jennings Construction Corporation, 6521 Arlington Boulevard, Falls Church, Virginia.

Mr. Matthews stated that they made a mistake. The house is 28.8' from the front property line and it should be 30'. This is only on the corner of the house. The carport will meet the side setback requirements. The proposed carport has not been started. This variance is 1.2' on the corner of the house only. The reason for the error was because the person who put the figures into their computing machine made an error. He put it in the wrong place. He then marked it down on yellow paper with a yellow pencil and said "recompute". The machine put it right where the engineer told it to. Their office knew of the mistake. The weekend came around and nothing was done and when they went out into the field, the field party took the wrong computation and before they knew it the house was up. He showed a sketch of what they did in the field.

Mr. Runyon stated that 10.12' is the part of the house that is in violation.

There was no opposition to this use.

Mr. Runyon stated that they would have to have a copy of the building permit in the file before this variance would be granted, if this is what the Board decides to do.

Mr. Smith asked if the remainder of the houses in the subdivision were within the setback requirements.

Mr. Matthews stated that they were.

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 Allan H. Gasner, Trustee Richards Group, Inc. (continued)

In application No. V-153-73, application by Allan H. Gasner, Trustee Richards Group, Inc. under Section 30-6.6.5.4 of the Zoning Ordinance, to permit house to remain closer to front property line than allowed on property located at 6105 Juneberry Ct., also known as tax map 82-4((29))19, County of Fairfax, Virginia, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 1st day of August, 1973, and

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

1. That the owner of the subject property is Allan H. Gasner, Trustee, Richards Group, Inc.
2. That the present zoning is R-12.5.
3. That the area of the lot is 8,827 sq. ft.

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

1. That the Board has found that non-compliance was the result of an error in the location of the building subsequent to the issuance of a building permit, and,
2. That the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

Mr. Baker seconded the motion.

The motion passed unanimously.

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DEFERRED CASES:

2:00 P.M., JEFFREY SNEIDER & CO., app. under Section 30-2.2.2 (PAD) of Ordinance to permit service station, corner of Blake Lane and Jermantown Road, 47-2(1)part parcel 60, Providence District (PAD), S-13-73 (Deferred from February 28, 1973)

Jeffrey Rosenfeld, attorney with Miller, Gattsek, Tavenner, Rosenfeld and Schultz, Ltd., 5205 Leesburg Pike, Suite 1200, Bailey's Crossroads, Virginia, represented the applicant before the Board.

This case had been deferred from February 28, 1973 to allow the applicant time to make arrangements for a lease and submit a revised architectural plan showing the actual detail of what will be built here and show that all other obligations of the PAD ordinance have been met.

Mr. Rosenfeld stated that they have submitted to the file a copy of a lease with Mr. Anthony who is the owner and operator of a Texaco station here in the County. He will obtain gasoline from a major gasoline company. They have a gasoline company who is ready and prepared to allow Mr. Anthony to operate the station effective September 1, 1973. They cannot give the name of the oil company because of the hearings by the Senate Subcommittee.

Mr. Smith stated that without this lease, he did not see how the Board could act.

Mr. Rosenfeld stated that they have submitted the architectural rendering and they have put the service bays in the back. They have completed the design of the building. They plan to use a clay brick. He submitted a sample of the brick to the Board. It was light in color, slightly beige.

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JEFFREY SNEIDER (continued)

Mr. Smith stated that if they do not have a contract with an oil company, he would be interested in denying this application rather than allowing it. Each time the Board comes up with this case, this is the problem.

Mr. Rosenfeld stated that this is part of a PAD zone which allows a service station and the ordinance says that the Board of Zoning Appeals is to approve the architectural design of the station. They will have a contract with an oil company within 60 days, but they want to proceed in finishing the station so they can make plans to operate it and he asked the Board to approve this application today.

Mr. Kelley stated that he made the statement that they were entitled to a service station. He read the section of the Code which states that an applicant must submit a final subdivision plat of not substantially less than 50 acres. He stated that the Staff Report states that the applicant has not and cannot comply with this procedural requirement.

Mr. Runyon stated that this was discussed at the previous meeting and he thought that it had been determined that their plan had been submitted and approved. They brought it in that day.

Mr. Smith stated that he did not feel the Board has to grant this service station. It must be considered as every other Special Use Permit.

Mr. Smith stated that it is his understanding that the major oil companies are not committing themselves to new locations when there are present operators who cannot get enough gas. This, of course, has all taken place recently.

Mr. Rosenfeld stated that we were dealing with a prime location.

Mr. Barnes stated that if this was going to be part of a shopping center complex, they should redesign the light poles.

Mr. Smith stated that he too felt they should design the lights so as to be more compatible with the residential character of the neighborhood. This is an entirely residential neighborhood. He stated that they would have to have the sign on the building. How could they show the type sign they propose to have without knowing the name of the Oil Company. The sign too should fit into the architectural design of Oakton Village. Mr. Smith stated that the Board will have to wait until they get the complete package.

Mr. Kelley stated that he did not understand why they could not get all this together particularly since they have had six months. If they do not wish to put it together, then they should drop it.

Mr. Runyon stated that the plan shows screening around the existing Blake Lane. They have that they will use deciduous plants and they should use something with more permanent foliage. They should remove the word deciduous and indicate that they will use some type of evergreen tree.

Mr. Rosenfeld asked that the Board defer this until they could make these changes. He asked for a 60 day deferral.

Mr. Smith stated that he felt it should be no longer than 180 days. He suggested September 19, 1973.

Mr. Smith stated that the Board has received letters and a Petition from some of the residents along Blake Lane. The letter is from Mr. and Mrs. Jeffrey Holden, Sugar Lane. They state in their letter that they are opposed to the building of a service station at this location because Blake Lane is residential and they do not feel this commercial outlet should be allowed because it might cause the entire street to go commercial. She further stated that the Board meeting at 2:00 P.M. is ridiculous as the residents will not be able to attend. She asked why the meeting was not held in the evening.

The Petition was signed by fourteen people who live directly off of Blake Lane and who are affected by Blake Lane. The Petition stated that they object to this service station because they do not believe it is in keeping with the residential character of the neighborhood and in view of the present shortage of gasoline the station might become abandoned and would then become an eyesore to the community. In addition, the traffic on Blake Lane has now reached the saturation point and a service station would cause added congestion. The noise, pollution, dirt and objectionable odors that come from a gasoline station detract from the quality of life that is enjoyed by the residents of Blake Lane.

Mr. Frank Williams, Jr., 3008 Cyrandall Valley Road, President of the Greater Oakton Citizens Association and a contiguous owner to the PAD site, spoke before the Board in opposition to this use. He stated that he was very familiar with this area as they have been fighting it for seven years. Here we have a service station proposed by itself on a triangular corner and not related to the shopping center that they were supposed to put in there too. They have 138 acres which they are attempting to develop and at the Board of Supervisors hearing, they submitted plans showing how they were going to develop this. This service station will be located at the intersection of the new Jermantown Road which is not an existing road and Old Blake Lane. The new Jermantown Road is not even existing and these people are talking about developing a gasoline station. They are not even developing the property near this proposed service station, they are developing the upper area (he indicated on the map). They made a big presentation at the time of the rezoning regarding vacating the streets. This was just resolved in the last three months. They made a big point of the fact that they were going to develop and complete the entire area before they jumped to a new area and that commitment they have completely disregarded. It is a gross violation of faith here. They came before the citizens association with beautiful sketches and plans and now they come down to one end of the property and the first thing you see is not a shopping center, but a gasoline station. It is unfair to the citizens when there is not one commercial establishment on Blake Lane. The first thing you will see when you come down Blake Lane is not a beautiful PAD area, but another ugly service station.

Mr. Smith stated that he had a good point. He asked the applicant if this was the first building to be constructed on this area.

Mr. Rosenfeld stated that it was being constructed exactly as the site plan called for.

Mr. Smith asked what other commercial/they had underway.

Mr. Rosenfeld stated that they do not have any commercial establishment under way. The commercial shopping center is still in the planning stage.

Mr. Smith asked if there was not a planned commercial area where the service station is.

Mr. Rosenfeld stated that it would not be there for at least another two years.

Mr. Smith stated that he thought that these commercial developments were supposed to be designed and go in at the same time.

Mr. Rosenfeld stated that you can't put in a whole shopping center until you have the residential units complete and occupied.

Mr. Smith stated that if this is their reasoning behind the shopping center, then there is no need for the service station either. He asked why they were asking for the service station before they get the houses in there.

Mr. Logan Jennings from the Jeffrey Sneider Company spoke before the Board. He stated that they have approximately 200 units under construction.

Mr. Smith stated that 200 is not a lot considering the 1400 that they are proposing.

Mr. Williams stated that the 200 they are constructing at the present time is oriented to Route 123.

Mr. Smith stated that they must be in the first planned stage of the PAD development then.

Mr. Jennings stated that they are building within the 75 acres that was on the preliminary site plan that was submitted to the staff a little over a year ago. The preliminary shows that for the first 75 acres in this PAD, 200 housing units will be constructed. The construction is at least two years away on the service station because of the sewer moratorium.

Mr. Smith asked why they were even talking about a service station.

Mr. Jennings stated that it takes one ^{year} to process the plan through the County Staff.

Mr. Smith stated that he could understand the concern of the citizens. You drive around the county and you see service stations going up where there is a plan for a complete shopping center and the first thing you can see is the service station. This is a problem of the C-D zoning area simply because they were supposed to put in a designed shopping and the only thing they put is the service station. Sometimes the service station is there for twelve years before the shopping center. You see a beautiful plan for a shopping center and it certainly doesn't end up that way. It is about time we start checking out the location of service stations. There certainly isn't a shortage of stations. The construction of the service station should be in conjunction with the shopping center.

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Mr. Williams stated that the only other point he wished to make is that this location of this service station does not comply with the approved site plan. The original site plan has been lost and cannot be found and this has been in the wind for seven years.

Mr. Kelley stated that he felt the smartest thing for the applicants to do would be to withdraw the application and start over because, he stated that he wasn't in favor of continuously deferring these cases. Mr. Kelley stated that it seemed they were stalling for time and battling over the same thing.

Mr. Rosenfeld stated that they hope to begin construction within the year.

Mr. Kelley stated that Mr. Jennings stated that it would be at least two years.

Mr. Smith stated that if this permit was granted, it would run out before they could begin construction if it was two years away.

Mrs. Weatherhead, 3130 Cedar Grove Drive, Fairfax, on the Board of Directors for the Cedar Grove Citizens Association, spoke in opposition and stated that Mr. Williams had presented the case in opposition and they concurred and wished their name to be included in the list of those who oppose.

The Resolution to defer to September 19, 1973 passed 4 to 1 with Mr. Kelley voting No.

// AFTER AGENDA ITEMS

FALLS CHURCH MONTESSORI SCHOOL

Mr. Smith read a letter from Donald Stevens, attorney for the applicant, requesting that the restriction of the limitation of three years on the Special Use Permit that was granted to them about three years ago be eliminated from the Special Use Permit.

Mr. Smith stated that apparently the Board had a reason to restrict it to three years. He stated that the applicant would have to come back with a new application.

The Board checked over the plats and stated that they would have to be revised to show the recreation area.

The Board then discussed ways and means of streamlining the granting of this type of Special Use Permit so the applicant would not have to come back to the Board with a full hearing every three years or so. It is a great expense Mr. Covington stated, not particularly for the fee for the application, but for the survey.

Mr. Barnes moved that this case will have to come in with a new application and new revised plats.

Mr. Kelley seconded the motion and the motion passed 4 to 1.

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LJUND, Request for Out-Of-Turn hearing. Mr. Smith read the letter requesting this out-of-turn hearing. Mr. Smith stated that there was no emergency involved.

Mr. Runyon stated that he had the same problem as everyone else has.

The Board ruled that it would have to await the regular turn to be scheduled.

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PEOPLES BANK AND TRUST COMPANY

Mr. Smith read a letter from the applicants stating that they had received a permit for a temporary bank structure and the BZA had granted them a variance for this structure back in 1972. The bank was supposed to be moved in the new shopping center, but they haven't been able to construction the shopping center because they have been unable to get sewer taps.

Mr. Covington stated that his office has them under violation.

Mr. Smith stated that it would be extremely difficult to schedule them out-of-turn as each of the meetings are so tightly scheduled. He asked if Mr. Covington could extend their time limit on their violation.

Mr. Covington stated that he could.

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COLLEGE TOWN ASSOCIATES, Special Use Permit for Gasoline Station, Ox Road and Braddock Road.

Mr. Stevens came before the Board regarding this gasoline service station. He stated that since the time of the granting the Applicants have gotten an arrangement from Mobil and Mobil would like to make some small changes in the layout of the service station.

He showed the Board the plat. He stated that the pump islands would be moved a little and the configuration would be changed. It would still be brick and still would have a mansard roof. They want to move the pump islands back toward Braddock Road.

Mr. Smith stated that they would have to come back with a new application.

Mr. Stevens stated that they also wish to change one of the bays to a carwash.

Mr. Runyon stated that it is C-D zoning and it did not see that this would make a difference.

Mr. Smith stated that they would have to go back to the Board of Supervisors with the development plan and get their permission to put the car wash there.

It was determined that they would have to file a new application.

Mr. Kelley stated that he felt the new plan was an improvement.

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The meeting adjourned at 5:10 P.M.

By Jane C. Kelsey
Clerk


DANIEL SMITH, CHAIRMAN

APPROVED: September 26, 1973
(DATE)

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The Special Meeting of the Board of Zoning Appeals Was Held On Friday, August 3, 1973, in the Board Room of the Massey Building. Present: Daniel Smith, Chairman; Loy Kelley, Vice-Chairman; George Barnes, Joseph Baker and Charles Runyon.

The meeting was opened with a prayer by Mr. Barnes.

10:00 - FAIRFAX COUNTY, YWCA, app. under Sec. 30-7.2.6.1.3 of Ord. to permit preschool, 7426 Idlewood Road, in the St. Paul's Lutheran Church, 40-3((1))9, Providence District, (RE-1), S-141-73 OTH

Mr. Smith read a letter from the applicants requesting that this case be withdrawn without prejudice.

Mr. Baker so moved. Mr. Barnes seconded the motion. The motion passed unanimously.

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WILLIAM L. SMYTH, et ux., H. A. SALIH, M.D., T/A Foresight Institute, app. under Sec. 30-7.2.6.1.3 of Ord. to permit Diagnostic Center and School, Western Terminal of Woodbine Lane, 59-3((1))part parcel 11, Providence District (RE-0.5), S-116-73 (Deferred from 7-11-73 for proper notices)

Notices to the property owners were in order. The contiguous owners were Saywick, Johnson, Young and Sheehan.

Mr. William Smyth, President of Foresight Institute, testified before the Board.

Mr. Runyon stated that he would have to abstain from these hearings as he and his firm have prepared the engineering work.

Mr. Smyth stated that they propose to construct and operate a diagnostic facility and school for children with learning disabilities. The architectural plan has been submitted and the engineering site plan has been submitted. The structure's size and material will be consistent with the sketch that has been presented. They have had a number of discussions with the citizen's association and the nearby neighbors and they all approve of their plans.

Mr. Smith stated that the Board is in receipt of correspondence from the State saying that they have never heard of the school.

Mr. Smyth stated that they have worked with the school and they have had visits from the State representatives.

Mr. Smith stated that the Board will need a copy of the approval from the State.

Mrs. Janice Smyth, wife of Mr. William Smyth, 8400 Taylor Lane, stated that that letter of approval is hanging on the wall at their present school. They are approved by the State, but they are not accredited and cannot become accredited until they can move into some new facilities where they can provide additional services, such as a library, etc.

Mr. Smith explained that the Board of Zoning Appeals is in receipt of a letter from the Board of Supervisors asking the Board of Zoning Appeals not to approve any schools that are not accredited by the State.

Mr. Smith read the correspondence from Mr. Robert McIntyre, 7628 Leesburg Pike, Falls Church, Virginia, to Mr. James Manning, Supervisor, Proprietary School Division, State Board of Education, stating that the above-applicant, Foresight Institute, were advertising that they were "accredited". He stated that they were not aware that there is any provision for "accreditation" as such for any kind of private elementary level school. He asked whether or not Foresight Institute is approved and licensed.

Mr. Smith then read the answer to that letter from Miss Susan Quinn, Assistant Supervisor, Proprietary School Service, stating that Mr. Manning was on an extended vacation, but Mr. John Foley, Supervisor of Elementary School Accreditation, had indicated that he had never heard of the school.

Mrs. Smyth stated that she made an error in using the word "accredited" rather than "approved". She was sorry and they have made the correction. They are approved by the State and their personnel meet the State's standards. She stated that she is the Program Director and Director of Physical Services.

Mr. Smith stated that this is a new problem for this Board and the Board needs time to check out all the facts.

Mr. Smyth stated that the State Law was changed this year at the last session of the General Assembly. They cannot get the accreditation at their present location as they do not have the proper facilities. The present plan for enrollment is 250 and 60 of those 250 will be 5 years or under. The maximum age limit will be 12. This will be an ungraded situation. They have a fleet of five Busses which are carpeted and cushioned to reduce the travel hazard. They have only 20 students during the summer at their present location. They are now located in the St. Ambrose Church in Annandale. During the normal school year they will not exceed 120 for Staff and Children and they have 9 classrooms. They operate Monday through Friday. They have no atheletic facilities other than supervised play.

Mr. Smith asked Mr. Mitchell if they meet the acreage requirement at their proposed location.

Mr. Smith stated that this is different from what the Health Department checks. This pertains to the new ordinance on Day Care Centers and Schools. He stated that 76 to 660 children has to be on a Collector Road. He asked the height of the building.

Mr. Smyth stated that it is 24'.

Mr. Smith stated that they were allowed 35' in this residential area.

Mr. Smith asked Mr. Mitchell if he could advise the Board specifically whether the applicants meet the specific requirements of the new Ordinance relating to Day Care Centers and Schools.

Mr. Smith stated that the Staff through the Board of Supervisors should provide the Board of Zoning Appeals with some criteria on this accreditation problem and the Board of Supervisors should be made aware that accreditation comes after the facility starts. Apparently the Staff does not have the new State requirements.

Mr. Smith stated that really the only big question before the Board now is the question of accreditation. He stated that he would be in favor of placing this on the September 5 Agenda if they can get the information that they are approved by the State. He stated that if they are receiving State aid for their institution, this should be part of the information relayed to the Board.

Mr. Smyth stated that only three grants were applied for and all three were approved.

Mr. Kelley moved that this case be deferred for additional information on State accreditation and rescheduled at the earliest possible meeting after the applicant has complied with the request.

Mr. Baker seconded the motion.

The motion passed unanimously.

Mr. Smith stated that this hearing at the September meeting would only concern the questions that have been raised. It will not be necessary for the neighbors to attend as they have today, but the Board would like to have the applicant to appear in case the Board has questions he might be able to answer.

There were about 10 neighbors present in favor of this applicant. Two of these neighbors testified in support of the applicant. Mrs. Saywick, 3908 Shelley Lane, testified in support of the application stating that she and the other neighbors who were present are in favor of the school. The school did not purchase any of their property and she is not connected with the school in any way.

Mrs. Young, 8518 Little River Turnpike, testified in support of the application. She stated that she had seen plans of the school and feels that it will be a nice thing to have as long as it does not increase her taxes. She stated that she is a contiguous property owner.

Mrs. Sheenan, 3904 Shelley Lane, testified in support of the application. She lives in back of the subject property and stated that she is in favor of the school. She stated that she has been connected with schools for sometime and knows that this school is approved by the State, but there might be quite a time in between when the school starts operation and the time that it becomes accredited. The school has to be built and the program must be fully under way. She stated that she is a teacher, but is not connected with this school in any other way than its neighbor.

Mr. Tom Johnson, 3917 Woodburn Road, spoke in favor of the application and stated that he and all his family feel that this is a fine school.

There was no opposition to this use.

One of the neighbors stated that the reason there were not more neighbors present in support of this application is because they are on vacation.

FAIRFAX COUNTY VOCATIONAL EDUCATIONAL FOUNDATION, INC., app. under Sec. 30-6.6.5.4 of Ord. to permit house to remain closer to side property line than allowed in Ordinance, 3705 Woodburn Road, Winterset Subdivision, 59-3((15))123, Providence District (R-17 Cl.), V-155-73 OTH

Mr. Dexter Odin, attorney for the applicant, appeared before the Board on behalf of the applicant.

Notices to property owners were in order. The contiguous owners were Mr. Vincent, 3285 Lauriston Place and Archie Preast, 3707 Woodburn Road.

Mr. Odin submitted a brochure showing how the Fairfax County Vocational Educational Foundation, Inc. operates. He stated that this is affiliated very closely with the Fairfax County School Board.

Mr. Smith stated that all the members of the Board are familiar with this organization.

Mr. Odin stated that this is the first project of this type. They purchased the house from Bo Bud construction. They had the building plans prepared. They submitted the plans to the drafting class. This was under the auspices of an architect. No one was aware of the fact that the youngsters made a change that would violate the ordinance and that was the building of a shed on the back of the carport. They meet the 8' minimum requirement, but they do not meet the overall requirement of 24' on both sides. They actually have more sideyard than the requirement so they are asking for a variance to the total of both side yards.

There was no opposition to this case.

Mr. Odin stated that they did acquire a building permit, but the shed was not shown on it. This was a mistake after the building permit was issued.

In application No. V-155-73, application by Fairfax County Vocational Educational Foundation, Inc., under Section 30-6.6.5.4 of the Zoning Ordinance, to permit house to remain closer to side property line than allowed, on property located at 3705 Woodburn Road, also know as tax map 59-3((15))123, County of Fairfax, Virginia, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 3rd day of August, 1973, and

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

1. That the owner of the subject property is Fairfax County Vocational Education Foundation, Inc.
2. That the present zoning is R-17 cluster.
3. That the area of the lot is 11,689 sq. ft.
4. That an approved building permit was obtained prior to the mistake.

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

1. That the Board has found that non-compliance was the result of an error in the location of the building subsequent to the issuance of a building permit, and,
2. That the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plat included with this application only, and is not transferable to other land or to other structures on the same land.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, non-residential use permits and the like through the established procedures.

Mr. Baker seconded the motion.

The motion passed unanimously.

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11:00 - WEST DECATUR, INC., app. under Sec. 30-6.6.5.4 of Ord. to permit house to remain closer to front property line than allowed in Ordinance, 11802 Fox Clève Road, Fox Mill Woods Subd., 26-4((11))40, Dranesville District (RE-0.5 Cluster), V-149-73 OTH

Mr. Lawrence Lipnick, 4436 McArthur Blvd. represented the applicant before the Board.

Notices to property owners were in order. The contiguous owners were Maury L., Inc., 100 17th Street, N.W., Washington, D. C. and Fairfax County Park Authority, P.O. Box 236, Annandale, Virginia.

Mr. Lipnick stated that there was an error when the footings were put in and they did not find out about it until the wall-check was done. They requested the variance as soon as they found out about the error.

He stated that the total cost of tearing down the garage is \$3000.

Mr. Smith stated that cost is not a factor in this. What the Board has to determine is how the error was made.

Mr. Lipnick stated that he did not know how the error was made.

Mr. Smith asked if the building permit included all the structures that are now on the site.

Mr. Lipnick stated that it did. He stated that there are a lot of possibilities as to how the error was made. When they were putting the footings in, a stake could have been knocked out.

Mr. Smith asked who put in the footings.

Mr. Lipnick stated that James Jeffries was the contractor for the footings. He was not present.

Mr. Kelley stated that he felt that the person who made the error should be present.

Mr. Runyon stated that that is a good point, but one can see that this is an error. There is plenty of room on the lot. He stated that the engineer is present and perhaps he might be able to expand on this.

Mr. DeLashmund, 3856 North Richey Street, Arlington, Virginia, spoke before the Board. He stated that he could not give any additional information. The house was staked out and evidently the contractor put in the footings incorrectly. The garage portion was built too large. It was extended to the front further than the plans called for and this created the encroachment on the front yard.

Mr. Smith asked if they followed the original house plan.

Mr. DeLashmund stated that they did not. He stated that it was his recollection that they had the house set back 30.5 feet. The plans would indicate that the original garage was about 4' less than what is there now.

Mr. Smith stated that the Board could find this out from the building permit.

Mr. DeLashmund stated that the plans in a subdivision of this kind where there is more than one house of this kind, would be one plan covering more than one house. He stated that he did not have a copy of the subdivision plan with him.

The Board recessed the case until the Zoning Administrator could provide a copy of the building permit.

Mr. Smith stated that in the future the Board will need more information on a case such as this.

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WEST DECATUR, INC. (continued)

In application No. V-149-73 (OTH) application by West Decatur, Inc., under Section 30-6.6.5.4 of the Zoning Ordinance, to permit house to remain closer to side property line than allowed on property located at 11802 Fox Clove Road, also known as tax map 26-4((11))40, Dranesville District, County of Fairfax, Virginia, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 3rd day of August, 1973, and

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

- 1. That the owner of the subject property is the applicant.
- 2. That the present zoning is RE-0.5 cluster.
- 3. That the area of the lot is 29,337 sq. ft.
- 4. That the applicant is requesting a variance of 3.2 feet to the requirement.

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

- 1. That the Board has found that non-compliance was the result of an error in the location of the building subsequent to the issuance of a building permit, and,
- 2. That the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

- 1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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11:20 - MADEIRA SCHOOL, INC., app. under Sec. 30-7.2.6.1.3 of Ord. to permit addition to existing stable to provide 4 stalls and tack room and the replacement and relocation of machinery and tool shed, 8328 Georgetown Pike, Greenway, Virginia, 20-1((1))14 and 20-2((1))1, Dranesville District (RE-2), S-154-73 OTH

Mr. Snead, Business Manager and Trustee of Madeira School, testified before the Board.

Notices to property owners were in order. The contiguous owners were Mr. George W. Pollard, 9369 Campbell Road and Mr. Scurlock, 1753 Army Navy Drive, Arlington, Virginia and Harold Green, 8540 Georgetown Pike, McLean, Virginia.

Mr. Snead stated that this request is for an addition to the existing stable and will have four stalls and a tackroom. It will increase the capacity of the stable from 32 to 36 horses. It will be similar in architecture and materials to the existing stables. They more than meet the setback requirement and they have natural screening as the Board can see from the pictures that they submitted. They also wish to add a machinery and tool shed to replace the old one.

Mr. Smith asked if Madeira School is now accredited by the State.

Mr. Snead stated that they have made application for accreditation by the State, but they have not been as yet.

Mr. Smith stated that these are only accessory buildings, but the Board of Supervisors has suggested to the Board of Zoning Appeals that the Board not grant any more Special Use Permits until the school becomes accredited. This came about by the new legislation passed in the last session of the General Assembly.

There was no opposition to this use.

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 MADERIA SCHOOL, INC. (continued)

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In application No. S-154-73, application by Maderia School, Inc. under Section 30-7.2.6.1.3, of the Zoning Ordinance, to permit stable addition and relocation of tool shed, on property located at 8328 Georgetown Pike, also known as tax map 20-1(1)14 & 20-2(1)1, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 3rd Day of August, 1973.

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-2.
3. That the area of the lot is 376 acres.
4. That the site is under Special Use Permit #S-224-69 granted November 18, 1969 and amended by S-208-70 in 1970 and S-13-72.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. This approval does not otherwise change the other provisions of the present Special Use Permit now in effect.

Mr. Baker seconded the motion.

The motion passed unanimously.

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11:40 - GEORGE MASON UNIVERSITY STUDENT GOVERNMENT DAY CARE CENTER, INC., app. under Sec. 30-7.2.6.1.3 of Ord. to permit day care center for 45 children, 4500 Roberts Road, in the St. George's Methodist Church, 68-2((1))9, Springfield District (RE-1), S-157-73 OTH

Mr. Rosenfeld, attorney for the applicant, 5205 Leesburg Pike, Suite 1200, Bailey's Crossroads, Virginia, spoke before the Board.

Notices to property owners were in order. Contiguous owners were Richards, Lot 14; Bowell, Lot 19; Appeal and Payne, Lot 12.

Mr. Rosenfeld stated that the above corporation has entered into an Agreement with the St. George's Methodist Church for a period of one year. They plan to have 45 students from 7:30 A.M. until 5:15 P.M. weekdays. They will have a catering service which will be handled by the ARA Food Service. There will be no food preparation on the premises. There will be a fence given to the school which will be placed on the property.

There was no opposition to this use.

In application No. S-157-73, Out of Turn Hearing, application by George Mason University Student Government Day Care Center, Inc., under Section 30-7.2.6.1.3, of the Zoning Ordinance, to permit day care center for 45 children, on property located at 4500 Roberts Road, also known as tax map 68-2((1))9, Annandale District, County of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 3rd day of August, 1973.

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

1. That the owner of the subject property is St. George's United Methodist Church, Trustees.
2. That the present zoning is RE-1.
3. That the area of the lot is 8.46 acres.
4. That Site Plan approval is required.
5. That compliance with County and State codes is required.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. The maximum number of children shall be 45, ages 2 to 6 years.
7. The hours of operation shall be 7:30 A.M. to 5:30 P.M., 5 days per week, Monday thru Friday.
8. The operation shall be subject to compliance with the inspection report, the State Department of Welfare and Institutions, the requirements of the Fairfax County Health Department and obtaining a non-residential use permit.
9. Landscaping and screening shall be as approved by the Director of County Development.
10. This permit is granted for a period of one year with the Zoning Administrator being empowered to extend for four, one (1) year periods.

Mr. Barnes seconded the motion.

The motion passed unanimously.

Mr. Runyon explained to the applicant that they would have to submit a new lease and request an extension to the Zoning Administrator 30 days prior to the expiration date each year for 4 years.

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DEFERRED CASES:

MURRAY WEINBERG, TR., app. under Section 30-6.6 of Ordinance to permit office building closer to side property line than allowed, 6066 Leesburg Pike, 61-2(1)6, Mason District (C-OH), V-111-73 (Deferred from July 11, 1973 and again on August 1, 1973)

Mr. William Hansbarger, 10523 Main Street, Fairfax, Virginia, attorney for the applicant represented them before the Board.

Mr. Kelley asked Mr. Hansbarger if the original plan called for underground parking.

Mr. Hansbarger answered that that was when the building was larger.

Mr. Kelley asked if they had made an Agreement with the Board of Supervisors to have all underground parking.

Mr. Hansbarger answered that they had not.

Mr. Smith stated that the Board realizes that there has been a lot of opposition to this application and to the rezoning of the land, but the applicant is allowed to make a reasonable use of his land and at the time of the rezoning, the Board of Supervisors was aware that this small tract of land could not be developed under the zoning category that they rezoned this to, (C-OH), without a variance. This Board of Zoning Appeals has given considerable thought to this and has gone a considerable amount of research going back to the original rezoning application and the minutes of that hearing.

In application No. V-111-73, application by Murray Weinberg, Tr., under Section 30-6.6 of the Zoning Ordinance, to permit office building closer to side property line than allowed by Ordinance, on property located at 6066 Leesburg Pike, also known as tax map 61-2(1)6, Mason District, County of Fairfax, Virginia, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 1st day of August, 1973, and deferred to the 3rd day of August for decision.

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

1. That the owner of the subject property is Murray Weinberg, et. al, Tra.
2. That the present zoning is C-OH.
3. That the area of the lot is 2.33544 acres.
4. That Site Plan approval is required.
5. That the property is subject to Pro Rata Share for off-site drainage.

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 MURRAY WEINBERG, TR. (continued)

6. That the Board of Supervisors, at the time of rezoning, were aware that a variance would be necessary. On April 28, 1970, the Board of Zoning Appeals granted a variance, V-58-70, to setback requirements for a building proposed to be 90' high, but the building was not constructed.

7. On July 3, 1973, the Board of Supervisors adopted a resolution opposing any variance to this parcel in excess of 90' with regard to lessening the setbacks currently imposed on the land.

8. That the maximum height of the building allowable on this property would be 150 ft. and 90 ft. minimum. The proposed building would be 100 ft. high.

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

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:

- a. exceptionally narrow lot,
- b. exceptionally shallow lot.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted in part with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

3. The maximum height of the building shall be 90 ft

4. The setbacks shall be as follow:

(a) the Building shall be a minimum of 90 ft. from the easterly property line

(b) The building shall be a minimum of 41.7 ft. from the property line of the land presently owned by Reno.

5. Landscaping and screening shall be approved by the Director of County Development. In addition, a brick wall is to be constructed along the easterly property line to screen residential houses from the parking area.

6. The owner is to dedicate to 98' from the centerline of the right-of-way of Route 7 for the full frontage of the property for future road widening.

7. Fairview Place is to be blocked off and not to be used by this development.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, Non-Residential Use Permits and the like through the established procedures.

Mr. Runyon seconded the motion.

The motion passed unanimously.

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DEFERRED ITEMS:

WASHINGTON GAS LIGHT CO., app. under Sec. 30-7.2.2.1.8 of Ord. to permit liquid propane railroad tank car unloading, intersection Rolling Road & Southern Railroad, 79-1((1))parcel B, Annandale District, (R-17), S-127-73. Deferred from 7-18-73.

The Board read the Planning Commission recommendation which stated:

"Mrs. Becker moved to recommend to the Board of Zoning Appeals approval of application S-127-73, WASHINGTON GAS LIGHT CO., under the provisions of Section 30-6.13 of the Ordinance, to permit liquid propane railroad tank car unloading at intersection of Rolling Road and Southern Railroad. Seconded by Mr. Roehrs. Carried unanimously."

(NOTE: Full recommendation in file)

Mr. Smith read a letter from the State Corporation Commission addressed to Mr. Gilbert Knowlton regarding the safety of this operation.

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 WASHINGTON GAS LIGHT COMPANY (continued) DEFERRED ITEMS

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In application No. S-127-73, application by Washington Gas Light Co., under Section 30-7.2.2.1.8 of the Zoning Ordinance, to permit liquid propane railroad tank car unloading SPUR on a portion of the property located at intersection of Rolling Rd. and Southern Railroad, also known as tax map 79-1((1)) parcel B, Annandale District, County of Fairfax, MR. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 18th day of July, 1973, and continued to August 3, 1973 for decision only.

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-17.
3. That the area of the lot is 9,6369 acres.
4. That site plan approval is required.
5. That the Planning Commission unanimously recommended approval of the application at the August 2, 1973 meeting.
6. That the site will conform to the gas pipeline safety rules and regulations.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Sect. 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMITS AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. This approval does not alter the other aspects of the Special Use Permit now in effect.

Mr. Baker seconded the motion.

The motion passed unanimously.

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JEFFREY SNEIDER & CO., BUILDER (JOHN M. COLDWELL, AGENT), app. under Section 30-6.6.5.4 of Ordinance to permit dwelling to remain closer to street property line than allowed by Ordinance, 8725 Etta Drive, 89-1((9))210, Springfield District, (R-12.5C), OTH, V-133-73.

The Board members had viewed the property.

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In application No. V-133-73, application by Jeffrey Sneider & Co., Builder, (John M. Coldwell, Agent), under Section 30-6.6.5.4 of the Zoning Ordinance, to permit dwelling to remain closer to street property line than allowed, on property located at 8725 Etta Drive., also known as tax map 89-1(9)210, Springfield District, County of Fairfax, Virginia, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 18th day of July, 1973 and continued to August 3, 1973 for decision only; and

WHEREAS, the Board of Zoning Appeals had made the following findings of fact:

- 1. That the owner of the subject property is Jeffrey Sneider & Co., Inc.
- 2. That the present zoning is R-12.5 cluster.
- 3. That the area of the lot is 11,175 square feet.
- 4. That a valid building permit existed prior to the mistake.

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

- 1. That the Board has found that non-compliance was the result of an error in the location of the building subsequent to the issuance of a building permit, and,
- 2. That the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

- 1. This approval is granted for the location and the specific structure indicated in the plat included with this application only, and is not transferable to other land or to other structures on the same land.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, residential use permit and the like through the established procedures.

Mr. Runyon moved to grant.

Mr. Barnes seconded the motion and the motion passed unanimously.

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NATIVITY LUTHERAN CHURCH, app. under Section 30-7.2.1.3.2 of Ord. to permit operation of a pre-school, 1300 Collingwood Road, 102-4(1)13B, Mt. Vernon District (R-12.5), S-144-73, OTH. Deferred from 8-1-73.

Rev. Harold E. Truax, Pastor of the Church, spoke before the Board.

Notices were given to the Board at the meeting of August 1, 1973. The Board had deferred the case until this hearing in order to meet the ten (10) day requirement and because this is a small school in this church and they need to get this permit in order to open the 1st of September.

The contiguous property owners were W. W. Hammerly, 1400 Collingwood Road, Alexandria, and Edward C. Stull, 8066 Fairfax Road, Alexandria, Virginia.

Mr. Truax stated that they plan to have 32 students from 3 to 5 years of age and from 9:30 A.M. until 12:00 noon. The Health Department says that they may have 50 students, but they only plan to begin with 32.

In application No. S-144-73, application by Nativity Lutheran Church, under Section 30-7.2.1.3.2 of the Zoning Ordinance, to permit operation of a pre-school on property located at 13-0 Collingwood Road, also known as tax map 102-4(1), County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

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WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 3rd day of August, 1973.

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

- 1. That the owner of the subject property is Nativity Lutheran Church.
- 2. That the present zoning is R-12.5
- 3. That the area of the lot is 2.9951 acres.
- 4. That site plan approval is required.

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

- 1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-71.1. of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
- 2. This permit shall expire one year from this date unless operation has started or unless renewed by action of this Board prior to date of expiration.
- 3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
- 4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
- 5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Department of the County of Fairfax during the hours of operation of the permitted use.
- 6. The maximum number of students shall be 32.
- 7. Hours of operation shall be 9:30 A.M. to 12:00 noon, Monday through Friday.
- 8. Compliance with all County and State Codes is required.

Mr. Runyon moved to grant .

Mr. Baker seconded the motion and the motion passed unanimously.

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LAKE BARCROFT RECREATION CENTER, INC. - Discussion between the Board of Zoning Appeals; the applicant's attorney, Mr. Waterval; and Mr. Brown and Mr. Goodell representing the citizens in the area in opposition to things that have transpired on the land under the Special Use Permit.

Mr. Smith stated that the reason for this discussion is a series of complaints and letters to the Board and the Zoning Administrator in connection with the above-captioned applicant and the development of the recreation area. He stated that he would like to limit the discussion to 10 minutes for both sides.

Mr. Rufus Brown, 6506 Oakwood Drive, property owner abutting the above-captioned area, spoke before the Board.

He submitted exhibits which showed the Cloister Development abutting the recreation area and being developed for twenty-two single family homes. This is known as Parcel A; Parcel A-3 is the parcel which the recreation center is constructing on; and A-2 was originally a part of A-3 and is a potential access way to the Cloisters. This A-2 was purchased after the Special Use Permit was granted and at the same time that A was purchased. Parcel A could not be used by anyone else except Lake Barcroft because no one else could get out of that parcel, as there was no access except for a narrow 10' easement in back of the property. The reason they are before the Board today is because they have changed the plan from the original plan submitted to the Board back in 1970 when this was approved. This change creates a public street on land granted the Special Use Permit. The reason for this public street is to create access for the single family development in back of the recreation center. This public street will create additional traffic and the Board was not informed of the fact that they planned to put in this public street for this purpose. For this reason, they believe this entire matter should be looked into. A-2 could be used for an access to the single family development and this would then put the burden on the people who wanted the recreation center there in the first place.

As background, he stated, that originally at the time the Special Use Permit was granted for this recreation center, Recreation Lane was to be used only for the recreation center and was to have a gate at the entrance. This gate was to be closed at 9:00 P.M. every night. Subsequently, a site plan was submitted which showed the public street into Lake Barcroft Cloisters. This will bring in more traffic to the area. Construction is continuing on this development and time is very valuable.

Mr. Richard Waterval, attorney for Lake Barcroft Recreation Center, Inc. and Lake Barcroft Recreation Corporation, spoke before the Board. He asked that part of his response that Mr. Brown's letter of June 19, 1973 and his letter in response to that letter dated July 6, 1973, Mr. Brown's undated letter which apparently was sent sometime between July 31 and August 1, 1973 and his response to that letter dated August 1, 1973 be made part of the record of this proceeding.

Mr. Smith asked if there was any objection.

Mr. Brown stated that that was fine, but he had not received a copy of the August 1, 1973, letter from Mr. Waterval.

Mr. Waterval then handed Mr. Brown a copy of that letter.

Mr. Smith stated that these letters would be made part of the record of this proceeding.

Mr. Sammie Sooksanquan, from Preliminary Engineering, spoke before the Board regarding the Site Plan that was approved by the County.

Mr. Smith asked him how they came to approve the Cloister development without first having the applicant come back to this Board as it did relate to the Recreation Center use.

Mr. Sooksanquan stated that the Cloister is not part of the Recreation Association land as it is a different subdivision.

Mr. Smith stated that they have to use Recreation Lane that was set aside only for the use of the Recreation Association and by doing so it does constitute a new use over that parcel of land that is under the Special Use Permit. Recreation Lane at the time the Special Use Permit was granted was shown as a dead end street to be used only by the recreation association. He stated that the Special Use Permit was granted in 1970.

Mr. Sooksanquan stated that final approval was January 10, 1973.

Mr. Smith asked if there was any construction so far at that site of the single family development.

Mr. Sooksanquan stated that he did not know.

Mr. Waterval stated that they began construction in July of last year, 1972, pursuant to a building permit that they had. They have a building permit for the indoor swimming pool and the road is well underway.

Mr. Waterval stated that the Board has his letter of August, 1972, and an entire site plan accompanied that letter which showed this road.

Mr. Smith stated that there was no mention at that time of any additional development or a change in the road. He stated that that site plan was approved by this Board.

Mr. Smith stated that there is no mention in that letter of any road or any additional development. There was no discussion as to whether or not this road would have additional traffic. He stated that there should have been a new application for a change this great. He stated that the reason the applicant came back to the Board was about a retaining wall.

Mr. Barnes stated that he did not remember any testimony or any conversation regarding that road and the development that this road would lead to.

Mr. Smith stated that there would be no other change except the retaining wall. He stated that he remembered asking that question. Mr. Smith then read the minutes of that meeting which stated that the only change the Board knew of was the retaining walls that were needed because of topography problems. There was no discussion at any time about any additional construction or a change in the roadway. Mr. Covington made a statement that these were minor changes.

Mr. Smith asked if the pools were in place.

Mr. Waterval stated that they were shooting the gmmite on the site next to the bath house. The bathhouse is up to the first floor and they are working on the parking lot. They have put over \$100,000 on underground storm sewer lines.

Mr. Runyon stated that the problem is the Board has a plat showing the road on it and this plat was substituted.

Mr. Smith stated that he certainly would not have approved the substitute plat if he had known of either the 22 houses and the use of Recreation Lane as access for them. He stated that he felt the Board should take a look at this again. There certainly is grounds for a re-evaluation hearing. There will be a greater impact to the neighborhood with this road leading back to this development.

Mr. Baker stated that he certainly did not remember anything about that road being discussed at the earlier meeting.

Mr. Baker stated that as he remembered it, the road was like a trail through the woods.

Mr. Smith asked if the dedication had taken place.

Mr. Waterval stated that it had not.

Mr. Smith stated that he was indeed sorry that this has happened. They did not check over the plat thoroughly enough and trusted the words of the applicant and the staff that stated that there were only minor changes. He stated that the Board should have a new hearing anytime that a new plat is substituted.

Mr. Runyon stated that the approved plat certainly weakens the position of the Board.

Mr. Barnes moved that the Board reopen this case for a re-evaluation hearing.

Mr. Baker seconded the motion.

Mr. Smith stated that the motion has been moved and seconded for a re-evaluation hearing in connection with the plat substitution and the additional changes that are taking place in the area now at the present time.

Messrs. Brown, Baker and Smith voted Aye.

Messrs. Runyon and Kelley voted No. The motion carried.

// The hearing was set for September 5, 1973.

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Mr. Waterval stated that he would like to be informed of the effect of the Resolution so that there is a disclosure of that. He stated that they have two general contractors working out there with a \$800,000 construction contract and the money of his citizen clients is involved and they do have valid building permits. He asked what the Board wanted him to do in light of this Resolution.

Mr. Smith stated that it simply means that the Board will re-evaluate the position of the Recreation Association in view of the changes that have taken place.

Mr. Waterval asked if he was going to direct the Zoning Administrator to withdraw their building permits.

Mr. Smith stated that the only area of their jurisdiction is the recreation association and not the cloister development.

Mr. Waterval stated that that was correct.

Mr. Smith stated that the road had not yet been dedicated.

Mr. Waterval stated that they were bonded and committed to that.

Mr. Smith asked if they have building permits on the houses.

Mr. Waterval stated that they did.

Mr. Smith stated that he did not believe they could effectively alter that situation, but they do have jurisdiction as far as the Use Permit on the recreation land part of it. He asked what buildings were under construction in the recreation site now.

Mr. Waterval stated that the four swimming pools, the bath house and the parking lot and the underground sewer are under construction.

Mr. Smith stated that in view of the contracts and the other factors, he felt that this particular part of the construction that they have underway, which is the bath house, parking lot, storm sewer and pools should continue, but no additional construction should be begun on any other recreational facilities on that site until such time as the re-evaluation hearing has taken place. He asked if this was agreeable with the other Board members.

The Board indicated that they were agreeable to this.

Mr. Brown stated that he lives in the back yard of this construction and is very familiar with it. He stated that he wanted to be sure what they were talking about. Right now, there are two mounds of dirt where Recreation Lane is to go, but there is no construction there at all.

Mr. Smith stated that the Board has no jurisdiction over the Cloisters, only where the original use permit was granted and that did not include Area A.

Mr. Brown stated that they haven't been working on the road at this point and he wanted to make sure that they don't start building on it now and then come back later and complain that they are now allowed to use that road. He stated that he wanted to make this plain for the record, because right now they are working within Parcel A-3, but not on the road.

Mr. Waterval stated that they may have to put up the fence for protection from vandals.

Mr. Smith stated that anything that is under construction now he did not see how the Board could effectively stop. He stated that it was unfortunate that this thing got this far before the Board became aware of it.

Mr. Waterval stated that there is one absolute fact and that is Parcel A-2 will never qualify for a street. He stated that they have a Quit Claim Deed to A-2 and Mr. Brown knows it.

Mr. Smith stated that he and Mr. Brown could debate that at the time of the hearing. He asked if September 5 was agreeable with Mr. Brown.

Mr. Brown indicated that it was.

The time was set for 10:20 A.M. Mr. Smith told Mr. Waterval that he had heard the complaints and he had heard the statements that have been made by Mr. Brown. These are questions that are relevant to the re-evaluation hearing. In the meantime, the Board will certainly go into details as to what impact the houses in the Cloister will have on the adjacent land as far as traffic on that road and at the intersection is concerned.

Mr. Waterval asked if the Board was proposing that he put on evidence at that time.

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 LAKE BARCROFT RECREATION CENTER, INC. (continued)

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Mr. Smith stated that he hoped the Board could dispose of this case in 30 minutes, 15 minutes for each side.

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LESTER MARKELL & AMOCO - Discussion between AMOCO's representative, Mr. O'Dell, the applicant's attorney, Mr. Cerick, and the Board. (Letter read at previous meeting)

Mr. Cerick stated that he had represented Mr. Markell for many years, but this is his first appearance in connection with this matter. He stated that the Board's records would indicate that this gasoline station has been there for a long time and Mr. Markell is the owner of record of this parcel of land. The problem now is that Mr. Markell wishes to construct a car wash and he has a time limit on his Special Use Permit which expires February 21, 1974. The permit was granted in the name of Lester Markell and AMOCO. Mr. O'Dell from AMOCO is present today and will speak to the point, but he has no objection if the Board deletes AMOCO from the Special Use Permit.

Mr. Smith asked why they wanted to delete AMOCO from the Special Use Permit.

Mr. Cerick stated that they wished to delete AMOCO from the Special Use Permit because as far as they know, AMOCO will not take any part in the erection of the car wash. Mr. Markell will be the one who will erect it. Mr. Markell owns the gas station and it is leased to AMOCO and they in turn are leasing it out to another person. Up until 1972 the sublessee was Mr. Markell. Now it would appear that Mr. Markell will go this alone in the erection of the car wash because of some problems which have developed which Mr. O'Dell will speak to relating to the energy crisis.

Mr. Smith asked if they had any intention of making any other use of the land other than a car wash.

Mr. Cerick stated that they did not.

Mr. Melvin O'Dell, 6420 Rotunda Court, real estate representative from American Oil spoke before the Board. He stated that the reason for the removal of AMOCO's name is that there is a time limit involved on the Special Use Permit and there are problems involved with the car wash such as the drainage system that had to be engineered and designed in order to accommodate a total reclamation system that would not despoll water into the sewer. This is taking longer than anticipated. They have no objection to having their name removed. They do have a lease with Mr. Markell for the gasoline station. It is a matter of an individual being able to act quicker than a corporation.

Mr. Smith asked if the operator is going to accept the car wash.

Mr. Markell stated that if AMOCO would, he would.

Mr. Kelley asked what would happen if there is a violation.

Mr. Smith agreed.

Mr. Markell stated that who will operate the gasoline station whether it is Mr. Markell or AMOCO will be subject to negotiations after the car wash is constructed.

Mr. Kelley asked if there was a possibility that AMOCO will operate the gas station and Mr. Markell will operate the car wash.

Mr. Markell stated that that is possible.

Mr. Runyon moved that AMOCO be deleted from only the car wash portion of the application, Special Use Permit No. S-198-73 granted February 21, 1973 at the request of the applicant and AMOCO.

Mr. Baker seconded the motion.

Mr. Kelley stated that he did not like to belabor the point, but the Staff recommended that this case be denied at the time they came in in February of 1973. It was also heard by the Planning Commission and a point was made at the time of that hearing and at the time of our hearing that this be a joint operation with the service station.

Mr. Smith went back and read the Planning Commission memo which stated that "...for many years car washing was very much a related part of a service station's activities. With this in mind and with the example that had been placed in that location, it was a very attractive service station and had always been neatly kept, therefore, for those reasons, Mr. Polychrones' motion for a recommendation of approval passed by a vote of 6-2."

Mr. Smith asked if this might be a situation where he would operate the car wash not in conjunction with the gasoline operation.

Mr. Markell stated that that is a possibility.

Mr. Smith stated that this would not be permissible.

Mr. Markell stated that he would just drop the matter if he could not operate a free standing car wash himself. This was the purpose of the letter that he wrote, he stated.

Mr. Smith stated that the Board would entertain a Resolution to extend his Use Permit 180 days after the February expiration date if he got his request in prior to the time his permit runs out.

Mr. Runyon withdrew his motion. Mr. Baker withdrew his second.

Mr. Cerick asked that assuming that Mr. Markell and AMOCO do not get together, did the Board see any problem with a new Special Use Permit request for a free standing car wash operation there.

Mr. Smith stated that he did see a problem with that based on the Planning Commission recommendation and the physical arrangement of the land area.

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ANNANDALE-SPRINGFIELD COUNTRY DAY SCHOOL - REPORT ON STATUS OF VIOLATION
(Board discussed at previous meeting)

Mr. Smith read a report from Zoning Inspector, L. C. Koneczny, stating that the violation has been cleared up. See file for complete report.

Mr. Smith stated that in view of this, no Board action is necessary.

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AMERICAN HEALTH SERVICES, INC., KNOWN AS BARCROFT INSTITUTE

Mr. Knowlton, Zoning Administrator, advised the Board that his office had had a series of complaints regarding the above nursing facility from both neighbors and from the Fire Services office. He stated that following these complaints he tried to gather as much information as possible to determine whether there were any other violations involved. He submitted to the Board a booklet called "Rules and Regulations For The Licensure of Convalescent and Nursing Homes In Virginia". The Board read portions of that booklet. Page 11 of that booklet stated that "...No convalescent or nursing home shall admit or care for persons who are mentally ill, whose condition is such that in the opinion of the attending physician there is a probability of creating a nuisance to other patients or physical harm to themselves or others..." and No. 4 which stated "...No convalescent or nursing home shall admit children under 14 years of age unless provisions are made for separation of such children from the adult patients."

Mr. Knowlton stated that Captain Peck from the Fire Services office's letter of March 7, 1973 points out that there is no separation.

The Board then read the letters received from Robert D. Ham, Director of the State Bureau of Medical and Nursing Facilities Services, and the letter from Captain Peck, Deputy Fire Marshall for Fairfax County, copy of a letter from Dr. Richard K. Miller, Director, Fairfax County Health Department.

Mr. Smith stated that in view of this report there appears to be a problem again. The Board just last year reconsidered whether to allow this psychiatric facility to continue and perhaps the Board made an error in allowing them to continue. He stated that in view of the request from Captain Peck and the other correspondence, the Board should consider revoking this permit for the psychiatric facility at this location in conjunction with the nursing home.

Mr. Barnes stated that he felt they should not have these psychiatric patients there.

Mr. Baker stated that he did not think they were supposed to stay over night.

Mr. Runyon stated that at the earlier hearing they did discuss the out-patient problem.

Mr. Barnes stated that if these psychiatric patients have access to the rest of the facility, it is terrible.

Mr. Smith read the exact wording from the Code regarding the revocation procedure.

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Mr. Baker moved that this procedure be carried out for this case.

Mr. Barnes seconded the motion.

Mr. Smith stated that Barcroft Institute, American Health Services, Inc. located at 2960 Sleepy Hollow Road, Falls Church, Virginia should be so notified that in view of the report from Mr. Knowlton, Zoning Administrator and the letter from Captain Peck, Deputy Fire Marshall for Fairfax County and a letter from Robert D. Ham, Director of the State Bureau of Medical and Nursing Facilities Services and certain other correspondence and information submitted by Mr. Knowlton, the Board has expressed strong concern for the health, safety and general welfare of both the occupants of American Health Services, Inc. facilities known as Barcroft Institute and the citizens of the surrounding area. After hearing the evidence and discussing the matter at length, the Board of Zoning Appeals passed the following Resolution:

BE IT RESOLVED, that the Board of Zoning Appeals on August 3, 1973, does hereby revoke the permit granted to American Health Services, Inc., Application S-178-70 as stipulated in a Resolution passed by the Board of Zoning Appeals on October 20, 1970, to-wit: Under Section 30-7.2.5.1.2 of the Ordinance to permit psychiatric facilities as part of the care given in a nursing home, property located at 2960 Sleepy Hollow Road, Falls Church, also known as tax map 51-3(1)9A, County of Fairfax, for the following reasons:

That the permittee, owner or operator of the use covered by the Special Use Permit has failed to observe all of the requirements of law with respect to the maintenance and conduct of the use and all conditions in connection with the permit as designated By this Board.

This revocation will become effective ten (10) days after receipt of this notice of violation and revocation unless the permittee requests the Board of Zoning Appeals to hold a hearing on the revocation.

Mr. Kelley stated that he would like added to this information all of the papers and information on which the Board based their decision, the Letter from Mr. Ham and the Health Department.

Mr. Baker and Mr. Barnes accepted this.

Mr. Smith was asked to write the letter.

Mr. Smith then asked the Zoning Administrator for his opinion as to what should be done in between now and when the Board might be able to hear this case. He stated that there might be a disaster down there if something isn't done promptly. The Board certainly wasn't aware of this type of problem when they had the Show-Cause hearing last year on this.

Mr. Runyon stated that they must comply with all of the requirements of the State and County Code. That is in the resolution revoking the permit.

The motion carried unanimously.

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B.P. OIL CORP., S-166-73 A letter had been read at an earlier hearing requesting an out-of-turn hearing due to the fact that their contract was about to expire. The Board denied this request as their Agenda was completely loaded and this hardship was something that the applicant could have avoided if they had brought their application in earlier. However, Mr. Magazine, Supervisor, Mason District, called Mrs. Kelsey to say that the owner of the land who was trying to sell to B.P. was under a severe hardship in that he had had open heart surgery and could not work. This contract was vital to him to help pay his medical expenses and to live. The Board stated that if they had a letter to this effect from the applicant, they could grant the out-of-turn hearing and schedule the case for September 5, 1973. They asked the Clerk to so notify the applicant and if she did, in fact, get this letter stating this severe hardship to schedule the case for September 5, 1973.

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Mr. Baker moved to approve the minutes of June 20 and June 27 as corrected. Mr. Barnes seconded the motion and the motion passed unanimously.

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By Jane C. Kelsey
Clerk


DANIEL SMITH, CHAIRMAN

APPROVED October 10, 1973
(DATE)

The Regular Meeting of the Board of Zoning Appeals Was Held On Wednesday, September 5, 1973, in the Board Room of the Massey Building. Present: Daniel Smith, Chairman; Loy P. Kelley, George Barnes; Joseph Baker and Charles Runyon.

The meeting was called to order by the Chairman. Mr. Barnes gave the prayer.

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10:00 - JEFFREY SNEIDER & CO., app. under Sec. 30-2.2.2 of Ord. to permit two tennis courts proposed Bushman Drive, west of Bannockburn Lane (two proposed streets off of Blake Lane) 47-4((1))pt. 59, Providence District (PAD), S-138-73

Mr. Harold Miller, attorney for the applicant, testified before the Board on behalf of the applicant.

Notices to property owners were in order. Mr. Miller stated that the only land owner contiguous to the site is the Virginia Department of Highways and Martin L. Sneider. Raymond Carter, 3837 Danborn Drive, contiguous to the PAD zoning area under construction, Mrs. Elizabeth Chapel, Mr. Minor Furr, Danborn Drive, also contiguous to the PAD ZONING area.

Mr. Miller stated that the parcel of land is approximately 8.0 acres and is adjacent to I-66 and is surrounded by PAD development. This development is being developed by Jeffrey Sneider and Company. This has been reviewed by the Staff and has been a part of the plan from the beginning. He stated that they have made all the changes suggested by the Staff and they feel it meets the criteria of the ordinance.

Mrs. Raymond Carter, 3137 Danborn Drive, spoke before the Board in opposition. She stated that they were notified and given a little plat, but it wasn't clear where this would be located. Mr. Miller then showed her the location on the plat. She asked if this would be for public use or private use for the people who would be living in the PAD area.

Mr. Miller stated that it would be for the people living in the PAD area only. They will not open these courts to the public at all.

Mr. Runyon asked if this was contiguous to Route 66.

Mr. Miller stated that it was.

Mr. Smith asked Mr. Runyon if he would compute the distance between these courts and this lady's house.

Mr. Runyon stated that it would be about 700'.

Mrs. Carter stated that they live in a little area behind the Flinthill Private School. There are only six homes there and all of these were there before 66 went through. Three of the homes have been purchased by Flinthill. That leaves three homes to be surrounded by flood lights of this court, Flinthill Golf Course and the lights from the Mosby Woods Swimming Pool. Even though it may be 700' between them, they still are disturbed by the lights. They are approximately one-half mile from the golf course.

Mr. Smith asked Mr. Covington to check on the lights at the Flint Hill Golf Course and Mosby Woods Swim Club. Mosby Woods Swim Club should have their lights off now that the season is over.

Mr. Kelley stated that he could understand how those lights would affect people living one-half mile away as he lives a good distance away from the Fairfax Country Club and he can see the lights and they are quite bright even sitting on his patio.

Mr. Smith stated that they should confine the lights to the area of the Special Use Permit. They can now purchased lights that are lower and of a different type. He asked the applicant what type of light they proposed to use. The applicant indicated that the lights were shown on the plats.

Mr. Smith stated that this is the old type lighting system and they should check on the new type. Mr. Kelley stated that they have some lighting systems that are only 14' high and do the job very well.

Mr. Miller stated that they would have the lights off at 10:00 P.M. This would be operated by the Homeowners Association.

In application No. 8-138-73, application by Jeffrey Sneider and Company, under Section 30-2.2.2, of the Zoning Ordinance, to permit two tennis courts, on property located at proposed Bushman Drive off Blake Lane, also known as tax map 47-4(1)Pt. 59, Providence District, Co. of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 5th day of September 1973.

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

- 1. That the owner of the subject property is the applicant.
- 2. That the present zoning is PAD.
- 3. That the area of the lot is 0.8213 acres.
- 4. That site plan approval is required.

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

- 1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
- 2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
- 3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
- 4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMITS AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.
- 5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the non-residential use permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
- 6. Hours of operation are to be 6 A.M. to 10 P.M.
- 7. Membership is for use of the residents of Oakton Village only.
- 8. Lighting shall be of low height (15' maximum) and confined to the site.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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10:20 - RE-EVALUATION HEARING, LAKE BARCROFT RECREATION ASSOC., S-142-69; Granted 9-8-70, app. under Sec. 30-7.2.6.1.1 of Ord. to permit community recreation facility, east side of Whispering Lane, 61-3((14))A, Mason District (R-17),

Mr. Smith stated that this hearing came about after a plat substitution was made on the original granting approximately September 13, 1972. The original granting and application took place in 1970 setting forth certain land areas involved and certain conditions in this application. The land area involved was -- and I will read the entire Resolution so that we will have it in the record.

"In Application No. S-142-69, an application by Lake Barcroft Recreation Corp. Inc. under Section 30-7.2.6.1.1 of the Zoning Ordinance, to permit community recreation uses for private membership of 400 families, including indoor pool and outdoor pool, wading pool, service activities building, tennis courts, handball courts, putting greens, on property located on the east side of Whispering Lane, also known as tax map 61-3((14))A, County of Fairfax, Virginia, Mr. Long moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 23rd day of September, 1969, and,

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

1. That the applicant is the contract lessee of the property;
2. That the present zoning is R-17;
3. That the area of the lot is 13+ acres of land;
4. Compliance with Article XI (Site Plan Ordinance) is required;
5. The streets that serve this property are extremely narrow;
6. The proposed facility only has one entrance.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.11. of the Zoning Ordinance; and
2. That the use will not be detrimental to the character and development of the adjacent land and will be in harmony with the purposes of the comprehensive plan of land use embodied in the Zoning Ordinance.

NOW, THEREFORE BE IT RESOLVED, that the subject applicant be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in this application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board.
4. The property shall be enclosed with a six-foot chain link fence located one foot inside the property line.
5. Trees shall not be disturbed within the required 15 ft. setback area except where necessary. Where trees are removed or non-existing, two inch hardwood trees shall be planted 50 feet on center.
6. Tennis courts shall be located at least 33 ft. from any property line. The tennis courts shall be enclosed with a 12 ft. chain link fence. Trees shall be undisturbed within the 33 ft. setback area. Where trees are non-existent or removed by necessity, two inch hardwood trees shall be planted 50 ft. on center.

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7. The hours of operation shall be from 9:00 a.m. to 9:00 p.m., 7 days a week.
8. All noise shall be confined on the site.
9. All lighting shall be directed onto the site.
10. There shall be an acceleration and deceleration lane at the entrance on Whispering Lane as approved by the Division of Land Use Administration.
11. There shall be a minimum of 134 parking spaces.
12. There shall not be any leasing or renting of these premises for outside activities.
13. There shall not be any sale or use of alcoholic beverages on these premises.
14. The 400 family memberships shall be limited to residents of Lake Barcroft and the immediately abutting subdivisions.
15. The applicant must furnish the Zoning Administrator a copy of the lease prior to the issuance of a use permit.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to obtain buildings, certificates of occupancy and the like through the established procedures."

Mr. Yeatman seconded the motion.

The motion passed 4 to 1.

This was the action that took place in granting this Use Permit for recreation uses on 13 plus acres of land as stated in the Resolution.

The substitution that took place 9-13-72 was one that was presented to the Board in light of there being no change except minor changes in location. The minutes of 9-13-72 read:

Mr. Smith read a letter from Mr. Waterval regarding a retaining wall on the site which they would like to construct. Mr. Waterval also submitted a Site Plan with more extensive drawings on it than were on the original plat. The water surface is the same, Mr. Waterval stated, but because of engineering problems relating to the topography of the area there were slight changes in location of the facility.

Mr. Covington stated that he had gone over this plat and the changes appear to be slight, but any change is necessary to come back before the Board, according to the Board's instructions.

Mr. Covington stated that these plats had been reviewed by the Site Plan Office and the only change they found was the location of the facilities, therefore, they sent it back to the BZA.

Mr. Long moved that Application S-142-69, Lake Barcroft Recreation Association, plats prepared by Patton, Harris & Foard dated July 1, 1971 and revised 8-29-72, be substituted for those in the file with the original application.

Mr. Baker seconded the motion and the motion passed unanimously.

Now, the re-evaluation is taking place today simply because the Board discovered after the substitution that maybe the statements were not correct; that the land area involved was in the process of being redistributed and this is not in compliance with the original use permit. The original use permit calls for 13+ acres of land. Apparently, they have reduced the land to something over 8 acres of land. This is a tremendous change in the land area and is a great change in the land that would impact the vicinity and for that reason, the Board will now hear testimony first from the opposition and then, Mr. Waterval, you will have an opportunity to counter any of the statements made by the people who are going to handle this. We would like to limit the hearing to not more than 40 minutes, 20 minutes for each side.

Mr. Goodell, are you going to handle the testimony for the opposition or the property owners in the area?"

Mr. Brown stated that he was representing the abutting property owners against these additional uses. He stated that he hoped the Board had all the material that he had submitted earlier to the Clerk.

Mr. Smith stated that the material had been received and would be placed in the record. This consists of a black notebook containing a sketch and photographs and several letters from numerous people.

(Inadvertently skipped this page)

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B / a n k

These letters were: (1) Memo from Edna Bicksler, Clerk to the Board of Supervisors, to County Executive, dated November 25, 1968, along with an excerpt from the minutes of January 2, Minute Book 52 of the Board of Supervisors. (2) Letter from J. M. Wray, Jr. Director of Operations, State Highway Department, to Richard A. Waterval; (3) Letter from D. S. Roosevelt, Resident Engineer, Department of Highways, dated August 9, 1972; (4) Letter from Ernest G. Rafey, M.D., President, Lake Barcroft Community Association, Inc., dated August 2, 1972 (5) Letter from William C. Putman, Assistant Resident Engineer to J. O. Woodson, Zoning Administrator, dated November 1, 1971, and letter from Mr. Putman to Wesley G. Harris, Patton, Harris and Foard, Engineers, dated November 1, 1971; (7) Letter from Richard A. Waterval to Mr. Putman, dated August 11, 1971; (8) Letter from D. E. Keith, Resident Engineer, Department of Highways, dated July 20, 1973.

Mr. Brown then submitted a Petition signed by fifty percent of the neighborhood, which were all they were able to contact in this period of time.

Mr. Brown then introduced Mr. Arms, who has had 23 years of experience as a professional planner. He submitted a statement on the qualifications of Mr. Richard E. Arms, A.I.P., Urban Planner, for the record. He stated that Mr. Arms will be addressing the traffic problems they have there today. He further stated that the main reason the citizens are present today is because plats were submitted for substitution to the Board without calling the Board's attention to the fact that these plats converted a road from recreational use to a public road to serve an additional 22 families. In addition, the permittee has proposed to use three acres of recreation land for the use of these 22 single family homes. This enables them to construct these 22 homes on this portion of land. However, these people will not be able to use those 3 acres for their recreation purposes as they are under lease to the Recreation Association. He pointed out that this portion of land that is being developed for single family homes (22), is 5.9 acres of land and under the existing zoning, a maximum of 13 lots could be utilized without that 3 acre green space that they are using of the Recreation Association property that was originally under this Special Use Permit. The former owner of this land never believed that this 5.9 acres of land could be developed. This parcel A will generate as much traffic as the entire recreation land would generate by itself. You have seen for yourself, he stated, that the permittee in this case requires greater supervision and they suggest that the Board look into all phases of this operation.

Mr. Brown also stated that contrary to the Board's instructions at the hearing in August, construction has continued on Recreation Lane. He stated that the photographs that they have submitted will show that. He stated that Mr. Waterval stated in his letter to the Board of August 24, that it was his understanding that they could continue. He could have confirmed what he felt the Board said by calling the Clerk, Mrs. Kelsey. They have been sitting there and watching the road being constructed.

Mr. Smith stated that he would like them to confine their remarks as much as possible to the subject recreation area as the Board has no jurisdiction over the Cloister development other than Recreation Lane and the fact that the permittee now plans to reduce the green space to be used for this development of single family homes.

Mr. Smith stated that it is the Chair's position that the entire acreage that was involved in the original Special Use Permit can only be used for recreational uses and not as green space for the cloister development. The Board was not aware of the change that was proposed and the Board was not made aware of it by the testimony at the time of the substitution of the plats. This is not in keeping with the original granting of the Special Use Permit.

Mr. Brown stated that he wanted to make it very clear that they are not asking the Board to deny access to Whispering Lane. They accept the fact that the Board did grant a Special Use Permit which permitted access to Whispering Lane for the Recreation Association use, but they do say that it should not be extended to the Cloister development and they do also say that this three acres of land should not be deleted from the Recreation Association land.

Mr. Smith stated that his letter to the Board along with the signatures dated September 4 1973, along with the other data relating to this will be made a part of the record.

Mr. Richard Arms, 1400 North Uhle Street, Arlington, Virginia, Urban Planner, spoke before the Board. He went over the background of the changes again for the Board. He stated that what was to be a 9:00 A.M. to 9:00 P.M. use of Recreation Lane has turned into a 24 hour use. The projected traffic is now 220 trips per day using 10 trips x 22 homes. All of this traffic impacts the neighborhood that will not be using the Recreation facility, nor will they be living in the homes developed in the Cloister. The streets were designed in that area in a fashion to discourage through traffic. There are a number of cul de sacs and turn around streets. The people who will be using the Recreation facility will have to come all the way around through the neighborhood in order to get to it. This is undesirable traffic because the people who live at the top of the Recreation facility do not want that traffic coming in their way even though they will be the ones who will be using the Recreation facility.

* former Zoning Administrator

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The people who will be using the facility should accept some of the responsibility for the traffic that it will generate. He states that he maintains that it is possible not to build the one-half of Recreation Lane going back to the Cloisters, but rather that access to the Cloisters be by access through the eastern part of the Association's land and Parcel A-3. He stated that the cost would be substantially less because the road would follow the terrain of the land. The plan shows the tennis courts under the control of the Lake Barcroft Recreation Center, Inc., as it has been used in calculating density for the Cloisters. This access from Lakeview Drive would only be for the Cloisters and the Recreation Association would still use Whispering Lane. He stated that he did not feel this was the best solution as the best solution would be for both the Recreation facility and the Cloisters would be Lakeview Drive, however, the homeowners are reconciled to the use of Recreation Lane for the Association. They are concerned because every new day seems to bring about more intense development. They want to know what is to happen to the rest of the land in the area covered by the Special Use Permit, now that 3 acres has been taken out to use in the calculations for green space on another piece of property. By way of example, they were told that there would be 400 members. He stated that the control of the members is under the control of the corporation and the corporation might choose to increase the number to 600. If the Board of Zoning Appeals cannot control the change in use of the road and the 3 acres, then how can they control the number of members for the recreation facility. An addition to the number of members would increase the traffic.

Mr. Waterval stated that he agreed that there is a problem, but he felt that they have disclosed everything that they were going to do, perhaps not as detailed as the Board would like on every occasion, but they have tried to keep the Board apprised of the situation.

Mr. Barnes stated that he was here and he heard the whole thing and he had also gone down and looked over the entire piece of property. He stated that he had yet to hear anything about any Cloister development on that piece of property and he stated that he had listened to every word that was said.

Mr. Waterval stated that what he was saying is that the plans that they have submitted to the various county agencies have been reviewed and reviewed and they had no problem with them other than for the arrangement of the pools and the retaining walls. If there was a problem then the County Staff people were not doing their job.

Mr. Waterval stated that all he could do is try to explain how they got where they are and hope the Board concurs with them.

Mr. Smith stated that in relation to that statement, in the granting of the original Special Use Permit, it was clearly stated that any change in the use would bring about a Re-Evaluation hearing. The Board should have been informed. They were not informed that there was any change other than a relocation of the pools and a retaining wall being put in.

Mr. Waterval stated that the reason they were before the Board in September of 1972 was the Site Plan was in the Zoning Office for approval. The Zoning Office has to pass on whether or not the site plan complies with the Special Use Permit, and there was a question on the size of the pools and the number of pools. The Zoning Administrator suggested that they come before the Board with these changes. He stated that he wrote the Board a letter dated August 23, 1972, going into details on the size and location of these pools and all the other information was on the Site Plan that was before the Zoning Administrator and his staff.

Mr. Smith asked Mr. Waterval if he at any time indicated to the Zoning Administrator that they were going to reduce the land area.

Mr. Waterval stated that he did nothing more than have his engineer submit the plan and see if they could get it approved.

Mr. Smith asked if there was any indication to Mr. Covington, Assistant Zoning Administrator, or Mr. Knowlton, Zoning Administrator, or anyone, that there was a reduction in land area.

Mr. Waterval stated that the approved Site Plan was submitted for Parcel A-3/which includes 8.3 acres after the road dedication and after the Homeowner's open space.

Mr. Smith asked Mr. Covington if he was aware of the fact that the land area had been changed?

Mr. Covington stated that he was not aware that the land area had been reduced.

Mr. Waterval again stated that it was on the various site plans that he submitted.

Mr. Smith stated that they did not approve any change in the road and they did not approve a reduction in the land area involved.

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LAKE BARCROFT (continued)

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Mr. Smith stated that this has been a complicated thing from the beginning. The Board had hearing after hearing on this before it was granted. There were two organizations.

Mr. Covington stated that Design Review Section brought to his attention the fact that the configuration of the pools and the bank had been changed and asked me to bring it back to the Board. He stated that he did this. He stated that these were the only changes that were brought to his attention.

Mr. Waterval stated that there are a lot of things on the Site Plan. He stated that he supposed that technically you could say that every time you drew a line, you must come back to this Board. Mr. Covington stated that he did not discuss this change in the road or the reduction of land area and this is a major change, nor did he have any knowledge of these changes. Mr. Barnes stated that he certainly did not know about it. Mr. Smith stated to Mr. Waterval that the big factor is that he has proposed to reduce the land area without a hearing on it. The Board does not and has never reduced the land area without a hearing.

Mr. Waterval: May I make a remark on that point. The Board will follow this exercise. The use permit that you grant deals with land use to which it is put. It is granted for a specific permittee, the user of the land, now, in this particular case you have granted a use permit to a leasee user. It makes not one bit of difference who owns the land that is subject to that lease -- how many pieces or parcels they are carved up into, because it is still subject to the rights of the tenant, first of all, under the lease that you have and that tenant can only implement that lease in accordance with your Use Permit. Admittedly, Parcel A-3 will have a fee boundary line of 8.3 acres, but your permittee's lease still applies and is overriding and dominant on the fee parcel of three acres which will be in the Cloister Homeowners' Association name. It could be Mr. Black's name. It is still three tennis courts and open green space precisely as shown to you and approved by your folks.

Mr. Smith: Under this substitution, we did not approve the tennis courts. Let's go back to who owns the property. (inaudible)

Mr. Waterval: Mr. Smith I wasn't aware that it was not approved.

Mr. Smith: Who actually owns the property?

Mr. Waterval: Lake Barcroft Recreation Corporation, not your permittee.

Mr. Smith: Then you are leasing the Homeowners Association property?

Mr. Waterval: First of all Mr. Smith, there is no Homeowners Association in existence at the present time. That will only come to pass when the subdivision goes to record.

Mr. Smith: Has the land actually been leased at this point?

Mr. Waterval: You have the lease, from the Recreation Corporation to Recreation Center, Inc., your permittee.

Mr. Smith: This was from the original hearing.

Mr. Waterval: Absolutely, that has never been changed.

Mr. Smith: The change that we have been discussing now is the parcel of land that is leased to your Homeowners Association. Who is this property now leased to? Who holds the lease set forth in this Site Plan.

Mr. Waterval: Your permittee. There has been no change.

Mr. Smith: You proposed under the Site Plan for the Cloisters, which did not actually show on the substituted plat you gave to us, you propose to lease this property to the Homeowners Association after you have developed the Cloisters. You have allocated this land in order to get the density on the Cloister property, but the Cloister Homeowners Association green space will be subject to the lease of your permittee. You will sublease the property then?

Mr. Waterval: There will be a change in the title to the fee ownership.

Mr. Smith: But, you are deeding the property to the Homeowners Association in the Cloister development.

Mr. Waterval: Correct. There is a change in the owner of the land.

Mr. Smith: There is a change in use?

Mr. Waterval: No, it is still three tennis courts and open space.

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LAKE BARCROFT (continued)

Mr. Smith: So, you do not have a sublease at the present time with the Homeowners Association. Do you have a contract for the Cloister Homeowners to purchase this piece of property?

Mr. Waterval: No sir, because the Recreation Corporation owns all the property.

Mr. Smith: You have no contract to deed this property to them at such time as the development is completed?

Mr. Waterval: You mean no contract with the Homeowners Association recognizing the Permittee's lease, is that what you are suggesting?

Mr. Smith: I gather from the testimony that you stated that the property will actually be deeded to the Homeowners Association, but you have no agreement at the present time with the Homeowners Association to deed this property to them.

Mr. Waterval: No, because we will create the Homeowners Association ourselves. The way that the lease is protected is the reservation in the Deed to the Homeowners Association as far as the three tennis courts are concerned.

Mr. Smith: Then the Recreation Corporation is not doing this by lease, it is doing this by ownership?

Mr. Waterval: Mr. Smith, please try to distinguish the two corporations. They are extremely separate organizations. There is no community association or recreation association. Your permittee is the Lake Barcroft Center, Incorporation, non-profit, non-stock, membership only, corporation. It has the lease right for the next 50 years, renewable, for all of the permit land area, regardless of who owns the permit land area. The permit land area is presently owned by a separate corporation, Lake Barcroft Recreation Corporation. They own all of the land and it may very well, as the site plan indicates, various parts of its land ownership will be deeded out to other individuals and organizations, but wherever the Recreation Center, Inc.'s lease applies, those deeds out have to take subject to that lease. So as far as the reduction of the land area, if and when Recreation Lane, the public street, is dedicated, it has approximately two acres of land area within its right-of-way. There is 2 acres there and the 8.3 in Parcel A-3 which is the residual of where the swimming pool is situated and three acres over in the green open space and tennis courts, there is still thirteen. So to say there is a reduction in the whole plan is false. Rather than say that there has been a reduction from 13 acres to 8 acres, I think it is fair to say that it has been reduced from 13 acres to 11 acres because the street becomes a public dedication.

Mr. Smith stated that actually there was 14 acres in the original use permit.

Mr. Waterval: Again, there is an error in the record. It was Parcel A, Section 3 of Lake Barcroft, is the way the original application was worded.

Mr. Smith: The plat you submitted with the application shows 14.22 acres of land.

Mr. Waterval: That is correct. That was Parcel A, Section 3, Lake Barcroft. The reason there was two years delay in this public hearing was because of a law suit over some covenants between the Lake Barcroft residents and this Corporation. (To define the covenants) That law suit is in your file in the record and the final decree is in there. There were two covenants involved; one covenant which says that the land that I just showed you, A-2, can only be used for beach and accessory uses and the 2nd covenant was that no residence could be constructed on it. When the law suit was concluded and the final judgment entered, the 1st covenant was stricken down as null and void. However, as to Parcel A-1, which was the original parcel of Balvedere without this piece. (He indicates on the map and he is away from the mike) The Court suit on that covenant was entered into the record of this proceeding. The Court also said in that decree that the Recreation Corporation and its affect on your permittee, the leasee, had no right to purchase this Parcel A-2. Now, the record of the proceedings will show that immediately prior to your final ruling in September 9, 1970, there was my motion, my original request, and your concurrence that it is Parcel A-1 of 13 acres that is the permittee area, because it has to be simpatico with the Court Order. I had to bring this out to bring it in context with the original application because the original application was modified from 14 acres.

*See sheet
A-1
Signed by
Barcroft*

Mr. Smith: Now it has been reduced to 11 acres.

Mr. Waterval: Now, it was not until sometime later that the Recreation Corporation who is not your permittee, the land owner, acquired title to A-2. That is the piece of land up here (he indicates on the map). That acquisition was by a quit claim deed.

Mr. Smith: Did you submit new plats at the time we reduced the land area. It was the recorded subdivision plat that went along with the Court Order. We did not have the Quit Claim deed at the time. We did not have that until later. I will give it to Mr. Kelley and offer it into the record at this time. It is a photocopy. I have the original.

Mr. Waterval:
The Court Order that was entered in the case specifically says that the Recreation Corporation has no right to purchase the A-2, the parking lot of Beach 2. Now, from the time we made the application and the time that we finally got the permit and the Court Order, the land owners died, Mr. Barger and Mr. Dodson and we had Executors and probate to contend with. When the Deed in June of 1971, the deed to Parcel A-land Parcel A-2 went to record, in order to get a title insurance policy, we had to put the Court Order and all of the underlying contracts and agreements that went in that law case in the land records to give continuity of title. One of the problems which created the Quit Claim Deed problem to A-2 is that one of those contract documents that is recorded in Deed Book 3448, Page 384, was the original option by Mr. Barger to the Civic Association to sell them Parcel A. In that option, he said that the property shall be conveyed less and except certain parking areas heretofore dedicated. That's the written record that is in the land records. The Court Order picked up on that --

MR. SMITH: (Interposing). I don't think we have to go back to that as it is in the record. The Board is aware of the information that you just stated (inaudible)

MR. WATERVAL: That is one of our problems, it is only a Quit Claim deed. It is like buying the Washington Monument. If you have any interest in it (inaudible) Now, Quit Claim Deed is no title at all. Now, I have not had an opportunity to see the black package there that Mr. Brown referred to, so I don't know what those various letters there.

(Mr. Brown gave Mr. Waterval a copy of the pictures and maps, but he did not have a copy of the letters (Mr. Mitchell made a copy of the letters for Mr. Waterval) He stated that he knew what was in the file previously if these were not later than July of 1973. He stated that he was fully aware of the position of the Department of Highways. He stated that he submitted that in the record of August 3rd. The Department of Highways has recognized that --

MR. SMITH: Mr. Waterval, we have allowed you 35 minutes.

MR. WATERVAL: The July information data was already in your folder. I would like all that to go into the record. I would like to have my letter I mailed to you, Mr. Smith, and the Board members dated August 24, 1973 with the enclosures.

MR. SMITH: That will be made a part of the record and also the other letters that were written.

MR. WATERVAL: Also the original of the Quit Claim Deed and Patton, Harris and Rust's Feasibility Study, the Meade Palmer Report, the traffic Study by Voorhees. (inaudible) He is relating to the Meade Palmer report with the alternate roadway going down through the stream Valley and through Parcel A-2 and says that it should be rejected. He says that the plan that we have before you and has been approved is a satisfactory solution. The Allen Voorhees updated report, gentlemen, shows a minimal, not detrimental, traffic impact.

Mr. Smith: This will be submitted for the record, but the main factor is the reduction of land area under the Special Use Permit --

MR. WATERVAL: (interposing) I understood that it was the traffic question and the alternate access which you wanted some explanation and testimony on. We have explained the land area situation. I would comment on Mr. Arms testimony, if I might. Much has been made by Mr. Arms, as well as Mr. Brown, as to the burden on the non-member neighborhood. Now, that simply is not correct. The very neighborhood that is complaining is within our membership area.

MR. SMITH: How many members do you now have?

MR. WATERVAL: 125.

MR. SMITH: Have you made any efforts to acquire additional members in the last six months?

MR. WATERVAL: Oh my heavens Yes! We have had telephone canvassers and we have had direct mailouts, we have a non-Lake Barcroft member on the Board of Directors.

MR. SMITH: Have you lost any of the members?

MR. WATERVAL: Yes, some moved out of the area and some died and some got disheartened.

MR. SMITH: Why did General Abrams resign?

MR. WATERVAL: Well, first of all, he was running the show over there in Viet Nam and I believe he moved.

Mr. Barnes: I think this hearing has gone on long enough.

MR. KELLEY: I have one question I would like to ask Mr. Waterval in spite of our long testimony as to what the Court Order was on regarding A-2. Did I understand you to say that this was not to be used for any purpose.

MR. WATERVAL: No. It is in the record of the proceedings of this the Final Decree. It says that insofar as Parcel A is concerned, the covenants imposed on Parcel A and recorded in Deed Book 1007, "the land hereby conveyed shall be used only for the purpose as a beach.

MR. KELLEY: Is it being used now for construction purposes, and do you have a construction office on it now?

MR. WATERVAL: Yes, for the contractor, temporarily.

MR. ROSSEVELT, 3555 Chain Bridge Road, Fairfax, Virginia, Virginia Department of Highways, I am Resident Engineer. The Department received a letter dated August 30, 1973, which asked two questions which I will read and attempt to answer. This letter was from Rufus Brown. The first question was, "Did your Department conclude on the basis of the letter to Mr. Putnam from Jane C. Kelsey, Clerk of the Board, dated November, 1971, that the Board had made a decision requiring the entrance to be placed at Whispering Lane, that as of the date of Mrs. Kelsey's letter, there was no alternative action?" I would say that the answer to that question is "Yes." I assumed from this that there was but one access to Whispering Lane.

The second question of Mr. Brown's letter is, "Is it your opinion that a Lakeview Drive entrance would be preferable to one at Whispering Lane in terms of safety to the travelling public even if stop lights are placed at the intersection of Whispering Lane and Jay Miller Drive?" I will have to say that I don't believe that the safety of one entrance over the safety of the other entrance is preferable. There is no difference.

Having answered those two questions, I will go on to review the entrance problem between Lake Barcroft -- I still can't get the names straight --

MR. SMITH: Lake Barcroft Recreation Association is the permittee in the case.

MR. ROOSEVELT: --and the Virginia Department of Highways. After much negotiations with the permittee, we have reached an Agreement which we feel will make the entrance from the Lake Barcroft Recreation Center to Whispering Lane safe to the travelling public. We had two alternatives, the first being a reconstruction of Whispering Lane, the second being the installation of two traffic lights, one at the entrance to the Recreation Association with Whispering Lane and a companion light at Jay Miller and Whispering Lane. The first alternative, after review, was abandoned and we are presently and it is our intention to install these traffic lights at such time as Recreation Lane is constructed. This is to patrol the traffic coming over the hill on Whispering Lane at Jay Miller. The whole problem was their site distance. Traffic coming south on Whispering Lane would not have been able to see the light. The Department has an agreement with Lake Barcroft Recreation Association, Inc. that -- to construct a safe entrance at that location and unless some party, other than the Department, indicates that this entrance cannot come out at this location, I feel that the Department will have to go through with this Agreement.

MR. SMITH: Thank you very much.

MR. ROOSEVELT: Do you want me to stay for other questions?

MR. SMITH: No, that will not be necessary.

MR. RUFUS BROWN: Mr. Smith, I would like to say that I am somewhat disappointed with the Virginia Department of Highways. I would like to introduce for the record a copy of a file memorandum dictated by myself five minutes after a conversation with Mr. Keith.

MR. SMITH: Let me take a look at that before we accept it. Is this only your recollection of a conversation that took place between you and Mr. Keith of the Va. Department of Highways?

MR. BROWN: I would like to ask Mr. Keith to stand up and correctly quote our conversation that I had with him yesterday.

MR. SMITH: Does Mr. Roosevelt have a copy?

MR. BROWN: No. I didn't intend to include this in the record, because I didn't expect Mr. Roosevelt to say something different from what Mr. Keith told me.

MR. BROWN: All I want the Board to do is ask Mr. Keith whether or not he stated to me that he believed the Lakeview Drive entrance was preferable for safety reasons, the installation of lights on Whispering Lane to alleviate --

MR. SMITH: (interposing) Wait a minute. Mr. Keith is not here.

MR. BROWN: I realize that and that is why I gave this memorandum to the Board. It correctly describes our conversation.

MR. SMITH: Well, I will leave the record open for ten (10) days to allow you to submit this to Mr. Keith and get an answer and we will make it a part of the record. It is encumbant on you to get a letter from Mr. Keith.

MR. WATERVAL: Do I get a copy.

MR. SMITH: A copy of that letter is to be submitted to Mr. Waterval.

MR. BROWN: There have been some misstatements here and I would like to correct them for the record. I have Commander Warman here --

MR. SMITH: No, we're not going to take any additional testimony. If you want him to use part of your Rebuttal time, fine.

MR. WARMAN, 6521 Jar Mar Drive. I live on property abutting this property. You asked the question as to why General Abrams quit and withdrew from this Association. I advised General Abrams that I was withdrawing from this Lake Barcroft Recreation facility and he withdrew his support very shortly after I wrote this personal letter to him saying: "Dear General, as your fellow neighbor and fellow man in Viet Nam, perhaps you should be aware that we are the only two absentee landlords supporting this project. Please be advised that I am withdrawing my support and perhaps you would like to do so, too." I understand that shortly thereafter General Abrams withdrew.

MR. SMITH: Thank you very kindly.

MR. BROWN: I would like to address a statement to Mr. Waterval that anybody who ^{this is} thinks that anything other than a Lake Barcroft operation they are out of their mind. This is nothing but a Lake Barcroft operation. The file, the documents, all this leave no doubt in anybody's mind that this is anything other than that.

MR. WATERVAL: I object to that. (He rose and came forward)

MR. SMITH: Now, wait a minute. Mr. Waterval, Mr. Brown did not interrupt during your testimony.

MR. WATERVAL: (Inaudible)

MR. SMITH: Then the record will show that.

MR. BROWN: Two brief statements more. One is that Mr. Vernon's environmental statement is addressed to the wrong issue. We have not asked that A-2 at this point be the sole entrance to the Recreation Parcel. The point that Mr. Palmer and others that A-2 be used instead of Recreation Lane, we have never advocated that. The Board has gotten away from our main complaint. All we have asked is to stop Recreation Lane at the parking lot and not open it up on a 24 hour basis. I think this is very important and I think the Board should understand that, at least it was my impression, that when it was stated as a part of the Resolution of the Board approving this permit, that the permit is from 9:00 to 9:00 and then at least the abutting neighbors will assume that they have the rest of the evening free of traffic. I don't care how many cars are on here, but this road is going to be opened up on a 24 hour basis.

MR. SMITH: I think it is one of the facts that the Board has taken into consideration. We haven't overlooked that. The entrance way is now being proposed to be used beyond the restricted time. Certainly we are taking that into consideration.

MR. BROWN: You say the Board has taken this under consideration.

MR. SMITH: We are now.

MR. BROWN: Oh, I was under the assumption that perhaps that issue was getting buried in the question of the 3.8 acres. We feel very strongly on this. There are two issues here, both relating to the permit.

MR. SMITH: All of the conditions set forth in the original Special Use Permit are still in effect.

and availability
MR. BROWN: I think the question of title/to A-2 is a false issue. My letter in the file will explain the true facts I am sure.

MR. SMITH: (Talking to Payne Johnson) Mr. Johnson, we recognize the fact that you have been here all morning. Soil erosion and siltation is something the citizens should complain to your Department on. I would rather not get into this at this particular hearing. This is under site plan and if there is a soil and siltation problem, this problem should be under Site Plan and not before the Board of Zoning Appeals. We appreciate your coming to this meeting.

Mr. Barnes: I move that we defer this for a period of ten (10) days, suppose we say two to three weeks, September 26th, 1973 and that it be put on the Agenda for decision only.

Mr. Kelley: Second the motion for deferral for three weeks from today. This will give the Board time to read all the material that has been submitted for the file.

MR. BROWN: What happens if they continue construction on the road. The last time the Board told them not to begin any new construction and they started working on the road, as can be read in Mr. Waterval's letter to the Board.

MR. SMITH: I did not agree with Mr. Waterval's position and the record doesn't agree with Mr. Waterval's position. No new construction is to begin during this period. Anything that he has a permit for at this point would have to continue.

MR. BROWN: (inaudible) the road east. This is a very specific thing. The road would not have to be built beyond that point except for access to the Cloisters.

MR. SMITH: He is doing it at his own risk if he is proceeding to a point beyond the point that was allowed originally by the Board for this Recreation Lane.

MR. JOHNSON: (Inaudible)

MR. SMITH: We have been made aware of that Mr. Johnson. This is the reason for this hearing.

MR. JOHNSON: Does the Board of Zoning Appeals realize that there is an approved site plan and approved subdivision plats.

MR. SMITH: We have been made aware of it and it is too bad that we were not made aware of it earlier.

MR. JOHNSON: Here is the question. We have an approved site plan and an approved subdivision plan and is it the intent of the Board of Zoning Appeals that we withdraw that approval?

MR. SMITH: As far as the approved site plan for the Cloisters and the subdivision, we have no jurisdiction over other than the proposed use of Recreation Lane. It was originally designed to be used for recreation uses only. This has just come to the attention of the Board. We have indicated this all during this hearing. The Board was not aware of all these things at the time of the substitution of the plats.

MR. JOHNSON: (Inaudible) He is off the microphone. I have drawn up a cronology of the information that we have pertaining to this case.

MR. SMITH: We will accept them for the record. That may be what has happened as far as your Department is concerned, but the Board was not aware of this and neither was the Zoning Administrator. We did not know anything about the Cloisters. You heard me read earlier the minutes from that meeting.

MR. RUNYON: Question on the motion.

MR. SMITH: All those in favor of deferring the final decision for a period of three weeks say Aye.

ALL MEMBERS: Aye.

MR. SMITH: So ordered.

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11:00 McLEAN DEFENSE FUND, app. under Sec. 30-6.5 of Ord. to cancel issuance of building permits P98628 & P99046 for improper zoning, Fleetwood Road, 30-2((4))(G)(F)-1-56; (E)5-38, Dranesville District (PDH-40), V-143-73 --Hearing began at 12:30 P.M.

Mr. David Sutherland, attorney representing fourteen civic associations of the McLean area and other aggrieved individuals, with offices located at 1007 King Street, Alexandria, stated that he would be testifying on behalf of these people before the Board today.

Mr. Smith stated that he would like to stick to the boundaries of the zoning applications as this Board has no jurisdictions of the Board of Supervisors. If there is a question on boundaries, the Board of Zoning Appeals will hear testimony connected with the action of the Zoning Administrator. There will be no testimony in connection with the rezoning itself. He stated that the Board would also stay away from questions regarding site plan as this too is covered by another body of the government, the Planning Commission. He stated that as he understood it, they have already appealed the site plan to the Planning Commission.

Mr. Sutherland stated that they were appealing the decision of the Zoning Administrator to issue building permits for this property based on the fact that the zoning is incorrect.

Mr. Smith stated that it is the Chair's position that according to the State Code, they are questioning the action of the Board of Supervisors pertaining to the amendment to the zoning map in the county, and the only area the Board of Zoning Appeals has jurisdiction is on the area of boundaries. Whether the zoning is proper is for the Circuit Court to decide, not the Board of Zoning Appeals. If the Board of Supervisors heard a rezoning case or held a public hearing on an amendment to the zoning map without meeting certain criteria, then the appeal is to the Circuit Court.

Mr. Sutherland stated that he wanted to make it clear the points that he would like to have the Board of Zoning Appeals argue. There was a public hearing on this parcel in June of last year and the Board of Supervisors rezoned this parcel to PDH-40. The development plan filed with that application was approved by that Board on July 10, 1972; said development plan contained more units than a 40-unit-per-acre basis applied to the 10.43 acres then owned by the applicant. This development plan violated the regulations for the PDH district pertaining to setback, height, parking spaces, and recreation space. On September 18, 1972, the Board of Supervisors voted to vacate the 1.23 acres of public streets included within the boundaries of application No. C-220. Said streets were dedicated May 27, 1926, in the platting of Beverly Manor but no consents were obtained from other landowners in said subdivision as required in such cases by the 1950 Code of Virginia, as amended.

A site plan was approved February 7, 1973, covering the northern portion of the McLean House site. Appellants appealed this approval to the Planning Commission on March 15, 1973, for correction of certain engineering matters not here relevant, for limitation of units on said plan to the 40 per owned acre covered by the rezoning vote of the Supervisors, and for illegality of said vote. The Planning Commission denied the appeal on April 3, 1973, on engineering grounds and refused to consider the questions of construction or validity of said vote.

At the request of the appellants, the Supervisors ordered approval of the site plan for the northern portion withheld pending review by the Supervisors of the questions raised by appellants before the Planning Commission. The Supervisors' power to conduct this review was upheld on suit by members of McLean Associates in court, without opinion as to what steps were necessary to correct any irregularities found.

A site plan was approved March 9, 1973, covering the southern portion of the McLean House site. An appeal by appellants to the Planning Commission was granted May 3, 1973, on grounds that the northern site plan had not yet been finally approved and constituted the first of two phases of development under the McLean Associates' development plan. Under the PDH regulations a site plan for a later phase cannot be approved until construction has begun on an earlier phase.

On May 29, 1973, the Board of Supervisors adopted a form of vote, taken without public hearing and without notice of public hearing. Said vote purported to rezone the McLean House site for an additional 78 units, by way of award of a "bonus" of 25 percent. Said vote further waived regulations for the PDH district pertaining to setback, height, parking space, open space, and recreation space, these including all regulations for the PDH district setting numerical standards for said district.

Also, on May 29, 1973, following their purported rezoning action, the Board of Supervisors heard argument on behalf of appellants but refused to correct any action taken by them or their agents with respect to McLean House.

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Two site plans covering the entire McLean House site were approved by the Director of County Development May 29 and June 1, 1973, and building permits were issued for the buildings on such site May 30 and June 5, 1973, the issue of such permits making final the decision of the Zoning Administrator that such permits were in accordance with applicable zoning.

Mr. Smith again stated that he believed this appeal should have been to the Circuit Court.

Mr. Sutherland stated that he has had the benefit of a memorandum from John Rick, Assistant County Attorney, in line with the Chairman's thought.

Mr. Sutherland stated that he had hoped that this Board had an independent charge to the Circuit Court. This Board is appointed by the Circuit Court.

Mr. Smith stated that he was incorrect as the State Code prohibits the Board of Zoning Appeals from acting as Judge of the Board of Supervisors and this must go direct to the Circuit Court.

Mr. Knowlton, Zoning Administrator, stated that this was an application for PDH that was before the Board of Supervisors in the middle of last year and that application involves the consideration of a rezoning and the consideration of a development plan. The Board of Supervisors on July 10, 1972 approved the rezoning of the subject land to PDH-40. They also approved the development plan. It was on May 29 of this year that the Board went back to clarify its original action and to ratify that action. At that time they verified that the entire tract outlined on the screen (he indicates on the screen) had been rezoned to PDH-40 and the development plan showing 544 units would did include some bonus units would be approved. This was less than the bonus units that would be allowed. Ratification could only do now what could have been done at the time of the original act.

Mr. Smith stated that he felt the action of the Zoning Administrator should be upheld.

The Board continued to discuss the bonus units and how they were arrived at.

Mr. Runyon stated that in light of the information that has been conveyed to the Board, he would move that the Board uphold the decision of the Zoning Administrator based on the facts that he had at that time and that this Board has at this time.

Mr. Kelley seconded the motion.

The motion passed unanimously. Mr. Baker was out of the room.

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Mr. Barnes had to leave the meeting at 1:15 P.M.

NORTHERN VIRGINIA COMMUNITY COLLEGE FACULTY WIVES CHILD CARE CENTERS, INC., (NVCC), app. under Sec. 30-7.2.6.1.3 of Ord. to permit child care center, 5100 Ravensworth Road, 70-4(6)A, Annandale District (R-12.5), S-145-73

11:30 Item; Hearing began at 2:15 P.M.

Mrs. Lucianne Billups, 4516 Star Jordan Drive, Director of the Center, testified before the Board on behalf of the applicant. This Use will be located in the Ravensworth Baptist Church. Notices to property owners were in order.

Mrs. Billups stated that they plan to provide day care for the children of the students. They hope to open at 7:00 A.M. and operate until 5:30 P.M., Monday through Friday. They hope to start the 1st of October. They will not furnish any transportation.

Mrs. Huber, 8235 Smithfield Avenue, Springfield, Virginia spoke in favor of the applicants.

There was no opposition.

Mrs. Billups stated that when the construction is complete on the First Presbyterian Church of Annandale where they have been operating, they may need to go back to that church, or they might wish to operate at two locations. She asked if they would need to come back before this Board.

Mr. Smith stated that as long as they continued to operate at this location, they had a valid Use Permit. As long as they have not terminated the operation at the original location, except just for construction, they could continue to operate there after the construction is completed.

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 N.V.C.C. FACULTY WIVES CHILD CARE CENTER, INC. (continued)

In application No. S-145-73, application by N. V. C. C. Faculty Wives Child Care Center, Inc. under Sec. 30-7.2.6.1.3, of the Zoning Ordinance, to permit child care center, on property located at 5100 Ravensworth Rd., also known as tax map 70-4((6))A Co. of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 5th day of September, 1973.

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

1. That the owner of the subject property is Ravensworth Baptist Church.
2. That the present zoning is R-12.5.
3. That the area of the lot is 4.5425 acres.
4. That Site Plan approval is required.
5. That compliance with all county and state codes is required.
6. That the applicant has moved its child care center from The First Presbyterian Church of Annandale, to Ravensworth Baptist Church and is operating under Special Use Permit #S-30-71, dated March 16, 1971.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMITS AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The maximum number of children shall be 60, ages 2 to 6 years.
7. The hours of operation shall be 7 A.M. to 5:30 P.M., Monday through Friday, September thru June.
8. The operation shall be subject to compliance with the inspection report, the requirements of the Fairfax County Health Department, the State Department of Welfare and Institutions and obtaining a non-residential use permit.

Mr. Baker seconded the motion.

The motion passed 4 to 0. Mr. Barnes was absent.

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Potomac Stake Vienna Ward, Church of Christ of Latter Day Saints

POTOMAC STAKE VIENNA WARD, CHURCH OF CHRIST OF LATTER DAY SAINTS, app. under Sec. 30-7.2.6.1.1 of Ord. to permit erection of church, 2719 Hunter Mill Road, 37-4((1))22A, Centreville District (RE-1), S-146-73 11:50 Item; Hearing Began At 2:35 P.M.

Mr. Orville Goodsell, 2532 23rd Street, North, Arlington, Virginia, testified on behalf of the Church.

Notices to property owners were in order.

Mr. Goodsell stated that their regular membership is from 200 to 300, but four times a year they will have a meeting when 1800 people will be present. This building will be brick. They submitted plans showing how this structure would look when completed.

Preliminary Engineering suggested that they dedicate 60' along Hunter Mill Road.

Mr. Goodsell stated that they are willing to do that.

There was no opposition to this application.

Mr. Goodsell stated that this will be the Headquarters for their Church in this area. Their four meetings will be September, November, February and May.

In application No. S-146-73, application by Potomac Stake Vienna Ward, Church of Christ of Latter Day Saints, under Sec. 30-7.2.6.1.3, of the Zoning Ordinance, to permit erection of a church, on property located at 2719 Hunter Mill Rd., also known as tax map 37-4((1))22A, Centreville District, Co. of Fairfax, Mr. Kekley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 5th day of September 1973.

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

1. That the owner of the subject property is Church of Jesus Christ of Latter Day Saints.
2. That the present zoning is RE-1.
3. That the area of the lot is 5.4123 acres.
4. That Site Plan approval is required.
5. That compliance with all county and state codes is required.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

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CHURCH OF CHRIST OF LATTER DAY SAINTS (continued)

4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMITS AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. The exterior of the building shall be constructed of brick masonry.

7. The seating capacity is 1800.

8. The minimum number of parking spaces shall be 360.

9. Landscaping and screening shall be provided to the satisfaction of the Director of County Development.

10. The owner is to dedicate that portion of the property shown on the plat submitted as right of way being acquired by Virginia Department of Highway for future road widening.

Mr. Baker seconded the motion.

The motion passed 4 to 0. Mr. Barnes was absent.

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12:15 Item - SHARON TEMPLE CORPORATION, App. under Sec. 30-7.2.5.1.4 of Ord. to permit construction of a two story brick building for use by Masonic Fraternity Order and its related organizations, 1001 Balls Hill Road, Dranesville District, 2193(1)pt. 66, (RE-1), S-162-73 OTH

Hearing began at 2:55 P.M.

Mr. Emery Moore, President of the Sharon Lodge testified before the Board.

Notices to property owners were in order.

Mr. Moore stated that their present membership is 240. They are also affiliated with the Eastern Star who will also have their meeting at this facility and two Orders of Jobs Daughters. They will not all be there at the same time. The meetings usually start around 7:00 P.M. and run until 10:30. The Masonic meeting must not run any longer than 12:00 midnight technically. The Masonic meetings are two times per month and they usually have two additional called meetings. There will be no other uses of this facility. They will not serve alcoholic beverages.

Mr. John Nicholas spoke to the Board. He stated that he is one of the adjacent property owners. He stated that he has no objection to this application, but he wondered if this would open pandora's box to other Special Use Permit uses in the area or to the balance of this land.

Mr. Smith stated that it would have no bearing on the remainder of the land. He asked if he had any knowledge of a Special Use Permit that went into an area that caused other requests for Special Use Permits.

Mr. Nicholas stated that he did not know of any.

Mr. Swinks, the owner of the land where this Lodge is proposed, and the additional vacant land also was in the room and Mr. Smith asked him if he knew what might go in on the balance of the property.

Mr. Swinks stated that he had no idea.

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SHARON TEMPLE (continued)

Mr. Smith stated that the Board has no jurisdiction on any land except what is under this application for this Special Use Permit. At this time, the only thing that could be constructed on this additional land is single family homes without a rezoning.

Mr. Smith stated that the Board is in receipt of a letter from Mr. Lewis J. Fitzgerald, 1620 Elm Street, McLean, dated September 4, 1973, an adjacent property owner and also occupies same as residence. He stated that he was in opposition to this application. Mr. Fitzgerald stated that he felt this would damage property values.

Mr. Smith asked if they planned any additional buildings on this land.

Mr. Moore stated that they did not plan any additional buildings at this time.

Mr. Smith stated that Mr. Fitzgerald's letter also felt that this application would create a traffic problem on Balls Hill Road which would cause the County to widen this road at a great expense to the taxpayers.

Mr. Moore stated that they have been at the corner of Chain Bridge Road in McLean since 1921. This Lodge is more than 50 years old. This property was sold to American Oil Company. They wanted to gain some additional property as the original property would not provide for any growth.

Mr. Smith asked Mr. Moore to leave the rendering of the Lodge for the file, or submit a copy.

In application No. S-162-73, Out-of-Turn Hearing, application by Sharon Temple Corporation, under Section 30-7.2.5.1.4 of the Zoning Ordinance, to permit construction of 2-story brick building for Masonic Fraternity Order and its related organizations, on property located at 1001 Balls Hill Road, also known as tax map 21-3((1))pt. 66, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 5th day of September, 1973.

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

- 1. That the owner of the subject property is Angus C. Swink.
- 2. That the present zoning is RE-1.
- 3. That the area of the lot is 2.99 acres.
- 4. That Site Plan approval is required.

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

- 1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.71. of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to otherland.
- 2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
- 3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. Building to be of brick masonry construction.

7. Landscaping, screening and/or fencing shall be as approved by the Director of County Development

Mr. Baker seconded the motion.

The motion passed 4 to 0.

Mr. Barnes was absent.

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DEFERRED ITEMS:

FORESIGHT INSTITUTE -- WILLIAM SMYTHE, ET UX AND H. A. SALIH, M.C., app. under Sec. 30-7.2.6.1.3 of Ord. to permit Diagnostic Center and School Facility, Western Terminal of Woodbine Lane, Providence District 59-3(1)pt. parcel 11, (RE-0.5), S-116-73 (Deferred from August 3, 1973 for additional information regarding State accreditation)

The Board Member met with Mr. Manning from the State Department of Education regarding State accreditation during their lunch time. Mr. Manning told the Board that it was not possible for a School to become accredited until after they were in operation. He also told them that this accreditation was a volunteer program.

Mr. Smith then read a memo from Mr. Harvey Mitchell, Associate Planner, Zoning Administration relating to this application.

Mr. Mitchell stated that the Ordinance states that access to the property should be from a Collector Road, however, the Ordinance suggests/^{25'} general guideline. This Street, Woodbine Lane, has direct access to Route 236 and this is the only property serviced by this Woodbine Lane.

Mr. Kelley stated that someone studied the street problem when they adopted this ordinance and the Board should stick with what it says.

Mr. Mitchell also noted that five of the parking spaces were less than 25 feet from the property line. He suggested that the plat be withdrawn to bring this into compliance.

The Board continued to discuss the type road this school should be located on.

Mr. Kelley stated that he would like to see corrected plats, as he felt many things had been changes, such as the number of students. He stated that the trip generation should also be considered.

Mr. Runyon stated that they should also show on the plans the number of parkings spaces provided and the number of parking spaces needed. Also show these parking spaces 25' from the adjoining property line.

Mr. Smith stated that as soon as the Board has this new information they can resolve this. He suggested they give the applicant a month to comply, therefore the new hearing date would be October 10, 1973.

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AFTER AGENDA ITEMS:

The Board decided to have an Extra Meeting to make up some of the backlog of cases. They decided on October 31st, 1973 as the date for this meeting.

//

JAMES E. HOOPER, Request for a 6 month extension of time. (S-127-72)

Mr. Smith stated that this was a Special Use Permit to allow access to a proposed warehouse across RE-1 zoned land. This was granted September 13, 1972.

Mr. Hooper wrote the Board and stated that because of the sewer situation, they have been unable to obtain the building permit for warehouse construction on Prosperity Avenue, therefore, he requested an extension.

Mr. Baker so moved that he be granted a 6 month extension.

Mr. Runyon seconded the motion and the motion passed unanimously.

//

C & P TELEPHONE COMPANY, S-133-71, Re: Groveton Communications Center, 2806 Popkins Lane, Groveton, Virginia.

Mr. Smith read a letter from C & P requesting that they be allowed to put in additional parking because on rare occasions when it might be necessary for more vehicles than normal to be at this location for short periods of time, they need additional parking spaces.

Mr. Smith stated that they would have to submit a new application showing the expanded parking facilities. He asked if this was agreeable with everyone.

Messrs. Smith, Baker and Kelley voted Aye.

Mr. Runyon, No.

The Clerk was advised to so notify C & P that a new application would be necessary.

//

BURKE COMMUNITY CENTER, Request for out of turn hearing.

Mr. Smith read a letter from them stating that if they did not get an earlier hearing it would have a damaging effect on their financing commitment.

Mr. Runyon moved that the hearing be granted for September 26, 1973.

Mr. Kelley seconded the motion and the motion passed unanimously.

//

STARLIT FAIRWAYS

Mr. Smith read a letter from Iver J. Olsen, General Manager, dated August 16, 1973 in reference to a sign which they have erected located on the corner of Pickett Road and Little River Turnpike. This location is in the City of Fairfax. He had received a violation notice from one of the Zoning Inspectors, but when he called to say that that sign was in the City of Fairfax, the Zoning Inspector apologized for having given it to him. He stated that he could not understand why the sign would be in violation.

He submitted pictures of the sign to the Board.

The Board discussed this matter at length and decided to defer any decision until the Board members have had time to look at it and they have had time to study the matter of a Special Use Permit that is primarily on Fairfax County land with only a small part in Fairfax City and they are permitted something in the City that would be in violation in the County.

Mr. Smith then read another letter from Mr. Olsen stating that in 1971 they were granted a Special Use Permit for the expansion of existing facilities to include enclosing the outdoor pool and including various auxiliary facilities and the expansion of the golf course to include a practice Driving Range. They have now completed their Golf Course and Driving Range and wish to move on to the next phase which is to enclose the outdoor pool.

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STARLIT FAIRWAYS (continued)

Mr. Smith stated that they would need a new set of plats showing all of the improvements on the property that exist and are planned in the near future. He stated that if they will get these plans in soon they could be granted an out-of-turn hearing for October 31, 1973.

//

C & P TELEPHONE COMPANY, LEWINSVILLE CENTER, Request for out-of-turn hearing.
Mr. Smith read the letter from C & P regarding the hardship they are under.
Mr. Smith stated that this could be set for October 31, 1973 also if they can get the plans in in time.

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The meeting adjourned at 4:25 P.M.

By Jane C. Kelsey
Clerk


DANIEL SMITH, CHAIRMAN

APPROVED October 10, 1973
Date

The Regular Meeting of the Board of Zoning Appeals Was Held on Wednesday, September 12, 1973, in the Board Room of the Massey Building. Present: Daniel Smith, Chairman; Loy Kelley, Vice-Chairman; George Barnes, Joseph Baker and Charles Runyon.

The meeting was opened with a prayer by Mr. Barnes.

10:00 - GRACE PRESBYTERIAN CHURCH, app. under Sec. 30-7.2.6.1.11 of Ord. to permit church addition, 7434 Bath Street, 80-3((2))9, Springfield District (R-12.5), S-152-73 OTH

William Peake, represented the applicant before the Board. His address is 8125 Edmond Court, Springfield, Virginia.

Notices to property owners were in order.

Mr. Peake stated that this addition is to be 25' x 52' and will be a 2 story structure. It is basically one small segment of a planned larger addition. The purpose of this construction is to provide better facilities for their staff and provide a very small multi-purpose room that is designed specifically for a prayer room and for small weddings. The church has a large multi-purpose room and sanctuary. They do not anticipate any additional congregational members.

Mr. Peake stated that this addition will be of brick and will blend in with the present church. It is hardly visible from the one single family house that is there. The other contiguous property owner is the Park Authority and is nothing but wooded area.

There was no opposition to this application.

Hearing ended at 10:20 A.M.

In application No. S-152-73, application by Grace Presbyterian Church, under Section 30-7.2.6.1.11 of the Zoning Ordinance, to permit church addition on property located at 7434 Bath Street, also known as tax map 80-3((2))9, County of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 12th day of September, 1973.

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

1. That the owner of the subject property is Grace Presbyterian Church of Springfield, Trs.
2. That the present zoning is R-12.5.
3. That the area of the lot is 3.3826 acres.
4. That Site Plan approval is required.
5. The compliance with all county codes is required.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

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GRACE PRESBYTERIAN CHURCH (continued)

4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to OBTAIN NON-RESIDENTIAL USE PERMITS AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. Architectural detail to conform to that of the existing structure.

7. The minimum number of parking spaces shall be 118.

8. Landscaping and screening to be provided to the satisfaction of the Director of County Development.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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FAIRFAX FUNERAL HOME, INC., T/A COVINGTON-MARTIN FUNERAL HOME, app. under Sec. 30-7.2.6.1.9 of Ord. and Sec. 30-4.2.7 of Ord. to permit construction of additional chapel and visitation rooms to existing funeral home, 6161 Leesburg Pike, 51-3((1))25A, Mason District (R-12.5), S-139-73 -- 10:20 A.M. Item

FAIRFAX FUNERAL HOME, INC., T/A COVINGTON-MARTIN FUNERAL HOME, app. under Sec. 30-6.6 of Ord. to permit construction of addition to existing funeral home closer to side property line than allowed under Specific Requirement of Sec. 30-7.2.6.1.9 of Ord. which states that all funeral structures shall be located 40' from any residential district, 6161 Leesburg Pike, 51-3((1))25A, Mason District (R-12.5), V-140-73 -- 10:30 Item

Mr. Tom Lawson, attorney for the applicant, testified before the Board.

Notices to property owners were in order. The contiguous owners were First Christian Church of Falls Church, 6165 Leesburg Pike, and Martha Lumpkin, Seven Corners Medical Building, 6303 Castle Place, Falls Church, Virginia.

Mr. Lawson submitted a rendering showing the building as it presently exists and pointed out where they plan to put the addition. The wing will be north to the main building. He also submitted some additional color pictures of the property. He commented on the foliage to the north of the property that affords natural adequate screening. He stated that they would supplement this with additional screening as required under site plan. The Staff Reports suggests that the service road be dedicated to the County and he stated that they will do that. That service road is in place and is maintained by the owner of the property at the present time.

Mr. Lawson stated that the architectural design of this addition will be harmonious with the present structure.

Mr. Lawson stated that the present management has found that because of increased business they need additional visitation rooms and a chapel.

Mr. Smith asked if they had an embalming service.

Mr. Lawson stated that they do have and that was permitted under their original Special Use Permit.

Mr. Smith stated that under the existing ordinance, they would not be allowed to embalm here, but this Use Permit was granted prior to that change in the ordinance.
Mr. Lawson stated that they do need a variance in order to construct this addition.

Mr. Kelley asked if they were putting in any more parking for this additional use.

Mr. Lawson stated that they had not planned to, but they can if it is needed. They are not creating a need for more parking with this addition. This addition is to serve the people that would already be coming there.

Mr. Smith stated that they would be able to have two more bodies lying in state. That would mean that two more families would be visiting there, probably at the same time.

Mr. Lawson stated that they try to stagger the visiting hours.

Mr. Smith asked Mr. Lawson if he was familiar with the specific requirement of the Ordinance as it relates to setbacks for structures for this use.

Mr. Lawson stated that he was familiar with this requirement, but he knew that the Board had varied this specific requirement previously.

Mr. Smith stated that they had never varied it for a funeral home and this is a much different use from that of a tennis court. Mr. Smith stated that they have 1 and one-half acres of land, therefore, they have an alternate location.

Mr. Lawson stated that the Board could see from the photographs the way the land lies and it would be impossible to add anything any place else from the architectural standpoint. The only logical place to add that wing is to the north to balance the wing that they already have there. They are only talking about a 1' variance. On that side is natural foliage.

Mr. Barnes stated that it seemed to him that a good architect could have taken care of that 1 foot.

Mr. Smith stated that he felt the Board should keep in mind that this is a Specific Requirement of the Ordinance and they do have room on the land for an alternate location. The entrance and exits to this property is not the most desirable.

Mr. Lawson stated that that 1' is only on one corner of the building.

Mr. Lawson stated that he felt this funeral home is much more attractive than the tennis facility that the Board granted a variance for up in McLean.

Mr. Smith stated that he did not recall that application offhand, but perhaps there was no alternate location on the property.

Mr. Kelley stated that Mr. Lawson asked the Board why they could not grant such a little variance as 1 foot and if this 1 foot is so unimportant, then why can't they get the architect to get that 1 foot off. He stated that this is his feeling with reference to Mr. Lawson's statement that the Board was being too technical.

Mr. Baker stated that the layout of the land was there when they came in originally.

The Board then discussed the parking spaces at length.

Mr. Lockwood, one of the owners of the facility, 4085 Chain Bridge Road, Fairfax, Virginia, testified before the Board on how the facility is operated, how many cars are there at any one time, etc. He stated that Mr. Stanley is the Director of the funeral home. He stated that most of the visitors use the service drive. They also use the service drive for funerals. He stated that they are not planning any expansion of the preparation room as it is entirely adequate for their purposes.

There was no opposition to this application.

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 FAIRFAX FUNERAL HOME, INC. (continued)

In application No. S-139-73, application by Fairfax Funeral Home, Inc. under Section 30-7.2.6.1.9 & 30-4.2.7 of the Zoning Ordinance, to permit construction of additional chapel and visitation rooms, on property located at 6161 Leesburg Pike, also known as tax map 51-3((1))25A, Co. of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 12th day of September, 1973.

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

1. That the owner of the subject property is Fairfax Funeral Home, Inc.
2. That the present zoning is R-12.5.
3. That the area of the lot is 1.6385 acres.
4. That Site Plan approval is required.
5. That the property is subject to Pro Rata Share for off-site drainage.
6. That the property is presently operating under Special Use Permit #12526 granted in 1962.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Department of the County of Fairfax during the hours of operation of the permitted use.
6. Architectural detail to conform to that of the existing building.
7. Landscaping, screening and fencing to conform to requirements of the Director of County Development.
8. Addition to meet all the requirements of the Ordinance.
9. All other requirements of the previous Special Use Permit to be met.

Mr. Baker seconded the motion.

The motion passed 3 to 2.

Mr. Smith and Mr. Kelley voting No.

// Mr. Smith stated that there should be some clarification on the parking and they were promised a letter of Agreement with the Church regarding using their parking lot and the Board has not yet received that letter of agreement.

Mr. Lawson stated that they can put more parking on the lot and they will do that if it is needed.

They also would agree to get this letter of agreement from the Church and submit it to the file.

Mr. Smith stated that actually all parking should be on the site, but at the original hearing they said they had an agreement with the Church to handle any overload occasions.

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In application No. V-140-73, application by Fairfax Funeral Home, Inc., under Section 30-6.6 of the Zoning Ordinance, to permit construction of addition to existing funeral home closer to side property line than allowed, on property located at 6161 Leesburg Pike, also known as tax map 51-3((1))25A, County of Fairfax, Virginia Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 12th day of September, 1973, and

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

1. That the owner of the subject property is Fairfax Funeral Home, Inc.
2. That the present zoning is R-12.5.
3. That the area of the lot is 1.6385 acres.
4. That the property is subject to Pro Rata Share for off-site drainage.

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

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

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr. Baker seconded the motion.

The motion passed unanimously.

// The Chairman stated that the Board does require a list of the change of officers at any time a change does take place. He stated that as he understood it, there has been a change in this corporation.

Mr. Lawson stated that it is the same corporation, but the stock ownership has changed and the officers have changed.

Mr. James B. Lockwood is the President and General Manager, 4085 Chain Bridge Road, Fairfax, Virginia.

Mr. Robert C. Watson, Secretary, 4085 Chain Bridge Road, Fairfax, Virginia.

Mr. Watson is also the Registered Agent.

Mr. Gary C. Stanley, Licensed Funeral Director, Merrifield Village Apartments, Merrifield, Virginia.

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DONALD L. HERSH, app. under Sec. 30-6.6 of Ord. to permit addition within 12' of side property line, 7409 Recard Lane, 93-3((4))177 & Outlot B, Mt. Vernon District, (R-17) S-148-73

Mr. Hersh represented himself before the Board.

Notices to property owners were in order. The contiguous owners were Albert Seligman, 7407 Recard Lane and Arnold Edelman, who owns 7411 Recard Lane, and whose address is U.S. Mission, Berlin, APO, New York.

Mr. Hersh stated that they have a very steep descending lot. It falls off very rapidly so that the first floor is far below the level of the ground in the front. There is no other place to put the bathroom. They would like to expand the master bedroom by adding a bathroom. The construction would be harmonious with the present architecture and there would be no trees taken down. He submitted pictures to the Board showing the topography. The size of the addition is 4 1/2' wide and 10' long. They are also putting in a family room addition, but it would meet the setback.

There was no opposition.

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September 12, 1973
DONALD L. HERSH (continued)

In application No. V-148-73, application by Donald L. Hersh, under Section 30-6.6 of the Zoning Ordinance, to permit addition within 12' of side property line, on property located at 7409 Recard La., also known as tax map 93-3((4))177, County of Fairfax, Virginia, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 12th day of September, 1973, and

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

1. That the owner of the subject property is Donald L. Hersh.
2. That the present zoning is R-17.
3. That the area of the lot is 36,963 sq. ft.

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

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
 - (a) exceptionally irregular shape of the lot,
 - (b) exceptional topographic problems of the land.

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. Architecture and materials to be used in proposed addition shall be compatible with existing dwelling.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, residential use permits and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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11:00 - McLEAN PRESBYTERIAN CHURCH, app. under Sec. 30-7.2.6.1.11 of Ord. to permit an addition to church, 7144 Old Dominion Drive, 30-1((1))75, Dranesville District (R-12.5) S-150-73 -- Hearing began at 11:00 A.M.

Mr. Smallman, 7211 Warbler Lane, McLean, testified before the Board.

Notices to property owners were in order. The contiguous owners were Marie Mehr, 7166 Old Dominion Drive and Robert Alden, 7140 Old Dominion Drive.

Mr. Smallman stated that the addition will be used as a sanctuary for 300 people and downstairs, they will have a general fellowship hall. The existing building will be used as an educational building. They plan to have 61 parking spaces. The architecture will be Williamsburg Colonial brick construction.

Mr. Robert A. Alden, one of the contiguous property owners spoke in favor of this church addition. He stated that he had lived next door to this church for 20 years since this church began and the church has been a good neighbor and he approved their plans. He stated that he is not a member of the congregation.

Mr. Erwin Niemeyer, 5015 Williamsburg Blvd., Arlington, spoke before the Board in favor of the application.

There was no opposition.

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In application No. S-150-73, application by McLean Presbyterian Church under Section 30-7.2.6.1.11, of the Zoning Ordinance, to permit an addition to church, on property located at 7144 Old Dominion Dr., also know as tax map 30-1((1))75, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 12th day of September, 1973.

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

- 1. That the owner of the subject property is McLean Presbyterian Church.
- 2. That the present zoning is R-12.5.
- 3. That the area of the lot is 2.56026 acres.
- 4. That Site Plan approval is required.

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

- 1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
- 2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
- 3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, change of the operator, changes in signs, and changes in screening or fencing.
- 4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.
- 5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
- 6. Architectural detail to conform to that of the existing structure.
- 7. Landscaping and screening to conform to the requirements of the Director of County Development.
- 8. A minimum of 61 parking spaces shall be provided.

Mr. Baker seconded the motion.

The motion passed unanimously.

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12:20 Item THE TIMBERS ASSOC., app. under Sec. 30-7.2.6.1.1 of Ord. to permit community swimming pool, Hillside Road & Rolling Rd. 79-3((1))2A, Springfield Dist (R-12,5)S-158-73 Mr. Steven Best, attorney for the applicant, 4069 Chain Bridge Road, Fairfax, represented the applicant. Notices to property owners were in order.

Mr. Best stated that this is a townhouse development and the pool will be for this development only. There are 390 families to be using the pool. The community building is 30'x60', the first floor is the bath house. The design will be similar to the townhouse architecture and the material will be stucco.

Opposition was Mr. Khatchi, 12803 Oak Lane Clifton, Virginia who stated that they own 10 or 12 acres around this community and they feel this will hurt property values. He stated that he was speaking for five of his neighbors that immediately abut this property. Mr. Smith stated that there is a 100' buffer of trees. He asked if these would remain. Mr. Best stated that they would.

In application No. S-158-73, application by The Timbers Association, under Section 30-7.2.6.1.1 of the Zoning Ordinance, to permit community swimming pool, on property located at Hillside Rd. and Rolling Rd., also known as tax map 79-3(1)2A, Co. of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 12th day of September 1973.

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

1. That the owner of the subject property is Lincoln Property Co., Washington, Inc.
2. That the present zoning is R-12.5 & RTC-10.
3. That the area of the lot is 3.7338 acres.
4. That site plan approval is required.
5. That compliance with all county and state codes is required.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the non-residential use permit on the property of the use and be made available to all Department of the County of Fairfax during the hours of operation of the permitted use.
6. The maximum number of members shall be the 390 families of the Timbers.
7. The hours of operation shall be 9 A.M. to 9 P.M.
8. Landscaping, screening and/or fencing shall be as approved by the Director of County Development.
9. All loudspeakers and lights shall be directed to the pool area and confined to said site.
10. The pool shall conform to the requirements of the Health Department for pools.
11. A 100 foot buffer of existing trees between the pool and the southeasterly property line shall be preserved.
12. Parking onsite for a minimum of 20 cars shall be provided subject to review as community develops.
13. 100 bicycle spaces shall be provided.

Mr. Baker seconded the motion.

The motion passed unanimously.

McLEAN BIBLE CHURCH, app. under Sec. 30-7.2.6.1.11 of Ord. to permit church addition, 850 Balls Hill Road, 21-3(1)Parcel 56A, Dranesville District (RE-1), S-151-73
11:20 Item -- Began at 11:50

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Mr. Renkey, 7010 Westberry Lane, McLean, represented the applicant before the Board.

Notices to property owners were in order. The contiguous owners were Maynard DeWitt, 7109 Benjamin Street and Eleanor Coleman, 8470 Balls Hill Road. These were the closest property owners. There are actually no contiguous property owners, or owners whose property touches this property.

Mr. Renkey stated that in 1965 they erected their first building of their three phase building plan for this site. They have outgrown this first building and they are planning the second. They have 145 parking spaces which is adequate for the addition to the building. The architecture will be similar to that in the existing building.

There was no opposition to this use.

The hearing concluded at 12:05 P.M.

In application No. S-151-73, application by McLean Bible Church, under Section 30-7.2.6.6.1.11, of the Zoning Ordinance, to permit church addition, on property located at 8500 Balls Hill Road, also known as tax map 21-3(1)Parcel 56A, Dranesville District, Co. of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held of the 12th day of September, 1973.

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

1. That the owner of the subject property is McLean Bible Church Trs.
2. That the present zoning is RE-1.
3. That the area of the lot is 5.493 acres.
4. That site plan approval is required.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMITS AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

- 6. Architectural detail to conform to that of the existing structure.
- 7. Landscaping and screening to conform to the requirements of the Director of County Development.
- 8. A minimum of 132 spaces shall be provided for parking.

Mr. Baker seconded the motion.

The motion passed unanimously.
(Hearing ended at 12:05 P.M.)
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J. R. HUNTER, app. under Sec. 30-6.6 of Ord. to permit expansion of carport to garage closer to side property line than allowed, 10703 Buckingham Road, 68-1((10))(13)1, Springfield District (RE-0.5 Cluster), V-156-73
12:00 Item -- Hearing began at 12:05 P.M.

Mr. Hunter presented himself before the Board.

Notices to property owners were in order. The contiguous owners were Piercy Montour, 10707 Buckingham Road and Albert Linkous, 10701 Buckingham Road.

He stated that they would like to expand the carport to a garage. This garage would be constructed of materials that would be harmonious with the existing house. There would be approximately 78' of open space between the garage and the home of the next door neighbor.

Mr. Barnes stated that there are letters from the neighbors in the file and they are all in favor of this addition.

Mr. Smith asked if the neighbors have similar problems.

Mr. Hunter stated that the neighbors have double car garages already.

Mr. Smith stated that he wanted to be sure that this is not a general problem in the subdivision.

Mr. Hunter stated that if his lot were reversed, he would have plenty of land.

There was no opposition to this application.

The hearing ended at 12:20 P.M.

In Application No. V-156-73, application by J. R. Hunter, under Section 30-6.6 of the Zoning Ordinance, to permit expansion of carport to garage closer to side property line than allowed, on property located at 10703 Buckingham Road, also known as tax map 68-1((10))(13)1, County of Fairfax, Virginia, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 12th day of September, 1973, and

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

- 1. That the owner of the subject property is James R. and Jane H. Hunter.
- 2. That the present zoning is RE-0.5 cluster.
- 3. That the area of the lot is 21,453 square feet.

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

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:

- (a) exceptionally narrow lot.

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NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. Architectural detail shall conform to that of the existing structure.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, residential use permit and the like through the established procedures.

Mr. Baker seconded the motion.

The motion passed unanimously.

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2:00 Item - B.P. OIL CORP., app. under Sec. 30-7.2.10.2.2 & 30-7.2.10.2.5 of Ord. to permit automatic car wash with gasoline pumps, 6216 & 6218 Wilson Blvd., 51-3((1))39 & 40, Mason District, (C-N), S-166-73 OTH

Mr. Smith read a letter from Donald Stevens, attorney for the applicant, requesting that they be allowed to withdraw their case without prejudice.

Mr. Barnes moved that their request be granted.

Mr. Baker seconded the motion.

The motion passed unanimously.

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2:20 - SERGASCO, INC., app. under Sec. 30-7.2.10.2.1 of Ord. to permit remodeling of existing gasoline service station, 2600 Sherwood Hall Lane, 102-1((7))17-B, Mount Vernon District (C-N), S-120-73 (Deferred from 7-18-73 for proper notices)
Hearing began at 2:24 P.M.

William E. Astle, attorney for the applicant, 10560 Main Street, Fairfax, Virginia, represented the applicant.

Notices to property owners were in order. The contiguous owners were Roy Spaulding, 3604 Brent Branch Court, Falls Church, Virginia and John MacArthur and Don E. Gibbon and W. Howard Brooks, Trustee, 8120 Richmond Highway, Alexandria, Virginia.

Mr. Astle stated that there was an original Special Use Permit granted on this property in 1960. Sergasco still owns the property. He stated that they plan to remove the old building and construct a new building. This new structure will have three bays, one of which is for a State inspection station. They also want to have a canopy over their pump islands. They plan to eliminate one of the pump islands nearest Shellhorn Road and the closer of the two entrances on Shellhorn Road. They will remove the existing storage tanks and put in new fiberglass ones. They presently have a freestanding sign and wish to keep it.

Mr. Smith stated that he did not think the Board could require them to remove the sign as long as it is not moved to another location.

Mr. Astle stated that they plan to construct a brick colonial service station in keeping with the Governmental center and the Library that is there now.

Mr. Baker questioned whether they now have a station on Mount Vernon Road just past the Marlo Furniture Store.

Mr. Astle stated that they do have a station there.

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Mr. Baker asked what the problem was sometime ago when their leasee could not get gas. This was before the gasoline shortage.

Mr. Earl Garner, District Manager for Atlantic Richfield, 1903 Sword Lane, Alexandria, Virginia, stated that the problem was a dispute on the lease arrangement.

Mr. Baker asked if this had anything to do with Atlantic wanting to put in a car wash.

Mr. Garner stated that no addition was involved.

Mr. Smith stated that the application should be amended to read rebuilding instead of remodeling.

Mr. Barnes stated that he certainly felt this would be a great improvement over what is there now.

Mr. Mablon Edwards, 7820 Shellhorn Drive, spoke in opposition.

He stated that his home is presently directly behind this service station and is separated by a small wooded lot which is soon to become a parking lot. There is to be a new Mount Vernon Medical Building there. The store adjacent to this service station is the 7-11 Store. This 7-11 is vacant most of the time. That 7-11 has been the subject of loitering and robberies. He stated that he had been asked by the other four property owners to speak on their behalf and also on behalf of the Rybla Valley Citizens Association.

There is a letter in the file from the Mount Vernon Council of Citizens Associations objecting to this application. This was a poor location for a service station in the first place. All the neighbors opposed to it when it went in. They have severe traffic problems. This expanded station especially with the inspection bay will increase the flow of traffic. He stated that this station has given the residents a lot of problems as the previous operator of that station allowed hotrodders to come in at all hours and work on their hotrod cars.

Mr. Smith read the letter from Charles A. Skoyran, Chairman of the Mount Vernon Council of Citizens Associations expressing their opposition to this application based on the traffic problem and the opposition to particularly another bay to be used as a State Inspection Bay.

Mrs. Edwin Artery, 2209 Shellhorn Road spoke in opposition to this application. They are concerned that this added commercial use will cause a devaluation of their property values. This additional use will also cause an added traffic problem, she stated. She stated that they had complained about this station numerous times in the past, but to no avail.

Mr. Claude Kennedy, Zoning Inspector, stated that he knew of a violation given in 1969 and they have had a problem down there since 1969. He stated that he was in training at the time. He stated that he does not work that territory at the present time.

Mrs. Artery stated that they have also notified the oil company, but that hasn't done any good either.

Mr. Sam Moore, spoke in opposition to this application. He stated that he has called the County because there has been trucks parking at that station. He stated that this station is a bad place as there has been a lot of robberies there and a lot of winos hang out there also. Some are local people and some are people the neighborhood has never seen before.

Mr. Astle spoke in rebuttal to the opposition. He stated that the applicant realizes that there have been problems at this location. They do feel that the operator that is presently operating the station is much more reliable than any they have had before. He stated that there has been no testimony before the Board that additional service bays and state inspection bays generate additional traffic. He stated that in his experience they do not. These bays only service the traffic that is already there. If they have the State inspection bay, it will give total service to the customers. He stated that he knew of no requirement of the County that you need additional parking when you have State inspection bays.

Mr. Smith stated that there is no County requirement, but the Board can request it if they feel more parking spaces is needed. A good State Inspection Station does generate more cars on the property.

Mr. Baker stated that he knew that State Inspection Stations do back up traffic. He stated that this would be a bad spot for traffic to back up because of the fire station across the street.

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SERGASCO (continued)

Mr. Astle stated that he would like to present signatures to the Board from people in the area who were not opposed to this service station being rebuilt with a State Inspection Station.

Mr. Smith asked if the Petition had a Certification on it as to who obtained the signatures and when they were obtained.

Mr. Astle stated that they were dated, but they do not have a Certification on them.

Mr. Astle stated that they were obtained by the station manager.

Mr. Smith stated that they would accept them for the record, but he felt more was needed if they were to have any meaning.

The Petition stated: "We the undersigned customers of the Atlantic Richfield Service Station, at 2600 Sherwood Hall Lane, Fairfax, Virginia, hereby indicate our position concerning the additional service of a State inspection facility at this location:" There were 80 signatures on the Petition.

Mr. Smith asked if any of the people who signed the Petition live within 1000' of the station.

Mr. Astle stated that they are community residents.

Mr. Beaver, Zoning Inspector for this area, spoke before the Board. He stated that he had made a recent inspection of the facility and talked with the operator and asked him to remove a number of tires that he was storing at the rear of the station. There were a number of cars on the premises, but the operator stated that they were there for repair. He has checked to see if he had removed the tires and most of them have been removed.

One of the objectors came forward and stated that the way the signatures were obtained was when the people drove in the station, they were asked if they would sign the Petition for a remodeling job on the station. She stated that she was told that they were going to put in a brick front.

Mr. Barnes moved that this case be deferred for new plats and for decision only in order that Mr. Kelley, the Board member who had to leave earlier, could read the minutes and participate in the decision.

Mr. Baker seconded the motion.

The motion passed unanimously.

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AFTER AGENDA ITEMS:

POOR SISTERS OF ST. JOSEPH

Mr. Smith read a letter from them requesting an out-of-turn hearing as the new addition that they plan to add is for an indoor play area for the children this winter.

Mr. Baker moved that the request be granted, for an out-of-turn hearing October 31, 1973.

Mr. Runyon seconded the motion

The motion passed unanimously.

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TUCKAHOE RECREATION ASSOCIATION

Mr. Smith read a memo from Claude Kennedy, Zoning Inspector, which stated:

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"My inspection and phone conversation referenced above revealed that during the fall and winter months of 1972, through 1973, the Tuckahoe Recreation Club leased their indoor swimming facilities from 7:30 A.M. to 11:30 A.M. on Saturdays and Sundays to non-member groups.

These groups were swimming teams from other swim clubs, and had used the facility to stay in shape during the off season.

Mr. Dobyms informed me that they are taking applications for leasing their facilities again this fall and winter and would very much like to continue this operation."

Mr. Smith stated that they could not do this under Community Use. They would have to come in under the Commercial Section of the ordinance and he doubted if they could meet the requirement of that section. He asked if this was done on a regular basis.

Mr. Kennedy stated that it was.

Mr. Baker moved that they not be allowed to continue to do this.

Mr. Barnes seconded the motion.

The motion passed unanimously.

Mr. Smith stated that they should be notified that this is for members only.

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The meeting adjourned at 4:45 P.M.

By Jane C. Kelsey
Clerk


DANIEL SMITH, CHAIRMAN

APPROVED _____
(Date)

The Regular Meeting of the Board of Zoning Appeals Was Held On Wednesday, September 19, 1973, in the Board Room of The Massey Building. Present: Daniel Smith, Chairman; Loy P. Kelley, Vice-Chairman; George P. Barnes; Joseph Baker and Charles E. Runyon.

The meeting opened with a prayer by Mr. Barnes.

10:00 - ANTHONY & KATHLEEN CONSTANDY, app. under Sec. 30-6.6 of Ord. to permit addition A.M. closer to rear property line than allowed by Ordinance, 1148 Westmoreland Road, 102-2((10))37, Mt. Vernon District (RE-0.5), V-159-73

Notices to property owners were in order. The contiguous owners were Mr. Kelley, immediately behind the property in question at 1144 W. Moreland Road and Mr. Wright to the east of the property in question at 1135 Cameron Road.

Mrs. Constandy and Mr. Constandy appeared before the Board to explain their case. They submitted a scale model of their existing house with the proposed addition. Mr. Constandy stated that they plan to double the size of their house. They need this variance because of the unusual placement of the house on the lot. If they placed the addition anyplace else, they would have several interior rooms.

Mr. Runyon stated that actually it is the location of the existing building that causes them to need the variance.

Mr. Constandy stated that this house was placed at this location on the lot by the builder to take full advantage of the valley view. The lot has never been cleared and at the location where they propose to put the addition would only require the removal of one tree. If they could build within the restriction line, they would have to take down six trees. The next door neighbor, Mr. Harry Keller, is particularly hopeful that they can place it at this proposed location as the existing trees provide complete screening for him. The existing house was constructed in 1950 and they have owned it for twelve years. They plan to continue to live there. They have two bedrooms and a den in the existing house and the proposed addition is for a master bedroom and bath and living room. They are expecting an addition to their family and need the extra room. The house is constructed of cinderblock and the addition will be done with rough-cut cedar.

The small scale model that the Constandys' had submitted to the Board also showed the grade of the land. They showed a 6.0' connection between the existing structure and the addition. They stated that they needed this much in order to accommodate the existing chimney that will extend into the entryway. They were also using this tie-in to accommodate the slope of the land.

Mr. Smith stated that he felt they could move the two structures closer together. Therefore they would not then need as much of a variance.

Mrs. Constandy stated that they only need the variance on a portion of the house, not the entire area. Only the corner of the addition will be 12 feet from the rear lot line. The minimum required rear setback is 25 feet, therefore, they need a variance of 13 feet on one corner of the addition.

Mr. Kelley stated that he was reluctant to grant a variance for over 50 percent. He asked if they could possibly work with the architect to pull the addition a little closer.

Mr. Runyon stated that it would be possible to move it in 3 feet.

There was no opposition to this application.

Mr. Kelley moved to defer this case until the applicant could get new plats showing the addition no closer than 15' to the rear property line.

Mr. Baker seconded the motion.

Mr. Smith stated that if they get the plats in prior to the end of the meeting, the Board could then act on this application today.

The motion passed unanimously.

This case was recalled later in the day. The applicant had submitted new plats showing the addition to be 15 feet from the rear property line as the Board had requested.

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In application No. V-159-73, application by Anthony and Kathleen Constandy, under Section 30-6.6 of the Zoning Ordinance, to permit addition closer to rear property line, on property located at 1148 Westmoreland Road, also known as tax map 102-2((10))37, County of Fairfax, Virginia, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 19th day of September, 1973, and

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

- 1. That the owner of the subject property is Anthony P and Kathleen Constandy.
- 2. That the present zoning is RE-0.5.
- 3. That the area of the lot is 21,886 square feet.
- 4. That the request is for a 13 foot variance.

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

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:

- (a) Exceptional topographic problems of the land.
- (b) Unusual location of existing buildings.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted in part, a 10 foot variance is granted, with the following limitations:

- 1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
- 2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
- 3. Architecture and materials shall be compatible with existing dwelling.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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THOMAS J. PETTIN, app. under Sec. 30-6.6 of Ord. to permit swimming pool closer to rear property line than allowed by Ordinance, 4405 Coldbrooke Court, 92-1((10))5098, Lee District (R-12.5 Cluster), V-160-73 -- 10:20 Item

Mr. Tom Pettin and Mrs. Pettin appeared before the Board to present their case.

Notices to property owners were in order. The contiguous property owners were Mr. Vass, 4303 Colbrooke Court and Mr. Sherwood, 4407 Colbrooke Court.

Mr. Pettin stated that they want to put in a pool and about one-half of their rear yard is taken up with setbacks and easements. There is a 25' easement across the back property line and about 12' to 14' is on his property and the other 12 to 14 feet is on the neighbor's property. There is a 10' easement on the right of their property. The proposed size of the pool is 16'x32'. The pool will be 15.3 from the rear property line and 4.5 feet from the house. The pool should be 25 feet from the rear property line if it is closer than 12 feet from the house, therefore, their need for the variance.

Mr. Covington, Zoning Administrator, stated that when a structure is closer than 12 feet to the house, it then becomes part of the house and must meet the setback requirements of the rear yard.

Mr. Pettin stated that they have owned the house since December 8, 1972. He stated that he was not aware of the situation until the date of settlement when he received the plat and saw all the easements.

Mr. Smith stated that he did not feel that pools should be considered a structure, as long as there is no super-structure. He asked Mr. Pettin if he was going to enclose the pool in any way.

Mr. Pettin stated that he was not.

There was no opposition to this application.

In application No. V-160-73, application by Thomas J. Pettin, under Section 30-6.6 of the Zoning Ordinance, to permit swimming pool closer to rear property line (15.3' rear yard), on property located at 4405 Coldbrooke Court, also known as tax map 92-1((10))5098, County of Fairfax, Virginia, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 19th day of September, 1973, and

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

1. That the owner of the subject property is Thomas J. and Jane A. Pettin.
2. That the present zoning is R-12.5 cluster.
3. That the area of the lot is 9,777 square feet.

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

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:

- (a) exceptionally irregular shape of the lot.
- (b) exceptional topographic problems of the land, i.e. easement along rear line.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of

this county. The applicant shall be himself responsible for fulfilling his obligation to obtain buildings permits, residential use permit and the like through the established procedures.

Mr. Baker seconded the motion.

The motion passed unanimously.

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10:40 - LAWYERS NORTH CIVIC ASSOC., INC., app. under Sec. 30-7.2.6.1.1 of Ord. to permit recreation area, 300' east of Loch Lomond Drive, 38-1((20)) Parcel A & B, Centreville District (RE-0.5), S-161-73

Mr. Doran, 9851 Marcleff Court, Lot 60, Vienna, Virginia, represented the applicant before the Board.

Notices to property owners were in order. The contiguous owners were L. R. Lester, 9920 Murnane Street, Little Vienna Estates and Jerone Coval, 9833 Arroyo Court, Lot 71.

Mr. Doran stated that they plan to have basketball, volleyball, badminton and games such as that in the asphalted area, 78'x64' to the rear of the subdivision. It will really just be a multi-purpose area. They did a site survey to try to find the best site. They had a problem as most of the area is a combination of narrow-width, steep grading, and high tree density which prohibits construction elsewhere within the Parkland. This site will have a minimal visual impact on adjacent property owners and it will be a maximum distance between houses and the recreational area. This will also minimize the ecological impact upon the Parkland as they will not have to cut down trees at this site.

Mr. Smith stated that "multi-purpose" should be deleted from the request. The applicant agreed to this.

Mr. Doran stated that there are no permanent structures proposed. He then submitted a booklet listing the items that felt were important to the selection of the site, the type of games that would be played at this site, the construction details for the play area, the landscaping plans, a diagram of the site, and the rules of operation.

Mr. Doran stated that there are 74 homes in the subdivision, but they also realize that the children who live nearby from Little Vienna Estates will also use this facility.

Mr. Kelley stated that actually this recreation area is closer to the homes of Little Vienna Estates than it is to Lawyers North Subdivision homes. They are the ones that will bear the brunt of the noise.

Mr. Doran stated that there are only three or four houses nearby and the terrain of the area is such that they will not be able to see this recreation area. There is a steep hill there. Most of the area is densely wooded. They have the complete concurrence of the people who own both of the nearby properties. They were notified of the public hearing.

Mr. Kelley asked if there were houses on Parcel B, Glen Cove.

Mr. Doran stated that there are no houses on that parcel as it is parkland.

Mr. Kelley stated that he would have no objection to this use if the nearby property owners were notified and their children were able to use this facility.

The Board discussed the setback of the asphalt area.

Mr. Covington stated that their setback is all right as long as they set the basketball goal posts back 25 feet.

Mr. Doran stated that they would do that.

Mr. Barnes felt this was a good idea as long as they can save the trees that screen this area from the adjacent property owners.

Another gentleman from the Lawyers North Civic Association spoke to the Board. His address is 9752 Firth Court. He stated that in their survey that they did of the area, a lot of the ladies were interested in having this facility.

Mr. Coval, 9833 Arroyo Court, Lot 71, spoke to the Board. He questioned the 25' setback requirement. Mr. Smith explained to him that this is a requirement of the Zoning Ordinance. He stated that he felt they would be able to set the basketball goal post back 25 feet with no problem.

Mr. Coval stated that he did not want to see any of the trees removed.

Mr. Ralph Naumann, 9832 Marcliff Court, Lot 69, spoke to the Board. He stated that he did not object to the whole operation, but this Parkland as it joins to Glencannon is one of the few natural areas left. He stated that he is opposed to blacktopping everything. He stated that one of the things he wants to make sure of is that the trees are not removed and as much of the natural area kept as presently it is as possible. This area has a lot of natural amplification. All of the houses are higher than this area. The noise could be a problem. He stated that he was one of the ones that asked for a time limit of 10:00 A.M. as a starting time, so if there are some of the neighbors who wish to sleep late, they can. He asked if this area would be patrolled by Park Rangers.

Mr. Smith stated that normally Park Rangers do not patrol subdivision parks. This would be up to the subdivision itself to patrol its park areas. The police could handle any problem that came up that the subdivision itself could not handle. The Association is liable for the conduct of their particular area that they have control over.

Mr. Naumann asked if perhaps in the future this subdivision might want to put in tennis courts.

Mr. Smith stated that this is entirely possible, but they would have to come back before this Board with a new hearing for any additional uses other than what they have before the Board today.

In rebuttal, Mr. Doran stated that even though they would like to have tennis courts, this area will not support them because it is a flood plain. There is not enough area without taking down a large amount of trees.

In Application No. S-161-73, application by Lawyers North Civic Association, Inc., under Section 30-7.2.6.1.1 of the Zoning Ordinance, to permit recreation area, 300' east of Loch Lomond Drive, on property located at Loch Lomond Drive, also known as tax map 38-1((20))parcel A & B, County of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 19th day of September, 1973.

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

1. That the owner of the subject property is Lawyers North Civic Association, Inc.
2. That the present zoning is RE-0.5 cluster.
3. That the area of the lot is 7.89 acres.
4. Site plan approval is required.
5. Compliance with all county codes is required.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.

3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. Landscaping, screening and/or fencing shall be provided to the satisfaction of the Director of County Development.

7. The hours of operation shall be from 10:00 A.M. to 9:00 P.M.

8. No lights are permitted on site.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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11:00 - MOBIL OIL CORP. & BOBBY JONES, app. under Sec. 30-7.2.10.2.1 and 30-7.2.10.2.2 of Ordinance for service station, 6260 Old Dominion Drive, 31-3(1) Parcel 116, Dranesville District (C-N), S-163-73

Mr. Smith read a letter from the attorney for the applicant stating that they had neglected to send letters out to property owners, therefore, they requested a deferral until they could comply with this requirement.

Mr. Baker moved that this request be granted and the hearing set for October 31, 1973.

Mr. Barnes seconded the motion.

There was no one in the room interested in this case.

The motion passed unanimously.

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11:20 - HELEN SMITH, app. under Sec. 30-6.6 of Ordinance to permit addition closer to property line than allowed, 2941 Irvington Road, 50-3(9)208, Providence District, (R-10), V-164-73

Mrs. Helen Smith represented herself before the Board.

Mr. Smith asked her to confirm that she was not related to him, or knew him.

Mrs. Smith stated that she did not know him, nor was she related to him to her knowledge.

Notices to property owners were in order. Contiguous property owners were Mr. Tashgian, 2843 Irvington Road and Mrs. Isabel Test, 2939 Irvington Road.

Mrs. Smith stated that her house is set at quite an angle on the property and in order to construct the addition which will be a kitchen and make it large enough to be practical, she will need a variance to the front corner. She cannot put the addition on the rear because of the slope of the land. The proposed addition is planned to be 10.42' x 15'. She is adding another addition, but she does not need a variance for it. She plans to construct both additions at the same time. This is the only place on the house where she can put the addition of the kitchen. She stated that she has lived there for 13 years and the house is completely paid for, except for taxes. She stated that her present house is brick, and she does not plan to try to match it, but plans the addition to be of aluminum siding.

In application No. V-164-73, application by Helen Smith, under Section 30-6.6 of the Zoning Ordinance, to permit addition closer to property line than allowed, on property located at 2941 Irvington Road, also known as tax map 50-3(9)208, County of Fairfax, Virginia, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 19th day of September, 1973, and

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

1. That the owner of the subject property is Helen N. Smith.
2. That the present zoning is R-10.
3. That the area of the lot is 7,800 square feet.
4. That the property is subject to Pro Rata Share for off-site drainage.
5. That the request is for a 2.42 feet variance.

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

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:

- (a) exceptionally narrow lot
- (b) unusual condition of the location of existing buildings.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. Architecture and materials shall be compatible with existing dwelling.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, residential use permit and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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DEFERRED CASES:

11:40 - MICRO SYSTEMS CO., app. under Sec. 30-7.2.10.5.9 of Ord. to permit motel, 1834 Howard Avenue, 29-3((4))4a, 4b, Providence District (C-G), S-131-73 (Deferred from 7-25-73 until Board of Supervisors hears the Tyson's Corner Triangle Road case)

Mr. Smith stated that the Board has not made a decision in this matter so the EZA is right where it was the 25th of July. The Board of Supervisors deferred the case until October 10, 1973.

Mr. Ronald Tydings, attorney for the applicant, 4085 Chain Bridge Road, Fairfax, Virginia, stated that he would like to give the Board the views of the applicant on this subject. He stated that this Tyson's Corner Triangle Road plan is a concept plan only and the applicants think it is a good concept. Even if the Board of Supervisors approve this

concept, the applicants do not see where the approval or disapproval will affect their application because as it is presently zoned, they could put up an office building now and file a Site Plan. They would still have to comply with VDH's requirements for this office building. The impact of their taking any portion of the property wouldn't make any difference, he stated in his opinion, because they would still have to pay commercial prices for the land. It is a concept the Board of Supervisors will or will not approve. After the concept comes the plans. When the plans are approved it will have to go to VDH for design and it may or it may not affect this property. Further deferral will not aid this applicant and he stated that he hoped the Board would take favorable action on this case. They have their plans all drawn up and they have been submitted to the County. They would like to get in line for sewer taps.

Mr. Smith stated that in view of the memo the Board has received from Mr. Pammel, they should defer this case until the Board of Supervisors take action. They could take action on this case the first BZA meeting in October for decision.

Mr. Runyon stated that he had originally requested the Board to defer this case because he wasn't sure that the applicants understood the impact that this road would have on this site. Now, he stated that he felt they did understand the impact. It is going to cut a large amount of the site off, possibly. The Board does not have any comments from the Staff regarding this site, therefore, he stated that he felt the Board could move ahead.

Mr. Steve Reynolds from Preliminary Engineering stated that there is no way the Staff can determine the impact on the property. As the applicant has stated, the plan is not approved. VDH has no design and without a design, one can't determine the impact on the property. It will depend on the VDH design criteria, at that time they can determine the impact.

Mr. Smith asked if this is a couple of years down the road.

Mr. Reynolds stated that he did not know. After October 1, when the Board of Supervisors approve, if they do, this plan, it will be approximately the same plan as there is now. The Highway Department designs at their own speed.

Mr. Smith stated that the Board could defer this case for a reasonable length of time and he felt the Board could defer this until the 10th of October.

Mr. Baker stated that it had been three months now.

Mr. Smith stated that the Staff has requested deferral until the Board of Supervisors has taken action.

Mr. Kelley stated that in view of that request, he would move that the Board defer this until the 1st meeting in October, which is October 10, 1973. He stated that the Board should advise Mr. Pammel that the Board must have definite action on this because the Board of Zoning Appeals cannot defer this case any longer than this.

Mr. Barnes seconded the motion.

The motion passed 4 to 1 with Mr. Baker voting No.

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12:00 - M. NURI CAY, app. under Sec. 30-7.2.6.1.10 of Ord. to permit office for general practice of medicine and related parking, 8700 Arlington Blvd., 49-3((1))24, Providence District (RE-1), S-128-73 (Deferred from 7-25-73 for Board to view property and for further study)

Mr. Smith stated that it appears that all of the Board members have viewed the property. The Board is in receipt of the traffic study and the drainage information from the Staff and has studied all this. He asked the Board if it was ready to make a decision in this matter.

311
371

In application No. S-128-73, application by M. Nuri Cay, under Section 30-7.2.6.1.10 of the Zoning Ordinance, to permit office for general practice of medicine and related parking, on property located at 8700 Arlington Boulevard, also known as tax map 49-3((1))24, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 25th day of July, 1973 and decision was deferred until the 19th day of September, 1973.

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

1. That the owner of the subject property is M. Nuri Cay and N. B. Cay.
2. That the present zoning is RE-1.
3. That the area of the lot is 3.128 acres.
4. Site plan approval is required.

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

1. That the applicant has not presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.11 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr. Baker seconded the motion.

The motion passed unanimously.

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12:10 - EDW. R. CARR & ASSOC., INC., app. under Sec. 30-7.2.6.1.1 of Ord. to permit swimming facility, Newport Drive & Penwith Court, Centreville District, 44-2((5))Parcel A1 & 125 through 132, (R1C-10), S-137-73 (Deferred from 8-1-73 at request of applicant)

Mr. Donald Stevens represented the applicant.

Notices to property owners were in order. The contiguous owners were Mr. Boothe, 4202 DeHaven Drive and Mr. Shaver, 4200 DeHaven Drive.

Mr. Stevens stated that this is proposed to be a community swimming pool for the use of Sections 3 and 4 of Brookside. There are also 32 lots in Section 2 of Brookside that Mr. Carr is building that will be members of this pool. There would be 281 families in all. There are 100 units already constructed. The purpose of the request for deferral was to let Mr. Carr get together with Col. Payne and the members of the existing houses to see if there was a way to work out a means where those people could be a member of this pool. It was his understanding that no definite agreement was reached. There wasn't a sufficient desire by those people to do this. The Carr organization still stands ready to make this pool available to these people should they desire to join. The Board will find that the citizens in the area are concerned about parking. The Board requires 1 parking space for every three family memberships. Using the 281 family membership figure, they need 93 parking spaces. There are only 66 provided on the plat and the reason for this is that only 66 can be sited on the parcel of ground that is there.

Mr. Smith stated that if this pool is limited only to the townhouse community and they are within walking distance and they would have no swim metes, then 66 would be adequate.

Mr. Stevens stated that due to the nature of the development in the area, it is fair to assume that a large number of kids will ride bikes or walk to the pool. The question the Chairman raised regarding whether they should be permitted to join the Northern Virginia Swimming League poses a problem as they probably would only have about three home metes during the season and these would be on Saturday morning. They do not last all day. Admittedly, they would have a parking crunch during those times.

Mr. Smith stated that all parking for this use will have to be maintained on the site. It is possible that 66 parking spaces will accommodate the parking in this area. He asked if Mr. Covington had had any complaints about parking for swim metes.

Mr. Covington stated that they had only had one complaint down near the Potomac. It was resolved a couple of years ago by putting additional parking on the school property.

Mr. Kelley asked if they could ask the club members not to drive their cars that day. He stated that he did not believe it was right to take the swimming mete privilege away from the children. He stated that he knew that when there are swim metes, the people use car pools. This would be usually at 10:00 A.M. when the other people would not be there anyway.

Mr. Stevens stated that at the time the Preliminary Plat for Brookside was approved, the swimming pool was noted on the recorded plat. This has always been the plan.

Col. Payne, 13706 Fenwith Court, Lot 72, Chantilly, Virginia, spoke before the Board. He stated that Carr Associates' Vice-President, Mr. White, has been most helpful since they acquired this property in keeping the citizens informed of their intentions and providing them with their plans, etc. It wasn't until yesterday afternoon that Mr. White called and said they would be afforded membership in the pool with an initial fee. The 32 lots that Mr. Stegens mentioned is part of their Homeowner's Association. They are now in the process of forming a new association which will include Section 3 and 4. Since they had nothing in writing, they could not have a formal meeting. The Board of Trustees have gone to all the resident members explaining what their intentions on the pool are. They gave the residents the information in an unbiased manner and as of today they do not know what his feelings are personally. He stated that he lives visibily and audibly contiguous to the pool across the street. It is not physically contiguous. In this section of townhouses, the streets are privately owned and maintained. They have a tremendous parking problem there. When the Little League has ballgames, the parents park their cars on the parking lot belonging to the Homeowners of Brookside. This pool is not going to help the parking situation at all, because the people who use the pool will probably use their parking lot also. To impose any additional cars there would be a burden on the homeowners when these homeowners do not own the pool.

Mr. Smith stated that Mr. Stevens had stated that the people in their section could join the pool too.

Mr. Payne stated that they could if they wanted to pay the initiation fee. The fee for the other Homeowners who Mr. Stevens is applying for will be cranked into the purchase price of the house.

Mr. Smith asked Mr. Stevens the amount of the initiation fee.

Mr. Stevens stated that it would be \$300.

Mr. Payne stated that they canvassed the neighborhood and the people do not want to join it. This pool is bordered on three sides by Section 2 and on the south by Brookfield. Other than the parking problems, there is the noise from the place. Since this pool will be under the ownership and jurisdiction of the homeowners of Sections 3 and 4, it should be adjacent to Sections 3 and 4. He stated that they trust the Board will deny this application.

Mr. Dennis Burke, 7115 Leesburg Pike, spoke before the Board. He stated that he is general counsel for the Homeowners Association. He stated that if the Board could see the circular drives in this area and the median strips, etc., the Board would understand the parking problem. If there is an overflow of parking from the pool and people double park, it will become a fire problem, a problem of getting fire or rescue equipment in if it should be needed.

Mr. Smith stated that any parking in connection with any Special Use Permit must be on the site.

Mr. Burke stated that once this pool is in, he doubted if the Board could and would revoke the Permit, particularly after the Homeowners have spent \$200,000 to construct it. The Board would be working a forfeiture on the Homeowners Association. He stated that he did not live in the subdivision.

Mr. Runyon stated that this was on the record plat previously, but this is part of the open space for Section 2, it looks like to him. He stated that he was trying to determine how the recreation facility for Section 3 and 4 is: building on Section 2 land. Usually the open space goes section by section to serve each individual section development. He stated he would like to know why this recreation area is not in Section 3 & 4 if it is only going to serve 3 and 4 and why does Mr. Carr own this land and not the homeowners

in Section 2. He asked Mr. Stevens if he could shed some light on this.

Mr. Stevens stated that he could not. Parcel A-1 was not and is not in the ownership of the present homeowners association.

Mr. Runyon stated that this is RTC development and the Board has to justify to these people and to themselves why it is in the middle of section 2 instead of 3 and 4. He told Mr. Stevens that they were developing in the middle of Section 2.

Mr. Smith stated that he would be frank in that he would not vote for this application unless these people could become part of it unless he could be assured that it is outside Section 2.

Mr. Runyon moved to defer this case until the 26th of September 1973 for additional information.

Mr. Kelley seconded the motion and the motion passed unanimously.

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12:30 - JEFFREY SNEIDER & CO., app. under Sec. 30-2.2.2 (PAD SECTION) of Ord. to permit service station, corner of Blake Lane and Jermantown Road, 47-2(1) part parcel 60, Providence District (PAD), S-13-73 (Deferred from 2-28-73 for 6 months to allow applicant to provide lease with specific oil company, and various other information and deferred again from 8-1-73 for lease with oil company)

Mr. Smith read a letter from Harold Miller, attorney for the applicant, requesting that this case be withdrawn without prejudice as he has reviewed with his client the desire of the Board of Zoning Appeals to come in with the entire commercial parcel including the shopping center and service station. They are attempting to conform to the architecture and design of the PAD area in total.

Mr. Baker moved that the request be granted.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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2:00 - HEARING ON REVOCATION NOTICE, AMERICAN HEALTH SERVICES, INC., KNOWN AS BARCROFT INSTITUTE, Special Use Permit Granted by BZA 10-20-70, S-178-70, under Section 30-7.2.5.1.2 of Ord. to permit psychiatric facilities -- an amendment to the existing use permit retaining as a primary use the nursing home, 2960 Sleepy Hollow Road, 51-3(1)9A, Mason District (R-12.5)

Mr. Smith: This comes before the Board on a series of notices to the Board with regard to the operation of the psychiatric facilities there, both from the Fire Services and the Zoning Administrator. Mr. Stevens, do you represent the Barcroft Institute?

Mr. Donald Stegens, attorney for the applicant, came before the Board on behalf of Barcroft Institute.

Mr. Smith: Mr. Stevens, have you received a copy of all this.

Mr. Stevens: I have received a copy of the correspondence from the Fire Services and from the Director of Health and a brief letter from the Director of the Licensing Division of the State Department of Health.

Mr. Smith: Have you received the letter ^{dated} September 7, to Mrs. Rosanne Jakaboski, Administrator of Barcroft Institute, from the Nursing Home's Administrator, Bureau of Medical and Nursing Facilities in Richmond? And have you received the letter dated September 6, 1973, to Mrs. Jakaboski from Roland Hamlet, Jr., Medical Facilities Administrator, Bureau of Medical & Nursing Facilities Services? Have you received the certified mail to Mrs. Jakaboski, Barcroft Institute, dated August 30, 1973?

Mr. Stevens: All the correspondence from Hamlet I've seen, Mr. Chairman.

(PLEASE REFER TO VERBATIM TRANSCRIPT FOR REMAINDER OF HEARING ON THIS CASE)

September 19, 1973 2:00 P.M. hearing by the Board of Zoning Appeals.

HEARING ON REVOCATION NOTICE, AMERICAN HEALTH SERVICES, INC., KNOWN AS BARCROFT INSTITUTE, Special Use Permit Granted by BZA 10-20-70, under Section 30-7.2.5.1.2 of Ord. to permit psychiatric facilities -- an amendment to the existing use permit retaining as a primary use the nursing home, 2960 Sleepy Hollow Road, 51-3((1))9A, Mason District, (R-12.5). 373A

MR. SMITH: This comes before the Board on a series of notices to the Board with regard to the operation of the psychiatric facilities there, both from the Fire Services and the Zoning Administrator. Mr. Stevens, do you represent the Barcroft Institute?

Mr. Donald Stevens, attorney for the applicant, came before the Board on behalf of Barcroft Institute.

MR. SMITH: Mr. Stevens, have you received a copy of all this?

MR. STEVENS: I have received a copy of the correspondence from the Fire Services and from the Director of Health and a brief letter from the Director of the Licensing Division of the State Department of Health.

MR. SMITH: Have you received the letter dated September 7th, to Mrs. Rosanne Jakoboski, Administrator of Barcroft Institute, from the Nursing Home's Administrator, Bureau of Medical and Nursing Facilities in Richmond? And, have you received the letter dated September 6, 1973, to Mrs. Jakoboski from Roland Hamlet, Jr., Medical Facilities Administrator, Bureau of Medical and Nursing Facilities Services? Have you received the certified mail to Mrs. Jakoboski, Barcroft Institute, dated August 30, 1973?

MR. STEVENS: All the correspondence from Hamlet I've seen, Mr. Chairman.

MR. SMITH: Okay. There's been a series of these apparently.

MR. STEVENS: All of these postdate the Board's action. We are concerned primarily---

MR. SMITH: (interposing) How about the one to Mr. Alfred Sasser, Jr., Executive Vice President of American Health Services from Mr. Hamlet?

MR. STEVENS: The exchanges of correspondence between the Licensing Division of the State Department of Health and the American Health Services I have seen.

MR. SMITH: There's one from Mr. Hamlet, also. The first item is the letter from Captain Peck; and Mrs. Jakoboski was informed of this, also.

MR. STEVENS: Mr. Chairman, if I may, I don't mean to intrude. I don't know how the Board wants to structure this matter. If I'm an applicant, I want to withdraw my application right now.

MR. SMITH: You're a defendent at this point.

MR. STEVENS: I feel very much like a defendent. We're here as I understand it, at least insofar as I'm aware, because the Board on August 3rd at its extra meeting the first week in August determined that it was going to revoke or at least going to conduct a hearing on the revocation of the Use Permit for the psychiatric unit of Barcroft Institute. That action of the Board was precipitated, at least so far as I'm aware, by communications from Captain Peck who expressed a concern of the compatibility of the psychiatric unit and the nursing facility as joint uses of the same building because of three fire incidents that occurred in the psychiatric unit.

MR. SMITH: In one report to the Board, there has been six or five instances of fire there since the 28th of last December through the 29th of May this year.

MR STEVENS: Five?

MR. SMITH: Five is what we have here. Let me read the letter from

Captain Peck to Mr. Knowlton regarding this.

MR. STEVENS: Is this the letter prior to August 3rd?

MR. SMITH: This is prior to August 3rd. This is July 19, 1973.

(See letter on following page).

FAIRFAX COUNTY, VIRGINIA

FAIRFAX COUNTY
RECEIVED

JUL 20 1973

DIVISION OF
ZONING ADMINISTRATION

MEMORANDUM

TO: Gilbert R. Knowlton
Zoning Administrator

DATE: July 19, 1973

FROM: Ronald M. Peck *RMP*
Deputy Chief Fire Marshal

FILE NO:

SUBJECT: Barcroft Institute - 2960 Sleepy Hollow Road
Request For Hearing Before BZA

REFERENCE:

Since the Barcroft Institute began operation of the Adolescent Psychiatric Treatment Program in September, 1972, there have been several fire incidents which have occurred at this facility. The dates of these incidents are as follows:

12/28/72	Ceiling tile in storage room
1/2/73	Paper in Rooms 236 and 241 * Two separate fires
3/5/73	Toilet set in bathroom
5/26/73	False alarm
5/29/73	Smoke bomb in Room 240

All of the above occurred in the area used by the Psychiatric Treatment Center with the exception of the false alarm incident. On July 15, 1973, the patients in the Psychiatric ward went on a rampage, and vandalized and emptied a total of eight (8) fire extinguishers. The extinguishers affected were located throughout the entire building and not confined to the Psychiatric ward only.

A subsequent inspection made at my direction, on the evening of July 16, revealed the following conditions:

- (1) A total of 17 patients are being housed in the Psychiatric ward, ages 8 - 18.
- (2) Holes in the ceiling and walls.
- (3) Fire rated doors on the corridors have been damaged. Some are almost totally destroyed.
- (4) Exit lights have been damaged or destroyed
- (5) Cigarettes and matches were found in some of the sleeping rooms.
- (6) The protective covers on the heaters have been ripped off.
- (7) Evidence of several areas where fires have been attempted to be set. None of these incidents were reported as required by the Fire Code.

July 19, 1973

It is clearly evident that little or no control is being maintained over the patients in the Psychiatric ward. Furthermore, they are apparently allowed to wander throughout the entire facility, therefore, jeopardizing the safety and well-being of the residents in the Nursing Home section of the building.

Again, I would like to reaffirm the position of the Fire and Rescue Services that the two uses in the same building under present conditions is not a compatible situation. I believe the owners should be made to show cause why these conditions exist and what they intend to do to correct them. Furthermore, I feel a hearing should be held before BZA and let the facts determine whether both uses shall be allowed to continue.

RMP/sak



MR. SMITH: Then there are other letters, one from Mr. Miller of the Director of Health Services. (See letter on following page).

FAIRFAX COUNTY HEALTH DEPARTMENT

4080 CHAIN BRIDGE ROAD

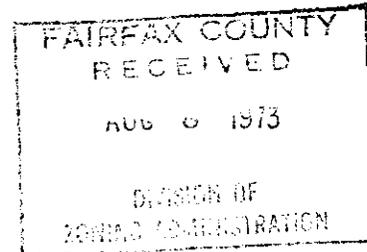
FAIRFAX, VIRGINIA 22030

IN COOPERATION WITH THE
STATE DEPARTMENT OF HEALTH

ADMINISTRATIVE OFFICE

PHONE: 691-2433

August 7, 1973



Mr. Gilbert R. Knowlton
Zoning Administrator
County of Fairfax
Fairfax, Virginia 22030

Dear Mr. Knowlton:

Concerning your letter of July 24, 1973 please be advised that after reviewing all materials I am of the opinion that there is gross incompatibility between a facility for housing the elderly (nursing home) and a psychiatric facility for mentally disturbed juveniles, in the same building. Further, I am convinced that, unless a physical separation greater than that currently existing at the Barcroft Institute can be established, there is a definite threat to the welfare and safety of the nursing home patients.

It is my recommendation that the special use permit for the Barcroft Institute be revoked.

Very truly yours,

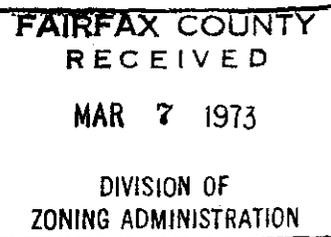
A handwritten signature in cursive script that reads "Richard K. Miller, M.D., M.P.H.".

RICHARD K. MILLER, M. D., M. P. H.
Director of Health Services

RKM:flr

CC: Mr. Robert Ham
Virginia State Department of Health

Mr. Mike Long
Office of Zoning
County of Fairfax



3100 Beechwood Lane
Falls Church, Virginia
March 7, 1973

Mr. Daniel Smith, Chairman
Fairfax County Board of Zoning Appeals
4100 Chain Bridge Road
Fairfax, Virginia 22030

Dear Mr. Smith:

I am taking this opportunity to bring to the attention of the Board that on Monday, March 5, while I was visiting a patient in the Barcroft Institute, located at 2960 Sleepy Hollow Road, Seven Corners, Virginia, the Fairfax County and Falls Church fire services responded to a call from the facility. A fire was in progress in a room on the second floor north wing, which is being used as a classroom for emotionally disturbed children's program that began operating in September 1972 and has the exclusive use of the first and second floor rooms in the north wing of the building.

The firemen entered the rear entrance to this wing, and shortly thereafter returned to equip themselves with oxygen masks and several or more portable blower fans. There was visible smoke above the third floor roof line, and I then became aware that nurses and aides were evacuating the aged patients on the third floor north wing (which is directly above the second floor wing) by wheel chairs, beds, and by hand into a lounge facing Sleepy Hollow Road. After the fire was extinguished, I left the building and questioned several of the firemen as to the necessity of wearing the masks. I was told the fire involved a plastic commode seat in a bathroom adjoining the room that is being used as a classroom and that plastic materials produce a very noxious gas that if inhaled could cause asphyxiation. There was a detection of smoke on the third floor where the aged are housed. I understand smoke and other damage was done to the bathroom, classroom, and corridor of the second floor wing. I personally know of other recent reported fires on the second floor north wing, and because of the circumstances surrounding these fires, I am deeply concerned for the safe and welfare of the aged patients who are admitted under the State and Federal medicaid and medicare programs as well as private paying patients. I have addressed a letter to the facility expressing my concern that, "there is a

March 7, 1973

question in my mind, and others, IF the approximately 150 aged patients are residing in a safe surrounding of nursing home care," which this facility began operating as a nursing home in 1968, and in September 1972 opened a psychiatric wing to accommodate a day-care treatment unit and a residential live-in unit that will eventually house 75 to 100 emotionally disturbed children.

My primary reason for bringing this to your attention is because of a re-evaluation hearing scheduled at the recommendation of the Fairfax County Zoning Administration on November 22, 1972, and in view of the fact that I personally appeared before the Board as a signed responsible person of an aged patient who has been confined to this facility since December 1970.

In conclusion I would like to comment that the presence of the County and the City of Falls Church equipment relieved many of the aged patients anxieties of fires "knowing they were in safe hands." Seeing smoke rising from a building is an awesome experience. As always our firemen did a commendable job. I might add several of the patients were "delighted" with the new look of chartreuse green engine, which carried the name of Falls Church Volunteer. There is a possibility those patients were former residents of Falls Church and were prejudiced, however, I agree with the new look.

Yours sincerely,



(Mrs.) Laura D. Massey

cc: Mr. Wallace Covington
Assistant Zoning Administrator
Fairfax County

Mr. George H. Alexander
Director of Fire and Rescue Services
Fairfax County

3100 Beechwood Lane
Falls Church, Virginia
March 6, 1973

Mr. Earl Mechtensimer, Director
Barcroft Institute
2960 Sleepy Hollow Road
Seven Corners, Virginia 22044

Dear Mr. Mechtensimer:

On Monday, March 5, I had the occasion to be in the facility visiting a patient when I became aware, through the presence of fire engines approaching the rear of the building, that a fire had been reported. It immediately became apparent to me the fire was in a room on the second floor north wing, which is being used exclusively for a day treatment center and a residential live-in unit, which began this past September as programs for emotionally disturbed children and adolescents.

I observed firemen carrying several or more fans into the rear of the second floor north wing of the building, and further, they were wearing oxygen masks. In the front of the building facing Sleepy Hollow Road, several hoses had been placed through the window of a lounge room into the corridor of the second floor north wing. I could see smoke rising above the third floor roof line, and I became aware that nurses and aides were evacuating the aged patients, from their rooms on the third floor north wing, by wheel chairs, beds, and by hand into the lounge in front of the building facing Sleepy Hollow Road.

When it was apparent the fire was extinguished and it was safe to leave the building, I made an inquiry of the firemen whose faces, necks, and hands were black with soot and questioned why they were wearing masks. I was told the fire involved a plastic commode seat in a room being used as a classroom, and that plastic materials produce a very noxious gas that if inhaled could cause asphyxiation. There was detection of smoke on the third floor directly above the room where the fire was contained on the second floor. As you know, the third floor north wing is considered the aged intensive care unit and houses patients who are very ill, in most cases.

I personally know there have been other recent reported fires on the second floor north wing, and I am taking this opportunity as a signed responsible person of a patient who entered the Fort Buffalo Convalescent Residence in 1970

(and is now known as Barcroft Institute) to express my deep concern for the safety and welfare of the aged patients under the "medicaid program" who are occupying rooms on the second floor south wing (separated only by a swinging fire door leading to the north wing housing the children admitted under the "emotionally disturbed children's programs"); also for the patients admitted under the "medicare program" who are occupying rooms on the third floor north wing directly above the second floor north wing; and finally for the "private paying patients" who are occupying rooms on the third floor south wing.

I would like to call your attention to the admission agreement under the article, "A Nursing Center Agreement," item #8 which reads, "Center agrees to exercise reasonable care toward patient as his or her known condition requires, however, Center is in no sense an insurer of patients' welfare or safety and assumes no liability as such as an insurer." At the time I co-signed the admission agreement as a "guarantor," this facility was operating strictly in nursing home care.

In view of the fact of the recent reported fires and the circumstances surrounding them, there is a question in my mind, and others, if the approximately 150 aged patients are residing in a safe surrounding of nursing home care, which this facility began operating as a nursing home in 1968, and in September 1972 opened a psychiatric care unit that will eventually include 75 to 100 emotionally disturbed children.

Yours sincerely,

Mrs. Laura D. Massey

(Mrs.) Laura D. Massey

3100 Beechwood Lane
Falls Church, Virginia
October 2, 1973

Mr. George H. Alexander
Director of Fire and Rescue Services
Fairfax County
4100 Chain Bridge Road
Fairfax, Virginia 22030

Re: Memorandum dated July 19, 1973,
and memorandum dated August 9,
1973, from Ronald M. Peck,
Deputy Chief Fire Marshal
Subject: Barcroft Institute

Dear Mr. Alexander:

During the past year I have appeared before the Board of Zoning Appeals concerning Barcroft Institute. In a BZA hearing on September 19, a memorandum dated July 19 from the Fire and Rescue Services was admitted which cited fires and listed seven items of inspection in this facility which have or could jeopardize the safety and well being of human life of residents (and incidentally employees and visitors). Further, a position was expressed that the two uses in the same building under present conditions is not a compatible situation. I assume this memorandum was the primary reason the BZA scheduled this hearing.

I later became aware of an August 9 memorandum released by your Department requesting the hearing to be withdrawn because a satisfactory agreement between the facility and the Fire and Rescue Services had been reached. It also suggested that the present administrator had been there only a short time and should be given the opportunity to correct the Institute's problems. Further, an opinion was expressed that many problems associated with this facility in the past have been due mainly to poor management and administration.

In January 1971 the American Health Services, Inc. became owners and operators of this facility, and the following persons have served in the capacity of administrator and/or director.

1. Mr. Robert C. Kelly
2. Mrs. Joan Kraynock
3. Dr. (?) Carr
4. Mr. Karl Girshman
5. Mr. Earl Mechtensimer
6. Mrs. Roseanne Jakaboski (present)

It would be inconceivable to me as a (past) user of this facility to think the American Health Services, Inc. (who have been in the health care field for many years) would not conform to the standards required by the State Health Department to employ only those of the highest qualifications to administer services to the public in this facility. Therefore, to judge a person as responsible for poor management without the opportunity to express themselves is unfortunate.

October 2, 1973

On March 7 of this year I had the occasion to write a letter to Mr. Daniel Smith, Chairman of the Board of Zoning Appeals, concerning fires known to me, and a copy was forwarded to you. (This letter was admitted at the September 19 hearing.) The letter stated that I also had written a letter to the facility. It is now six months later.

In this instance it is the circumstances surrounding the cause of the fires of violent nature that concern the aged residents, employees, families, and visitors in this facility. In view of this I cannot agree that a compromise should be entered into between the Fire and Rescue Services and any public business for an extension of time in hazardous situations to allow management difficulties to correct themselves. In my opinion when this type of agreement occurs it places your Department in a position of operating on "personalities" and not "principles" in protecting human lives in any public hazardous situation regardless of whether it is publicly known. It is a known fact that persons confined in institutions, and especially the aged, always present an emotional community response in a fire disaster because in most cases they cannot help themselves; therefore, every effort should be used to protect them.

I strongly urge you to exercise every effort in bringing to the attention of our governing body any condition that could cause or create a disaster situation which could ultimately embarrass Fairfax County and which could possibly have been avoided by prior public disclosure.

Yours sincerely,

Mrs. Laura D. Massey

(Mrs.) Laura D. Massey

cc: Mrs. Jean Packard
Chairman, Board of Supervisors

Mr. Daniel Smith
Chairman, Board of Zoning Appeals

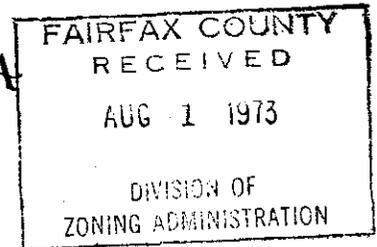
MR. STEVENS: And one from Mr. Ham of the State Division.

MR. SMITH: Yes, and one from Mr. Ham. And, of course, Mr. Miller had indicated that he felt that the Use Permit, or rather, felt that the use was not compatible and that the Use Permit should be revoked. That was the evidence that prompted the Board to take the action it did. This was an amendment to an existing nursing home to allow the psychiatric ward and apparently, and I'm sure the Board -- I was much concerned -- when we found out that these things were happening---. We've had reports over a period of time about the various reports on the operation and complaints on the operation of the psychiatric unit but we have never had anything close to what Captain Peck and Doctor---

MR. STEVENS: (interposing). I'm not aware of complaints other than those with which the Board delegated out concerning the psychiatric unit.

MR. SMITH: There are the letters, of course, from visitors and so on and so forth that we won't bother to read into the record. We'll make them part of the record. Have these conditions been cleared up? (In reference to these letters, see the following page).

COMMONWEALTH OF VIRGINIA



MACK I. SHANHOLTZ, M. D.
COMMISSIONER

DEPARTMENT OF HEALTH
RICHMOND, VA. 23219

JULY 31, 1973

RE: BARCROFT INSTITUTE, AMERICAN HEALTH
SERVICES OF VIRGINIA, INC.
FALLS CHURCH, VIRGINIA

MR. GILBERT R. KNOWLTON
ZONING ADMINISTRATOR
COMMONWEALTH OF VIRGINIA
COUNTY OF FAIRFAX
FAIRFAX, VIRGINIA 22030

DEAR MR. KNOWLTON:

THIS BUREAU APPRECIATES YOUR SHARING WITH US CONCERNS ABOUT THE ABOVE CAPTIONED FACILITY WHICH HAVE BEEN BROUGHT TO YOUR ATTENTION. WE HAVE READ WITH INTEREST MRS. MASSZY'S LETTER OF MARCH 7, 1973, AND MR. PECK'S REPORT DATED JULY 19, 1973.

INCIDENTS ENUMERATED ARE OF CONCERN TO THIS BUREAU BECAUSE FIRE OR PRODUCTS OF COMBUSTION, REGARDLESS OF THE SOURCE WITHIN THE FACILITY, POSE A THREAT TO LIFE SAFETY OF OCCUPANTS OF THE BUILDING AND UNLESS SUFFICIENT CONTROLS ARE EXERCISED BY ADMINISTRATION OF THE FACILITY TO PREVENT RECURRENCE OF SUCH INCIDENTS, THIS BUREAU WOULD BE COMPELLED TO EFFECT REVOCATION OF THE NURSING HOME LICENSE.

ANOTHER AREA OF CONSIDERABLE CONCERN TO THIS BUREAU IS INDICATED AT THE TOP OF PAGE 2 OF MR. PECK'S REPORT, WHICH STATES, "IT IS CLEARLY EVIDENT THAT LITTLE OR NO CONTROL IS BEING MAINTAINED OVER THE PATIENTS IN THE PSYCHIATRIC WARD. FURTHERMORE, THEY ARE APPARENTLY ALLOWED TO WANDER THROUGHOUT THE ENTIRE FACILITY, THEREFOR, JEOPARDIZING THE SAFETY AND WELL-BEING OF THE RESIDENTS IN THE NURSING HOME SECTION OF THE BUILDING."

IN CONSIDERATION OF THE LACK OF SEPARATION OF PATIENTS, IF NURSING HOME LICENSURE OF THIS FACILITY IS TO BE CONTINUED, IT IS ESSENTIAL THAT COMPLETE SEPARATION OF NURSING HOME AND PSYCHIATRIC PATIENTS BE MAINTAINED.

I SHALL APPRECIATE YOUR KEEPING ME APPRAISED OF DEVELOPMENTS IN THIS MATTER.

SINCERELY YOURS,

ROBERT D. HAM
DIRECTOR
BUREAU OF MEDICAL AND
NURSING FACILITIES SERVICES

RDH/cfj

CC: DR. RICHARD K. MILLER
MR. ALFRED SASSER

MR. STEVENS: The Board, I believe, has later communications from both Captain Peck and Doctor Miller.

MR. SMITH: Since we've established the facts that the Board based its decision to hold the revocation hearing and revoke the Use Permit, let's see if there are people in the room that might want to speak to this hearing and then you'll have an opportunity to rebut anything that might be in the testimony that might take place. Is there anyone in the room that wanted to speak in support of the revocation? Will you step forward then and give us your name and address for the record, please.

MR. WILLIAM A. LESANSKY: My name is William A. Lesansky, I live at 6444 Sleepy Ridge Road, Falls Church, Va.

MR. SMITH: Where is this in relation---

MR. LESANSKY: This is the Sleepy Hollow Subdivision of Fairfax County and is adjacent to Barcroft Institute. I am the president of the Sleepy Hollow Citizens Association. And, I am appearing here this afternoon in my official capacity on behalf of the Association. I'm appearing to support your notice to revoke the Special Use Permit granted to Barcroft Institute by BZA on October 20, 1970 to permit psychiatric facilities. I had read and analyzed the entire Barcroft Institute file of the Zoning Administrator. The record is clear that the nursing facility of Barcroft Institute is performing considerably below standards as set forth in a report prepared by the Bureau of Medical and Nursing Facilities Services of the Virginia Department of Health. The record also shows that the psychiatric facility of Barcroft Institute is out of control and constitutes a danger to the patients of the nursing facility and to the citizens of the adjoining area. An analysis of the record shows a great deal of concentration has been made by Barcroft Institute with respect to safe operation of its psychiatric facility rather than bringing the standard of performance up on the nursing facility. After all, gentlemen, the Special Use Permit is primarily for a

1085 10

nursing home. It is clear to me on the study of the record that the management of the Barcroft Institute and its parent, American Health Services, Inc., have a plan of phasing out the nursing facility in favor of eventually having an all psychiatric facility. It is also clear that the psychiatric facility is the more profitable one. And, from a business viewpoint, it is a direction a profit making organization would be expected to go. I understand that the daily rate for psychiatric care is three times the rate for nursing care. I would also like to point out to the Board that the population of the United States---

MR. SMITH: Now, just a minute. Now, you say three time the---

MR. LESANSKY: I understand the rates are like \$21.00 a day for nursing care.

MR. SMITH: I thought you were talking about the numbers of people.

MR. LESANSKY: No, this is the rate per day like \$21.00.

MR. SMITH: Now, we're not going to get into what they charge. That is not relevant to this hearing.

MR. LESANSKY: I would also like to point out to the Board, the population of the United States is growing older. The percentage of total population 55 years old and up is growing at a rapid rate. There is an increasing need for nursing facilities in the United States. This is a public interest question that can only be considered by an independent governmental agency such as yourselves. This cannot be left up to a profit making commercial activity. They do not and cannot be expected to have the public interest at heart. The State Health Dept. Department License/rates the Barcroft Institute as a 107 bed facility. One hundred psychiatric beds out of 170 is 60%. This is a majority and violates the Special Use Permit which is for primary use as a nursing home. Also, the gross revenue derived from the psychiatric facility will be about 80% of the total revenue. You use the rate of 3 times 1 and use the ratio of 100 to 170, the arithmetic calculation yields 80%. This road leads to a psychiatric clinic which is a commercial office use. This cannot be permitted in a residential district. This existing home is a non-conforming use. The dual use compounds the impact to

good, full family residential area. Therefore, gentlemen, a revocation of the Special Use Permit should be made. Do you have any questions?

MR. SMITH: Are there any question? Thank you very much. Is there anyone else to speak in support of the revocation? Alright, would you step forward, sir? Give us your name and address and state your reasons.

MR. DONALD EWING: Mr. Chairman, members of the Board, ladies and gentlemen, I am Donald Ewing and I'm a resident of the Sleepy Hollow Subdivision. I shall speak briefly in support of the position taken by our association president, Mr. Lesansky, in approving of your revocation action. I shall try not to cover anything that has already been covered. Forgive me if I do. First of all, I do not believe that 2960 Sleepy Hollow Road is the location for the treatment of the mentally disturbed patients, young or old, but particularly the young ones. Here are a few of my reasons. (a) It is not a quiet location in the country; it is on a busy thoroughfare. (b) It does not have the fields and forests surrounding it that I believe it should have. Rather, it has cramped parking lot in the rear of the building for its playground, no real place for these young people to work off their steam. (c) It does not have the proper security system to insure that its mental patients do not wander about and molest the neighboring residents or, for that matter, I am told, keep them out of the nursing home area. In short, there is nothing, apparently, to keep them in their wing of the building or to keep them on Institute property if they chose to leave. It might be referred that this would damage their "psychies" if there were bars on the windows or security guards around it. But, it would certainly provide peace of mind for the neighbors in our community. A few questions have been asked of me that I don't know the answers to and I'll pass them on to you. I've been able to cross off a few in what has been read into the record and what Mr. Lesansky has said. Question 1 that was asked me: Is it true that dope is being used in this facility or that there are patients there recovering from drug use? Is it

true that a number of nursing patients have been given short notice to vacate the building by October 1? And, is it also true that the Institute has lost its charter to treat Medicare and Medicaid patients? In closing, I would like to say, again, that the present location is not suitable for treatment of psychiatric patients and I support this revocation action. Thank you.

MR. SMITH: I didn't want to call up the testimony on this cost per day and so on and so forth as it was not relevant. I think the Board is really all aware that the fact that the cost for disturbed children is \$65.00 a day as opposed to \$21.00 a day for nursing care services. There is a great difference in the income from the facility. But, I don't want to get into the cost of the services. I don't think it's really relevant to this hearing. They can charge any fee that the market will bear. Is there anyone else to speak in support of the revocation? Would you step forward, sir, and give us your name and address?

MR. JACK HODGES: I'm Jack Hodges; I live at 3015 Aspen Lane which is the street below the Barcroft Institute. All I have to add to what has previously been said is that I am the chairman of the committee for the Barcroft Institute as appointed by the Sleepy Hollow Citizens Association and I've been receiving a lot of calls in the last month or so since they've had these fires and the one riot that they called it, from concerned citizens, and they are concerned, particularly on my street, and on the other streets and there has been cases of twice now that have been called peeping toms which I don't know whether from our own people on our own streets or where they're from; but, anyway, there's quite a concern by the citizens and by Sleepy Hollow Association. And, I want to give my support to the revocation.

MR. SMITH: Thank you very much. Does the Zoning Inspector have anything to point out? Alright, would you step forward, Mr. Carpenter, state your name and your position with the County and give any information to the Board that you

might have.

MR. GERALD T. CARPENTER: My name is Gerald T. Carpenter; I live at 5292 Marlboro Pike. I'm a zoning inspector with Fairfax County. I would like to state that I have made numerous inspections to Barcroft Institute concerning the matter. One occasion, I went there to talk to Dr. Cursio, who is here now; and, I did set a meeting up with Dr. Cursio and Mr. Covington. We went, Mr. Covington and I, met Dr. Cursio and I don't recall the other gentleman's name, but he's here too, to have a meeting to determine or rather to take an inspection of the Barcroft Institute itself. And, the outcome of that meeting was that it was told by Dr. Cursio and the other gentleman that most of the problems were trying to be solved but apparently downstairs in one of the departments I guess where most of the kids stay it's, well, you wouldn't believe that it's supposed to be a new building. Many parts of the floors and walls or whatever have been torn apart. Also, I have pictures that I recieved on a complaint that I made about damage of windows. They had been out. Now, I don't know whether this was caused by a storm or just someone beating them out. I do have one picture of the damage of broken windows, also several pictures of the parking lot in which tennis court and basketball court and a badminton is set up on the parking lot. According to the Special Use Permit, I believe, that they were supposed to notify the Board of Zoning Appeals of any assess to that. However, I've seen none prior to the inspection that I made. Also, in the rear of the property, the trash can facilities are in a very bad location. This trash can facility is right next to a resident and so when it's very hot you can imagine how it is. And, they was told that this trash can must be moved to a better location. I made another inspection and it is still there.

MR. SMITH: Is the trash can covered in accordance with Health Department regulations?

MR. CARPENTER: Well, there is a top that's supposed to be down but apparently it's never down; it's always up.

MR. SMITH: Is this refuse from the hospital like bandages and this type of thing?

MR. CARPENTER: No.

MR. SMITH: and from the kitchen?

MR. CARPENTER: I guess a source of everything goes into that, I believe.

MR. SMITH: Do you know whether or not they have a regular pickup service?

MR. CARPENTER: Not that I know of; no, I do not.

MR. SMITH: The doctor didn't tell you whether or not they had?

MR. CARPENTER: Well, he did state that they did come around, I believe, on Tuesday, I believe.

MR. SMITH: Just once a week.

MR. CARPENTER: Once or twice a week.

MR. SMITH: Was this a big can or a twenty gallon can? Is this a container that the truck picks up?

MR. CARPENTER: I have a picture of it. May I show it to you?

MR. SMITH: Alright, could we have the picture then? Is it a container, just a container?

MR. CARPENTER: It's a dump, sir. One of those big things that they lift up.

MR. SMITH: This is a dumpster, then. Is this out next to that residential area? Let's talk about the interior of the building and what conditions you found there. I think this is what we're more interested in actually. Was the building in disrepair? Is it established how long the disrepair, in other words, how long since this damage was done or whether it was a continuing situation?

MR. CARPENTER: Well, apparently, the damage that was done to the interior, well, I don't know what kind of work they were planning to take place as far as the interior of the building but I've been there more than once and, of course, the damage was still there.

MR. SMITH: When was the first time that you observed the damage in the building?

MR. CARPENTER: The first time I went was on a complaint I received from one of the neighbors.

MR. SMITH: Do you know the date?

MR. CARPENTER: It's on the (inaudible) part of July, I believe.

MR. SMITH: And, you subsequently, went back on other occasions to inspect the building?

MR. CARPENTER: Yes, I did.

MR. SMITH: Was the damage that you observed on the first visit still there?

MR. CARPENTER: Yes, it was still there.

MR. SMITH: It had not been corrected?

MR. CARPENTER: It has not been corrected.

MR. SMITH: When was the last time you went?

MR. CARPENTER: The last time that I went was a week ago, about a week ago and they were making some -- Their doors were closed and I couldn't see anything. It was just locked.

MR. SMITH: Did you ask to be allowed to go inside?

MR. CARPENTER: No, I didn't ask to go inside, sir, because I was just there to take a look at the trash can, of the location of it and also the pictures that I showed you of the tennis court and the basketball court -- to take pictures of. Other than that, that was the only reason I was there.

MR. SMITH: Your request to move the dumpster to another location that would not be so obvious to the local citizens had not been met, in other words, they had not moved them.

MR. CARPENTER: No.

MR. SMITH: Was this yesterday that you last---

MR. CARPENTER: No, last week, Friday, I believe.

MR. COVINGTON: Took these pictures on the fifth.

MR. SMITH: Was the fifth the last time that you had been there?

MR. CARPENTER: No, the fifth was not the last time that I had been there.

MR. SMITH: Well, could you tell us when the last time was?

MR. CARPENTER: The last time that I was there was between the twelfth and the fourteenth of this month that I went back there and the trash can was still in the same position that it is now. Also, so are the basketball courts and the badminton. Everything's still the same.

MR. SMITH: Pass these on down. Okay, does the Board have any questions for Mr. Carpenter? Thank you very much, Mr. Carpenter. Alright, the other gentleman, will you please give us your name and address, please.

MR. THOMAS H. WOODS: Mr. Chairman, my name is Thomas H. Woods. I'm the adjacent neighbor at 3000 Sleepy Hollow Road to the Barcroft Institute.

MR. SMITH: These cans, I mean these dumpsters are they contiguous to your property, ^{they} are right at your property line?

MR. WOODS: I'd like to go into that, yes, sir. There should be no reason for me to appear here today. But, I am here for I have fear for my life, my wife's life, my dogs' lives and my property. Now, I do hereby put this County on notice that if I experience any more intrusions on my premises, I am going to shoot first and ask questions later. I would not be here if the departments of this county were not operating in a sort of limbo. Witness the original time of the first complaints and this hearing.

MR. SMITH: Well, Mr. Woods, have you complained about any situation?

MR. WOODS: Yes, I have. There are records with the Police Department, the Health Department, with the Zoning Department---

MR. SMITH: When did you complain to the Zoning Administrator? This is where we get our information. We don't get anything---Your complaints to the Police Department, unfortunately, we don't get; but, the Zoning Administrator should bring any complaints on Use Permits to the Board. So, when was your first complaint to the Zoning Administrator?

MR. WOODS: Last Spring, before the riot.

MR. SMITH: Was it in writing or a telephone complaint? Do you know who you talked to?

MR. WOODS: It was in response to the police, after the police had been to my property to investigate. We had fires set in our yard; we had all sorts of intrusions. I own 6.2 acres of land which is fenced and 4 more acres which is unfenced. And, these people have been allowed to frequent my property. They've broken down the fences; they have set fire to the property to the various trash piles we have there, compost and so forth. We have been blocked in our driveway so that we cannot have access to our property.

MR. SMITH: Now, let's go back to each specific thing there. Do you remember who you talked to at Zoning when you made your complaint originally?

MR. WOODS: Mr. Carpenter is one of the investigators; he's the actual investigator.

MR. SMITH: But, you don't know who you talked to in Zoning?

MR. WOODS: I've talked to many people in Zoning, sir.

MR. SMITH: Can you establish by fact that the people who started the fires and trespassed on the property were people from Barcroft Institute or where?

MR. WOODS: That's undeniable.

MR. SMITH: Do you have the names of these---

MR. WOODS: Sir, no. We didn't take their names; just chased them back to the facility.

MR. SMITH: Were they young people?

MR. WOODS: Yes, they were young. And, one of the things that irritated me---

MR. SMITH: Those parked in your driveway, are these people that were visiting the Barcroft Institute or were they patients at Barcroft Institute?

MR. WOODS: They were patients at Barcroft.

MR. SMITH: Parked in front of your driveway so you couldn't get in?

MR. WOODS: The patients do not have cars to my knowledge. I'm saying that these are the various aggravations that have been caused by the Barcroft Institute.

MR. SMITH: Now, who did the parking? The people visiting the Institute?

MR. WOODS: Sir, am I under cross examination now or may I make my statement?

MR. SMITH: No, I'm trying to establish as we go along the various things here in chronological order. You said they blocked your driveway; now, I want to find out who blocked your driveway.

MR. WOODS: People who were visiting the facility or working in the facility.

MR. SMITH: Alright, go right ahead.

MR. WOODS: I'd like to bring you up briefly to this statement. This Board, approximately three years ago, had a hearing. And, at that time, I appeared before this Board and objected to the present facility being increased to a mental institution. Now, the Board, before, asked me to present to the Council a list of my grievances, which I did. And, I think we have a point of

integrity here both on the Council and the Board of what they have not done over the years. Now, it is aggravated to this situation here. Take, for instance, I have here the site plan which was presented to Mrs. Henderson, the Chairman of the Board. Incidentally, Mrs. Henderson was quite interested in this project and she always asked if you're going to have howlers in this facility. And, I never knew what howlers meant.

MR. SMITH: Mrs. Henderson asked that question of every nursing home and every facility that came before us.

MR. WOODS: Is that right? Well, I found out what howlers meant. But, it's my understanding is whenever you submit a site plan, the property is supposed to stay that way. There used to be a barricade from the service road which runs into my driveway. Now, they knocked down the barricade, and, on top of that, they threw the barricade into my yard. I put it back many times; but, after a while, I just got to the point I couldn't do that. Now, the parking in my driveway is certainly -- the Police Department can tell you of the number of many cars as well as the Secretary of the Institute trying to get in and out of my property. The garbage dumpsters. One of the requests to the Council for the Institute, before they went in there, was that they would eliminate this garbage problem and they did. They built a separate little building on the property which enclosed the dumpster. Since that time, this new organization has eliminated that, and it's only been in the last seven or eight months, and put in two more dumpsters. They leave these dumpsters open and you know the quality of help that is available in most all our institutions today. They don't care whether the garbage is in the bag or not. And, we have the benefit of all the odors. And, on a warm day and a warm night, you have plenty of odors. My contention is that this facility should never have been allowed in there. It should be revoked and the present management should not be allowed to operate this institution under any form, a nursing home or as a mental institution, until

their integrity is established, that they will operate it as they so state and as the Council so stated that they would. Now, who is responsible when a Special Use Permit that is issued, who is responsible, is it the aggravated neighbor who has to go and see the facility is operated properly or is it the people who issue the permit? Or is it the owner or the operator of the facility? Now, further aggravations, these people do not maintain their property. Until this year, they never cut their lawn on my side of the driveway. They have allowed weeds to grow up to a point. I pay \$102.00 a year to have my weeds cut in my fields but these people are screened by my fence and another fence. Between, they have landscaping which they have allowed to depreciate and die out and grow over in poison ivy. The Health Department has asked them to cut that poison ivy and they haven't done it. Now, it's very hard for one person to cultivate land and have another man not cultivate his next because the weeds always climb over the fence. And, right now, they're tearing my fence down. There are quite a few violations I would consider violations of integrity throughout their request originally. I think that the Zoning Board has reviewed those and found some of those are in violation. But, whoever takes this over certainly would like to see that they would give me a little peace.

MR. SMITH: Can you give me some idea as to how many times that you have been inconvenienced or that you have found trespassers?

MR. WOODS: We've had the Fire Department twice. We've had the Police Department 20 some...

MR. SMITH: You've had the Fire Department twice in addition to the number of times that I've indicated here, in other words---

MR. WOODS: They were not mentioned there at all, sir. Those are interior fires that you read.

MR. SMITH: You've had fires on your property set by patients from the Institute?

MR. WOODS: Yes, sir. These children have found a new sport and what

they do is they take the fire extinguishers from the Institution regardless what floor they're on. They'll climb over the balastrade and go into the various areas on the front and steal these fire extinguishers and then come out and they have battle royals. In other words, they're fogging each other. And, then they found out that they could fog my dogs and that's when I really saw that they didn't come to see me anymore.

MR. SMITH: They actually turned the fire extinguisher on one of your dogs?

MR. WOODS: Yes, sir.

MR. SMITH: When did this happen?

MR. WOODS: Well, this happened after they had the riot and then several times after that. Even during blackberry picking season. They have some zombies over there too who got lost over on our property and we had to send them back.

MR. SMITH: What's your definition of a zombie? What does the term mean?

MR. WOODS: Well, I'm not talking about the drinking kind; I'm talking about people who are so doped up that their mind, they're vegetables but they're staggering around not knowing where they are.

MR. SMITH: Because they're under sedation?

MR. WOODS: I don't know, sir. I'm not an authority on zombies. I just know there are a lot of them around.

MR. SMITH: I just want to get your definition of it. Well, what were the people doing that you consider zombies on your property? What did they do?

MR. WOODS: Well, there are those who are aimless and those who are looking for some sort of an outlet. Something else is the parking lot, you're supposed to provide a certain number of parking spaces. And, they have no permit

to build a playground there. But, they went ahead and built it anyhow. They didn't give a damn what the Zoning authorities said. And, you're supposed to have a certain number of parking lots; it doesn't say that's supposed to be a playground.

MR. SMITH: Did it alleviate any of the parking spaces?

MR. WOODS: Yes, sir, it did.

MR. SMITH: How many did it alleviate, do you know?

MR. WOODS: I don't know. Mr. Carpenter can tell you that.

MR. SMITH: Mr. Covington, do you know how many parking spaces were alleviated?

MR. COVINGTON: Not exactly. I do know that some of them had been alleviated with the construction of basketball and other recreational facilities.

MR. SMITH: Do you know whether they had in excess of the number required under site plan?

MR. COVINGTON: They have arranged things so that they can be moved. They're portable type facilities. Now, the dumpster, I'm not sure whether it is taking up a parking space or not. We went through the facility and I pointed out to the gentleman that took me through the institution and told him, he is sitting right there (he indicated to Mr. Sasser) that they should arrange that dumpster so that it doesn't have any adverse effects on Mr. Woods. They should learn to be a good neighbor. They assured me at that time that the dumpster would be moved. I asked him about the parking spaces and he said that those facilities were installed so that they could be moved about and parking could take place.

MR. SMITH: One more question on this now. But, to your knowledge and according to Mr. Covington's testimony, the dumpsters have not been moved; they're still in the same position, same offensive position, they were in. When did your inspection take place? How long ago?

MR. COVINGTON: I don't recall the exact date.

MR. SMITH: A month ago?

MR. COVINGTON: Several months ago.

MR. SMITH: Several months ago.

MR. WOODS: It says here on this paper that before any construction is started, it must be in conformity with these plans. The elimination of parking spaces for garbage area does not show on this plan.

MR. SMITH: Well, can you establish that parking spaces have been eliminated?

MR. WOODS: Yes, sir, there are two parking spaces and possibly three for the dumpster. For the game area, I would say between nine and twelve that I could see.

MR. SMITH: I wonder if we could get Mr. Reynolds and see if they have the parking spaces in excess of the number that they--- Alright, is he here? Mr. Reynolds, you may not have this information at you finger tips. Could you tell us if they have some parking spaces in excess of the number required for the operation of this facility?

MR. REYNOLDS: They have 102.

MR. SMITH: They have 102 according to the plats that we have.

MR. REYNOLDS: This is a copy of the approved Site Plan. Mr. Chairman, the number of parking spaces required would be determined by the Board of Zoning Appeals on the original Use Permit. Now, I really can't tell you. They have allowed one space for every 3.8 beds. That is to equal 58 spaces and the site plan says they have 49 employees.

MR. SMITH: So, that brings it to 102.

MR. REYNOLDS: They show 102 parking spaces here required. They don't show the number provided at all. I could add them up. Now, whether the 102 is what the Board of Zoning Appeals required, I can't answer that question, if it's in conformance with the BZA, granted on the original Special Use Permit.

MR. SMITH: We granted it with conformity to the 102, yes.

MR. REYNOLDS: Then, as far as I'm concerned, if the spaces shown on the site plan add up to say to be 120 then, of course, they have excess parking.

MR. SMITH: But, that shows there is only 102 on the site plan.

MR. REYNOLDS: There are 102 spaces required. I don't know how many spaces are provided. I'll find out if you'll give me five-ten minutes.

MR. SMITH: Alright, if you could find out maybe before we complete the hearing, and give us that information. Fine, thank you. Mr. Woods, do you want to continue?

MR. WOODS: Could I step forward and show you something on the site plan for a minute?

MR. SMITH: Well, what is it you want to show me?

MR. WOODS: I want to show you the typical type of screening they've eliminated. They let this all grow up in weeds and poison ivy. And, I don't like the poison ivy, and it doesn't like me.

MR. SMITH: Show it to Mr. Runyon.

(Mr. Woods shows it to Mr. Runyon). Well, did they put in the screening as per the Special Use?

MR. WOODS: The shrubbery has died.

MR. SMITH: Mr. Carpenter, did you observe that when you were there as to the condition of the screening whether the shrubs and the trees that are a requirement of the screening process had died or were in the process of dying?

MR. CARPENTER: Mr. Chairman, when I did make my inspection, there were some stockade fences in need of repair. At that time, part of the section of the fence was just laying towards Mr. Woods' property. Also, there was about four or five tires that were right along the side of the fence. Now, I don't know how those tires got there, but they were there.

MR. SMITH: What was that beside the fence?

MR. CARPENTER: Tires.

MR. SMITH: Automobile tires?

MR. CARPENTER: Automobile tires. They were there.

MR. SMITH: Did you try to establish who placed them there?

MR. CARPENTER: No, I do not know. But, they were there when I made my inspection and I also informed Dr. Cursio of this. And, when I did come back they were removed.

MR. SMITH: But, the condition of the fence, has the condition of the fence been corrected; in other words, has it been repaired?

MR. CARPENTER: Yes, the time that I was there, it was repaired.

MR. SMITH: The fence is repaired?

MR. CARPENTER: Yes, sir, the fence was repaired.

MR. SMITH: You did not observe the screening, the growing --

MR. CARPENTER: Well, yes, I did. The grass itself was growing rather wild, like Mr. Woods said.

MR. SMITH: Wasn't possibly cut or kept?

MR. CARPENTER: No, it wasn't.

MR. SMITH: Okay, thank you very much. Alright, Mr. Woods, do you have anything else to add?

MR. WOODS: I didn't want to contradict Mr. Carpenter but the fence has not been repaired; it's falling down. So, it might look more straight since it's in a different, oblique angle.

MR. SMITH: Are there any holes in the fence?

MR. WOODS: Yes, it's a stockade fence and many of the --

MR. SMITH: Are there holes big enough for a person to go through?

MR. WOODS: I don't know if you can go through them, but there are several of them out.

MR. SMITH: Do you know how the people got onto your property from the Institute, whether they went around the fence and went to your property, or went down the street.

MR. WOODS: They went behind this fence and they jumped up on it and knocked it down and walked through, through the fence portion. On the other portion, they went around to the open side of the area.

MR. SMITH: Anyone have any question?

MR. WOODS: The Health Department has a report on that.

MR. SMITH: Does anyone have any questions?

MR. KELLEY: Mr. Woods, who is the Council you speak of? Is that the Council from the Institute?

MR. WOODS: You have a record in your files of who presented this case before them before. At that time, I presented a list of complaints to Council at the suggestion of this Board and we were never able--it was agreed by Council that these things would be done but they never were.

MR. KELLEY: I don't believe I was on the Board at that time but I was just wondering who this Council was.

MR. SMITH: He's referring to the attorney, I think, that handled the case. And, I don't know whether Mr. Stevens handled the original case or not. He's been involved in it.

MR. WOODS: Well, after Council wins his case, it's very hard to go back to him and begin to remember what he said he would do.

MR. SMITH: I think Mr. Stevens was probably County Attorney at the time it was approved originally but I don't know whether anybody from his office participated in it or not.

MR. WOODS: Mr. Stevens was not involved at that time.

MR. SMITH: Well, Mr. Hazel, who is a member of, partner in the firm that Mr. Stevens is in, did represent the applicant originally. Does the Board have any

questions? Is there anyone else to speak? Alright, the lady, please, Mrs. Massey.

MRS. LAURA D. MASSEY: Mr. Chairman, and members of the Board, in November of---

MR. SMITH: Do you want to give us your full name and address, please.

MRS. MASSEY: My name is Laura D. Massey, 3100 Beechwood Lane, Falls Church, Virginia.

MR. SMITH: Thank you.

MRS. MASSEY: In November of 1972, I appeared before this Board as a signed, responsible person of an age resident in this facility. In March of this year, her life terminated. Today in the interest of the aged---

MR. SMITH: Speak into the mike a little bit more, Mrs. Massey. Speak right into it. Pull it down just a wee bit, Mrs. Massey. That's better.

MRS. MASSEY: Today in the interest of the aged presently confined there, and those of the future, I would like to express the hope that this facility would return to a convalescent home for the aged and that the owners and operators would develop into it being the finest nursing home in Virginia. And that's my statement.

MR. SMITH: Thank you very much. The gentleman, please.

MR. THOMAS GOIN : Mr. Chairman, and members of the Board, my name is Thomas Goin. I live at 4717 Springbrook Drive in Annandale.

MR. SMITH: Is that in the immediate area.

MR. GOIN : No, sir. But, I'm here speaking as a representative of a member of the nursing home, my mother who is 89 years old. I'm here not only in her interest, but as Mrs. Massey says, in the interest of all the old people who are there who need the care and attention that only a good, qualified nursing home can provide. And, this is what I think we need in Annandale and in Virginia. We need more of it throughout the country. I'm not very well prepared to speak and to bring facts in like my predecessors have brought in. However, I believe I have

certain things off the top of my head that I can bring forward. Number one, I would like to substantiate everything that has been said here. There has not been one misstatement in my estimation. Mr. Woods, I think, has suffered tremendously. I did not know the man before. I've never met him. I only know his property and I know how close it is and I know the abuses that he has taken. I, this morning, went in there to issue a justified complaint to Mrs. Jakabowski. And, in trying to find a parking place, I went around the building. I finally found one and I had to park at a yellow marker in the front of the building.

MR. SMITH: Let's talk about that now. Were there no parking spaces available?

MR. GOIN: There were no parking spaces. I would like to say something else about the parking.

MR. SMITH: What time was that this morning?

MR. GOIN: I was there twice. This first time at nine o'clock and then later on about ten.

MR. SMITH: Did you find a parking space either time you were there?

MR. GOIN: Yes, at the yellow marker in front of the building.

MR. SMITH: Now, when you say the yellow marker, you parked in the area that is prohibited parking?

MR. GOIN: Correct. I would like to substantiate what Mr. Woods had said about parking in his driveway. That parking spot was available. But, in all justification, in all honesty, I could not use it because I knew that I would be blocking his entrance.

MR. SMITH: Well, that's on the street anyway, isn't it, sir?

MR. GOIN: Yes, sir, on Sleepy Hollow Road.

MR. SMITH: Well, no one using this facility or visiting this facility has a right to park on---

MR. GOIN: I believe you don't understand the problem. You see there is an

access road that comes down the front of the nursing home and it continues on and eventually will cross Mr. Woods' driveway at a point where there would be a space between the Sleepy Hollow Road and this access road. And, this is there, and it's open and people do use it for parking. But, they overlap into Mr. Woods' driveway. They think they're not doing any harm. They don't do it intentionally, I know. But nevertheless---

MR. SMITH: The road is access to the nursing home facility?

MR. GOIN: It's an access road that runs parallel to Sleepy Hollow Road, a limited access road.

MR. SMITH: Alright, I know what you're talking about. You mean a service road.

MR. GOIN: I think eventually Sleepy Hollow Road might be more than two lanes; it might be three lanes all the way.

MR. SMITH: Go right ahead.

MR. GOIN: I would like to say this, too. That in my estimation that this cannot serve two purposes, this nursing home. It's a convalescent home; that's what it was licensed for. I do not see where they have the facilities over there to accommodate both the nursing home and a mental institution. I was there the day of the blackout. When I have to come in, I'm in there every day now for two hours, from five o'clock until seven to take care of my mother. Just to see that she's getting attention that I think that she should get. Now, this is to my own satisfaction. I'm not knocking the care as far as the convalescent home is concerned. I'm saying that to my own satisfaction, and it does serve its purpose, I'm visiting. But, the day of the blackout, I was there when the patients were actually neglected for food and the people in the mental institution, mental side, were well fed, well fed downstairs in the what is sort of a coffee shop, so to speak. It's not a dining room. At one time, I think it was meant for a dining area.

MR. SMITH: What caused the blackout? What was it?

MR. GOIN: They were building the addition, the improvement that Mr. Carpenter and a few others here before me spoke of, which is the basketball court, the badminton court and the, they have a few swings out there and stuff like that.

MR. SMITH: Why would that cause a blackout? When you say a blackout now you mean an electric, I assume you mean when you say a blackout an electric blackout.

MR. GOIN: Right. An electrical failure, a blackout. They had no power. They could not operate the elevators. They had emergency lighting in effect all day from ten o'clock in the morning to seven o'clock at night. Now, when I came there at seven, I was late that day.

MR. SMITH: Did you establish why the blackout was caused-by someone cutting a line or something while working on these facilities?

MR. GOIN: I did not see it, sir, because it was ten o'clock in the morning. I was on my own job. The story I got was one of the equipment operators dug into a power line underground which caused the failure.

MR. SMITH: Was it on the site or out of the site?

MR. GOIN: No, it was on the site, in the back area.

MR. SMITH: What would they be digging a hold that deep for?

MR. GOIN: Well, they were putting up a wall, a retaining wall to put in this patio affair that they have there and barbecue area, recreation area.

MR. SMITH: Putting up a retaining wall.

MR. GOIN: Yes, sir. So, they had to dig down for the footing and the base for this wall. And, he dug below to a point where he dug into an electrical circuit and tripped out the entire power supply. They were then on emergency operation for the full day until I got there at seven o'clock in the evening. My mother, I don't know whether she was fed or not. But, I'm assuming

that she was but it had to be something that they would have had trouble getting there because there were no elevators. They couldn't get up to the third floor with food unless they carried it. So, now the day that, when I got there at quarter to seven, and she was still not fed, I went up to Gino's and I got her a sirloiner. Now, the woman in the next bed, she needed something, too. So, the people who were there visiting, they asked if I wouldn't bring something back. And, I said, yes, ^{I'd} be glad to. So, I brought back what I could and they were fed. In the meantime, the dinner trays were coming up. They formed a human chain to the third floor and brought the food up that way. The point I'm trying to make here is that as a split unit or combination unit, convalescent unit and mental institution, the mental institution people were fed because they were able to corral them over into a dining area on the first floor. The people who were, the older people who were distributed among the second and third floor were taken care of after.

MR. SMITH: Was your mother normally fed in the room or was she ambulatory and does she go down to a central restaurant or central feeding area?

MR. GOIN: My mother is not ambulatory, no.

MR. SMITH: The other patient that you purchased food for, that day, was that patient ambulatory?

MR. GOIN: No, she eventually passed away.

MR. SMITH: It was mandatory that their food be brought to the bedside?

MR. GOIN: Yes, in many cases, like in my mother's case, they wheel them out to the dining area. And, they can do that.

MR. SMITH: Is the dining area on the third floor?

MR. GOIN: Yes, sir. And, there is a dining area on the second floor.

MR. SMITH: Did they bring them out that day to the dining room?

MR. GOIN: They did bring them out to the dining area, yes, the front lounge, which is a combination front lounge and dining area. However, that is

what I want to say that I don't think this facility in all sincerity can be operated as a mental institution and a convalescent home. I think that there should be a great deal more consideration to this. There is not adequate fencing around so that they can keep the people who are, can walk around, as Mr. Woods explained, I think that in order to properly control these people, they have got to be maintained within some sort of enclosure. Just the other day as I was leaving there in the evening, there was one young fellow and the counselor was trying to get him back into the facility. He had one very bad time trying to do it because the youngster was fascinated with automobiles and he was out there fooling around a parked car. Now, in order to placate him, he had to spar with him and jostle with and everything trying to get him back into the building. But, he wasn't successful; and when I looked on for about fifteen minutes and all this went on all this time, I gave up and I left and I don't know if he ever did get him back in there. Now, as far as the garbage situation is concerned, I think that you pretty well understand it. But, I would like to say a word on that. I think it's pretty bad. And, when they put in the recreation facilities, the basketball court, the badminton court and so on, they moved these dumpsters over to the corner of the lot where Mr. Woods referred to earlier and it's right under his nose. The lids are not always covered. I can say that for a fact. And, furthermore, the wet garbage and the wet liquid has to seep someplace and it's going to seep over into his yard. I have seen it when it was up in the upper end of the lot where it would seep across the driveway and really gather flies.

MR. SMITH: Who uses that basketball court?

MR. GOIN: This is there for the convenience of the mental people, the disturbed children.

MR. SMITH: Is this used by the older people or the younger people?

MR. GOIN: The older people do not use it, no, sir. It's there for the disturbed children.

MR. SMITH: In other words, this is used for the psychiatric ward, basically.

MR. GOIN: Yes, sir.

MR. SMITH: Thank you. Does the Board have any questions?

MR. GOIN: Thank you, sir.

MR. SMITH: Is there anyone else to speak in support of the revocation? If not, Mr. Stevens, you've heard the statements and statements by letters and references in the folder in this application.

MR. STEVENS: Mr. Chairman, obviously, you've heard that a number of concerns that the people have with the operation of the nursing home portion of the Barcroft Institute. Any, most, or all of those concerns are perfectly legitimate concerns. It's an ongoing kind of thing that the operator of any nursing home has to be concerned with; the operator^s of this nursing home are. Certainly, they have personnel problems. Without trying to answer all the questions myself, first I don't know if the Board even knows the information resources it has available here, first. The President of American Health Services is here. The Vice President of American Health Services is here. Mrs. Jakaboski who is the Administrator of the nursing home, is here. And, let me say, and I have checked with my clients about this, Mrs. Jakaboski is the first administrator that nursing home has had, and I think you'll find that Captain Peck and Doctor Miller might agree with you, who really wants to get ahold of that thing by both lapels and shake up the personnel, the daily operating routine of that thing so that it won't be recognizable in another couple of months when she's had the chance to make the personnel changes and the disciplinarian training changes that in some respects there is no question about it being necessary in the nursing home portion of the Barcroft Institute.

MR. SMITH: You're speaking now of the nursing home portion of the Institute. What we're concerned about is not the nursing home portion of the

Institute but the amended section, the psychiatric group.

MR. STEVENS: I was speaking about that, Mr. Chairman, because many of the persons who have already addressed the Board, addressed the major portion of their concern to the nursing home.

MR. SMITH: This was relevant only because they were concerned about the safety of the older people while the psychiatric patients were in the facility.

MR. STEVENS: I don't want to belabor the Board with any further discussion of something---

MR. SMITH: What we are really concerned about and this hearing is basically on only that portion of the Use Permit pertaining to the psychiatric facilities and any information that might be relevant to that discussion.

MR. STEVENS: The succinct answer then in that case as to the question of whether or not the psychiatric unit is a compatible, co-existent use in this structure with the nursing home as was permitted in 1970 is the correspondence you have from Captain Peck and Doctor Miller, the local Director of Health and the Assistant Chief Fire Marshall. I think the administration of Barcroft Institute, whatever may have been the therapeutic theory or the operational theory at the outset that it was possible to run the Institute with physical access between the nursing home portion and the psychiatric portion, they have abandoned that theory. I think Captain Peck and Doctor Miller have made evident that what they expect to see and what the operators of Barcroft Institute have agreed to is a total physical separation of the two facilities by means of the construction of fire rated partitions in the center hall. The building is constructed in a U shape with one way doors that can be opened only as emergency access from the nursing home portion that cannot be opened from the psychiatric portion. So, it will be, upon the installation of these things, tantamount to two, separate buildings with no setback.

MR. SMITH: Did the criticism and the allegations that have been made as

to the patients wandering out on other people's property and starting fires and creating a general nuisance in the area---

MR. STEVENS: Mr. Chairman, those allegations I can only answer by saying to the best of my knowledge, they are only that, only allegations.

MR. SMITH: They have been established by the citizens who live there and they have statements of fact before this Board. And, on at least two occasions, they called the Fire Department; the police have been called.

MR. STEVENS: Now, what Mr. Woods told the Board is that he, on two occasions called the Fire Department. He says that kids have gotten onto his property. I don't know that he told the Board and I don't know that he can tell the Board that he saw those kids come out of the Barcroft Institute.

MR. SMITH: Now, I asked him if these were patients or people from the Institute and he said they were.

MR. STEVENS: He thinks.

MR. SMITH: Well, now, he didn't say "think". He was very emphatic about them being from there. Now, this is the statement he made to the Board.

MR. STEVENS: Now, Mr. Chairman, if I am to be a defendant, perhaps I ought to have the right to put Mr. Woods on the stand and cross examine him about it.

MR. SMITH: Well, if you want to ask Mr. Woods any questions through the Chair, we'll be glad to pass it on and get an answer for you. But, this is why I asked him at the time. It wouldn't be relevant if it were people other than those who were connected with or were patients in the Barcroft Institute; that's the concern of the Board.

MR. STEVENS: Well, Mr. Chairman, there really is no answer to that because, as Mr. Woods says, patients from Barcroft Institute got on his property then all I can say is that they, to the best of my knowledge at any rate, they were not. I don't know what further answer there is to that. Now, from the point

of view of the Administration of Barcroft Institute, they don't think it's a desirable thing from either a nursing home or psychiatric-convalescent unit point of view or from the point of view of the appearance in the neighborhood, they are willing, however reluctantly, to fence the entire property if that's the wish of this Board. Now, I don't know that this Board wants the entire property fenced in.

MR. SMITH: I don't know that we've had any real problems with the patients of the convalescent home. There were some indications a couple years ago that maybe a couple of patients had wandered out and down the road; but, we haven't had any indication that they were, that there was any direct effect as far as the safety and general welfare of the people in the community. But, today there has been people here who have given testimony that these younger patients, the psychiatric people, were creating a general nuisance and were being allowed to---

MR. STEVENS: Mr. Smith, let me review that testimony. First, you have Mr. Woods saying that the patients from the psychiatric-convalescent unit had left their property, gone on his property, started fires. I think he said something about spraying the dogs with the fire extinguisher. I didn't hear him say that was on his property, it may well have been on---

MR. SMITH: He described in detail the use of the fire extinguishers, how they got---

MR. STEVENS: He didn't say that was on his property, Mr. Smith; as a matter of fact, I don't think he can say that was on his property.

MR. SMITH: Well, let's see if it was on his. Mr. Woods, was it on your property that this took place or on the property of some other party? Just answer yes or no.

MR. WOODS: It was on lots 14, 15, and 16 of Sleepy Hollow Subdivision unfenced.

MR. SMITH: Well, is this under your ownership? Is it your property?

MR. WOODS: Yes, sir.

MR. SMITH: Alright. It's on your property. In other words, this incident took place on property that you own.

MR. WOODS: Yes, sir.

MR. SMITH: Alright, that was the question.

MR. STEVENS: Mr. Woods, did you talk to anyone from Barcroft Institute about that?

MR. SMITH: You want to ask the questions through the Chair and I'll ask Mr. Woods?

MR. STEVENS: Mr. Chairman, would you please ask Mr. Woods if he notified anybody in the Administration of Barcroft Institute about that incident?

MR. SMITH: Did you notify the Barcroft Institute?

MR. WOODS: I made innumerable phone calls to Barcroft Institute and they never returned my calls.

MR. STEVENS: Well, that incident comes as news to the Administration of Barcroft Institute.

MR. SMITH: Mr. Woods, do you know when these telephone calls took place? Could you give me some idea as to what time it might have been?

MR. WOODS: I'm the vocal type and would say that immediately after each occurrence. I have also gone in and reported that I wanted to see the Administrator and the Executive Secretary gave him protection so that he never saw me. He refused to see me on five different occasions. I told him I was going to the Board of Zoning Appeals and report this.

MR. SMITH: Can you give us an approximate date on this, sir?

MR. WOODS: Around last Spring, sir.

MR. SMITH: Last Spring.

MR. WOODS: Yes, sir.

MR. SMITH: Was Mrs. Jakoboski the Administrator last Spring?

MR. STEVENS: It's Jakoboski, Mr. Smith. But, no, she was not.

MR. SMITH: How long has she been with the Institute?

MR. STEVENS: Since July.

MR. SMITH: Does she have direct contact with the psychiatric ward or is there another administrator?

MR. STEVENS: Doctor Curcio, who is the Director of the psychiatric-convalescent unit is here, too, if you want to hear from him or question him or talk with him about the patients in the psychiatric-convalescent unit. It is not, by the way, the intention --- several other things, points that were made about the using of numbers. You'll recall that we had extensive discussions last fall about the numbers in this case. This institute is permitted by your permit of a maximum of 240 beds. They presently have and the amended permit permits up to 100 patients in the psychiatric-convalescent unit. Now, you'll recall that we went in great length through this last fall; but, that means that if they have 100 psychiatric patients they can only have 140 nursing patients. They can never have more than 100 psychiatric patients and that is less than half the total patient load in the Institute. At the present time, they have reduced their licensure for nursing homebeds to 158. They've got 130 some or 140 patients in the Institute, nursing home patients in the Institute now. They've got 19 psychiatric patients; so, by no stretch of the imagination, represents near a majority of the patients nor is it ever intended to. The reference is to the gradual phasing out of the nursing patients and turning the entire Institute into a psychiatric hospital is obviously not a possible achievement without coming back and getting a Use Permit amended and you all are in control of that. There is no intention upon the part of the management to come back and ask that the entire Institute be turned into a psychiatric facility.

MR. SMITH: Is Mr. Hamlet in the room? Doctor Hamlet?

MR. STEVENS: It's Mr. Hamlet.

MR. SMITH: You have a gentleman, a Mr. Simon Oster; is he connected with the Institute?

MR. STEVENS: He is not connected in any way with the Institute. He is the County's Director of Mental Health Service.

MR. SMITH: He's the County Director of Mental Health Services? We'd like to hear from him, I think, at this point and time. Did you ask him to appear, Mr. Stevens?

MR. STEVENS: I did not, no.

MR. SMITH: Alright, Mr. Oster, will you step forward please and give us your name and address and your position with the County and who asked you to appear, please?

DR. SIMON OSTER: I'm Doctor Simon Oster. I'm a psychiatrist, a child psychiatrist, the Professional Director of the Fairfax-Falls Church Community Mental Health and Mental Retardation Services Board.

MR. SMITH: This is not a County facility, though, is it?

DR. OSTER: This is not a County facility, no.

MR. SMITH: What's your address, sir?

DR. OSTER: I'm currently, my offices are here in the Massey building, in the Health Department building adjacent.

MR. SMITH: You're appearing for the Fairfax-Falls Church Mental Health Center and not in your capacity as a County employee?

DR. OSTER: No, I'm not appearing for the Mental Health Center. I'm appearing at the request of Mr. Knowlton as a County employee, as an employee of the Services Board which is an arm of County government. And, I imagine the kind of confusion that exists about my capacity probably was, in part, responsible for the fact that I didn't get the letter, which was misaddressed, until yesterday. So, I've not really had any opportunity to look into the specifics

of this situation other than to review some materials that I was able to get from the Office of the County Executive. I am somewhat familiar with the Institute; insofar as before I was appointed Professional Director of the Services Board, I was the Director of the Fairfax-Falls Church Medical Health Center which was located at 2949 Sleepy Hollow Road. It is no longer there. The center that was located there has been moved to a facility on the grounds of Fairfax Hospital. However, while I was there I was invited to visit the Institute and did so but this was some time back and I really can't give any very distinct impressions.

MR. SMITH: I think what we're mainly concerned about, as you have observed from this hearing, is the psychiatric unit which is operating. The Board allowed an amendment to the existing permit to allow the psychiatric care of young people or people. And, this apparently has created considerable problems as has been indicated by fires and damage to property and so on and so forth. So, if you have any knowledge or any information that you could give the Board or any guidance in this area, we would certainly like to have it.

DR. OSTER: My knowledge is from the record only. And, I can respond with several comments. One, is that a matter of concern that had been expressed is about a nursing facility, a convalescent facility sharing space with a psychiatric facility. If there is sufficient, physical separation, if there is a clear cut physical separation between the two, I see no contradiction in that. I have spoken with Doctor Richard Miller, the Director of Health, and he has told me that this was involved in discussions when he was over at the Institute, but then there are assurances that that separation will be provided.

MR. SMITH: We're concerned about the laxness or the looseness of the operation allowing the patients to become a nuisance, a general nuisance apparently in the area, also.

DR. OSTER: Now, that is a matter that obviously can happen with psychiatric

patients; it need not happen. I know what has been happening with the administration with the medical care. I do know simply from following the announcements in the local psychiatric news letters that Doctor Cursio is newly appointed as medical director and that it is quite possible that the program that he will establish will respond to that. I do know that, and I will repeat that it is not necessary for psychiatric patients to be a nuisance, even adolescent patients. They can be kept in an open facility without any difficulty. However, as I was reviewing the Special Use Permit that was granted and with particular attention to the conditions given, there is one that I feel is appropriate, and this has to do with the whole question of the philosophy of hospitalizing psychiatric patients. There are a number of constitutional protections about hospitalizing individuals against their will, if they are adults. And, if someone wishes to do so, they have to go through the courts. The state has set legislation enacted that requires a hearing, requires that there be representation by attorney and the like. Now, this is true only for adults and one of the conditions on the Special Use Permit is that anybody being committed by court commitment is excluded. That means that there are not likely to be any protesting adults present in their psychiatric facility. Unfortunately, these protections do not extend to children and more particularly to adolescents. And, it's an unfortunate fact of life that all too often troublesome adolescents are placed by parents in psychiatric facilities. This is often done with the cooperation of very well-intentioned psychiatrists who feel that this is one avenue to get a youngster who is troubled out of a very difficult situation at home. However, I do feel that some kind of protection should be afforded these children; and in a particular case like this where it is quite possible that there may be youths who are, in fact, objecting to being hospitalized, persons who might very well be a source of a good bit of these difficulties, that a condition to the Use Permit that requires that all patients, including minors be non-protesting, that is that they be agreeable to being admitted to this facility. This

should provide some relief to the kind of youngster; the problems presented by the kind of youngster who objects to being placed in a psychiatric facility and then just goes all out to cause trouble.

MR. SMITH: How could we, how could this be enforced? When you say non-objecting, how could we be assured that this condition would be carried out by the Institute and the parents, as a matter of fact?

DR. OSTER: Well, one possibility and as I say I have had only 24 hours to look into this, would be to require that there be obtained from every patient admitted to the psychiatric facility a signed statement of his voluntary status that he does not protest to being there, that he is agreeable to being hospitalized at this facility.

MR. SMITH: Would they not normally get this type of statement from everybody they bring in anyway?

DR. OSTER: I don't know that they would. And, I am certain that they would not get this from people who have not reached the majority status.

MR. SMITH: In other words, you're suggesting the patient sign this statement and not the guardian.

DR. OSTER: That's right. It's an unusual kind of requirement to be sure but to some degree it, I think, meets certain needs that I feel are needed psychiatrically as well as responding to potential problems helping to avoid potential problems in the community with patients who are there and just determined to make trouble.

MR. KELLEY: Mr. Chairman.

MR. SMITH: Mr. Kelley.

MR. KELLEY: Doctor Miller's letter here, it says inasmuch as those individuals who caused the previous problems are no longer in the facility isn't this where you're talking about a younger person who is going in that isn't this more or less a child (inaudible) in the situation? He could be the same type of individual that is no longer there or he could be a person who wouldn't give you any problems.

DR. OSTER: That certainly is true except that I would anticipate that somebody who objects to being there in the first place is only there under duress of parents and has no other recourse being still a minor is much more likely to cause trouble than not.

MR. KELLEY: Thank you.

MR. RUNYON: Mr. Chairman.

MR. SMITH: Mr. Runyon.

MR. RUNYON: I'd like to know if there is a need for this facility in terms of the facilities that we have provided that you spoke of on the hospital site, the new facilities. Is there a need for these additional facilities? I'm not saying; I don't know. In other words, is there a number need? I'm sure there, as a psychiatrist you know, there's a great need for help for a lot of people; but do we need this facility that we are talking of today, in this area?

DR. OSTER: I'd like to answer that somewhat obliquely if I may. Fairfax County, it is offering a number of services in the County itself. In terms of residential facilities, there are, at present, there is a state hospital facility, the Northern Virginia Psychiatric Institute, which is a facility of the Department of Mental Health and Mental Retardation. They accept patients from the age of 14 and up. They're a residential program and they are available for patients up to six months stay. Patients will be admitted there on a voluntary basis or on court commitment. The County of Fairfax operates Fairfax House which is under the administrative responsibility of the Services Board of which I am Director. That is a twelve bed facility for disturbed boys. There is also a mental health center which has, at present, only out-patient services although a small residence for younger children is proposed as part of their program. The Fairfax Hospital has an open psychiatric unit of 33 beds. These are primarily for short term admissions. And, that represents the number of psychiatric beds available in the community. Now, whether or not that is sufficient is something that the

Comprehensive Health Planning Council is struggling with very much. We really do not have any firm figures about the number of beds actually needed. But, this is a specific facility. It's a privately operated facility. It's the only one of its nature in the County.

MR. SMITH: You mean the psychiatric facility?

DR. OSTER: Privately operated, residential, psychiatric facility that does take patients in for a longer term period.

MR. SMITH: What do you think of the practice of this Institute of placing eight year olds with older, say fifteen-twenty, eighteen-twenty-nineteen year old patients? Apparently, this has been done. Is this prohibited by State law or State regulations?

DR. OSTER: I believe that there is a regulation of the rules and regulations for the licensure of convalescent and nursing homes that does specify that no convalescent, from Section 3A-4, that no convalescent or nursing homes shall admit children under 14 years of age unless provisions are made for separation of such children from the adult patients. The law is quite specific on that. I assume that, at the time, the adults status was 21 whether it is now considered 18---

MR. SMITH: So, if they had 21 year olds in with the 8 year olds, this would be in violation of State regulation?

DR. OSTER: I think that's pretty straight forward.

MR. SMITH: They have eight year olds in there. Well, according to the thing, 14 was the youngest child that could be in there. This is true under the regulation but they have children as young as eight years old according to the statement we've received. Alright, thank you very much.

MR. RUNYON: Mr. Chairman, I have another question.

MR. SMITH: Mr. Runyon.

MR. RUNYON: I'd like to know in this specific instance, in your opinion, this use of 100 psychiatric care resident facility, is it in keeping in the location that it is in now. In other words, we do have the benefit of past history of a couple of years of having seen it operate. It's been charged that it's not working. And, it's also been said that they should be in a location a little more removed from the intensity of the residential and the commercial and traffic uses that occur at this specific location. Is there any credence to that argument? Should it be in the middle of what's happening now or should it be out in the country or what?

DR. OSTER: The bit of history, the hospitals were originally--when facilities were originally established for the mentally disturbed, they were within the cities. Then, about 150 years ago as part of a tradition that had the notion that if you take people who are disturbed and in this category they put not only the mentally disturbed but also (inaudible) and move them out in the country where they can get lots of fresh air and have lots of time to meditate on their ways, this would be therapeutic. And so, for a period of time, hospitals and prisons were constructed as far out in the country as was feasible. In the last fifteen to twenty years, in at least as far as mental hospitals are concerned, there's been a great deal of questioning about the wisdom of, in fact, warehousing people out in the countries. That there is much diminished probability of their being able to return to useful, productive lives if they're set off in a kind of retreat where, in fact, they have minimal contact to a family because they're too distant or they're really not exposed to the various kinds of urban pressure that they'll most likely have to return to. So, right now the trend is, in fact, away from large institutions out in the country and is increasingly to try and locate services, even residential services, in the communities of which the people come and of which they are going to be returning.

MR. RUNYON: That answers part of it but this specific location from the standpoint of what's been said here and I'm quite familiar with the location and the place itself, have observed it, and been close to it many time. My question is, is there enough room on this site to accommodate a program for up to 100 individuals in your opinion. That's a leading question because, obviously, I'm not so sure that there is, at least from what I've observed. So, I might as well say that right out. But, in your opinion, do you think, I mean in Fairfax Hospital we have quite a bit of room in that whole complex there. It has a master plan for various uses and I notice the mental health aspect of it is kept in a pretty large park-like atmosphere and it's in the middle of an urban area. It's almost in the most populated center of the county as far as where the intensity of the people. That's the part that I don't question. I'm talking about this is sort of like a large apartment building with parking spaces around it and that's about it, a big steep slope on the north side that goes up to the Fairfax Medical Arts building and Mr. Woods property on the other side 12 feet away.

DR. OSTER: I should say I don't really know what the actual limits of the grounds are. I do know that, just by way of contrast, that there is at least one hospital facility in Washington D. C. that's located right in downtown Washington and occupied by several floors of a medical building. That, of itself, need not present the problem. That has more to do with the extent of services ^{and} activities within the building and the room-floor within the building for various kinds of activities. It depends to some degree on the kinds of patients that are there and the kinds of programs that are set up. It's--without having more information, it really would be very difficult for me to answer.

MR. RUNYON: Well, I'd like to know a little bit about that because I have children and my children play as other children and even, just regular, normal children need a pretty good amount of space, and that's just two or three together, to really exercise their psyche as it may be or just to live normally. And I just, when I looked down there I saw a, you know, the volley ball courts and...if you're not familiar with this you're not going to know what this is. But, most of it's

parking area and then they have an area maybe 100' by 120' with some facilities where the children can play and exercise on asphalt. I just wonder, and you can't tell me, but I'd like you to look into it, but from my standpoint, I think some other people have the same question. If this is enough room, then I don't think there's any argument; but, if it's not and you feel it's not, we'd like to know that too.

DR. OSTER: I guess I would have some questions, given the brief description that you gave me whether there would be enough for 100 young children and young adults unless there were suitable recreation facilities inside as well and program facilities inside as well. The building itself is deceptive. It's larger than it looks from in front. And, it's quite conceivable to me that there might very well be enough space inside for that kind of thing.

MR. RUNYON: That's something that we'll have to determine. It has been approved by the State; so, obviously, it must have the facilities. I'm just talking in general concepts as we see it looking back now two or three years. I think we should examine that also in light of the complaints that have been presented today.

DR. OSTER: Certainly, it becomes a function of how much use is made of community facilities to the extent that their program includes opportunities to go out and use park land, playgrounds and so on as part of the program which I think is an appropriate part of the psychiatric program. Again, these are people who are going to have to go back into the community. And, to keep them isolated is hardly a way of preparing them for living an ordinary life.

MR. SMITH: Dr. Oster, I think the people of Luisa County would appreciate your statement in connection with psychiatric treatment and presence since the state is about to construct---apparently, the State prison in Luisa County which is about as remote, not as remote an area as you could find, but it's about as remote an area that you can find in the central part of the state. They're moving out of the city of Richmond, I believe, to Louisa Co. which is 30 or 40 miles away. And, there's

been quite a bit of controversy. You may be aware of that; but, apparently, Governor Holton has not read the latest as far as prison and psychiatric positions are concerned. So, they are moving into rural areas. Thank you very much. You've been very helpful. Does the Board have any additional questions? Thank you very much, sir.

DR. OSTER: Thank you.

MR. SMITH: And, get in touch with Governor Holton if you can and let him know about that. Is there anyone else to speak on this application? Anyone have any comments that they want to make in relation to it? (Mr. Woods stood up). Mr. Woods, you've had your day. You want to ask a question?

MR. WOODS: I would like to answer a question in rebuttal.

MR. SMITH: Well, normally we don't give a rebuttal. Now, what is the question you have? Answer the question. Could you bear with us just a moment, Mr. Stevens?

MR. WOODS: It is my understanding from Mr. Stevens' statement a few minutes ago that they're going to divide this into a sort of a remote building. and, in the recent report of the Washington Hospital facilities, this was five weeks ago, this property was listed as an acute psychiatric facility, the only one in the Washington area. I checked with the reporter on this and he said that he checked the---that was their intention to make the whole thing psychiatric facilities.

MR. SMITH: This wouldn't be possible under the present Use Permit and this is not the only facility in the Metropolitan area. There is one in Washington D. C., I'm sure.

MR. WOODS: It is the only one listed in the Hospital Report.

MR. SMITH: Maybe, it is the only one in this area. Maybe, there was one in D. C. Mr. Stevens, I have a couple of questions.

MR. STEVENS: I think the Board should, if you will bear with us a few more minutes, hear Dr. Curcio, who is the Director of the Psychiatric Convalescent Unit, and from Mrs. Jakaboski, who is the Administrator of the Nursing Home.

MR. SMITH: You can call anyone you like.

MR. RUNYON: I was going to ask that they tell us a little bit about what they are trying to do, and what they feel the answer to some of these questions are.

MR. STEVENS: I will ask Dr. Curcio, if he will, to describe to you the program that they are operating in the Psychiatric-Convalescent Unit, the kinds of controls they are attempting to exercise over the people, who incidentally are not all children, and it is not intended that they are all to be children, or even a majority of children in the Psychiatric Unit.

(Dr. Curcio comes forward).

MR. SMITH: Would you give us your full name and address, please?

DR. CURCIO: My name is Dr. Curcio and my address is 12100 Glen Mill Road, Potomac, Maryland.

MR. SMITH: And, you are a Doctor in the field of psychiatric treatment?

DR. CURCIO: I am a psychiatrist.

MR. SMITH: Where did you obtain your degree: What school?

DR. CURCIO: Georgetown Medical School and did my internship at St. Elizabeth's Hospital.

MR. SMITH: I have a couple of questions. You have been with the facility for quite awhile, I assume, since its inception?

DR. CURCIO: No, that's not true. I have been there since the end of this past June.

MR. SMITH: What is the maximum number of patients you have had in the psychiatric unit?

DR. CURCIO: I believe the most we have had is twenty-one (21).

MR. SMITH: What happens to the other 79 beds that were allotted to it. Do they use them for convalescent patients? You see, we allowed 100 beds to be used.

DR. CURCIO: Let me just fill you in a little bit on the situation.

MR. SMITH: Could we get an answer to this? I think we can do this by question and answer and then you can give us any additional information.

DR. CURCIO: The current situation is the following. It is my understanding that the psychiatric facility can have bed space on the 3rd floor as a way to expand on the psychiatric facility.

MR. SMITH: I think that has been the recommendation, but that isn't true now. What facilities are you now using for the psychiatric facilities?

DR. CURCIO: The current situation is that there are rooms that have been vacated on the third floor. This is currently office space. If the census reaches a point where it becomes feasible, we will probably in a few short weeks, we can move a few core patients to the third floor and have that as the beginning of a unit, a separate unit, on the third floor.

MR. SMITH: That is true. That is probably a plan, but what and where are you housing the psychiatric patients at the present time?

DR. CURCIO: On the second floor.

MR. SMITH: And, on the first floor you have convalescent patients?

DR. CURCIO: No.

MR. SMITH: Alright, then on the second floor you have some convalescent patients?

DR. CURCIO: On 2 south.

MR. SMITH: And, on the third floor, you have convalescent patients?

DR. CURCIO: That's right.

MR. SMITH: As I say the Board allocated or allowed the 100 beds, or 100 spaces for the psychiatric treatment. You say the maximum number you have ever

had is 21?

DR. CURCIO: That's right.

MR. SMITH: So, actually the other 79 beds are being used for convalescent patients, I assume. You don't have a 79 bed vacancy, do you?

DR. CURCIO: No, there have been vacancies on the 2nd floor and we could have admitted more patients there if we wanted to. Since I have been there, I have been holding off on admission because I want to get the program organized to the point where we can accept more admissions there.

MR. SMITH: How many convalescent patients do you have at the present time in the facility?

DR. CURCIO: I believe from what I have heard today, 140.

MR. SMITH: Mrs. Jakoboski can answer that I assume. How many psychiatric patients do you have now in the facility?

DR. CURCIO: Twenty.

MR. SMITH: So, you have a total of 161 out of a possible 222. Do these vacancies exist because of your desire to keep them vacant, or is it because you don't have the patients to fill them.

DR. CURCIO: No. We have many referrals.

MR. SMITH: You don't have the patients to fill this vacancy?

DR. CURCIO: No, I say, if we wanted to, we could fill the space.

MR. SMITH: Then, why do you not fill the space, if there is a need for it in the convalescent area?

DR. CURCIO: I understand that you are talking about the psychiatric facility?

MR. SMITH: No, why do you not fill the spaces that you have vacant with convalescent care?

DR. CURCIO: They are full.

MR. SMITH: Then, in other words, what you are doing then is reserving

these additional beds for psychiatric patients?

DR. CURCIO: That is correct.

MR. SMITH: You do not allow the facility to operate at capacity even though there is a great need for convalescent care?

DR. CURCIO: The situation is the following. The rooms that were formerly convalescent rooms are being used for office space and this office space can be converted to psychiatric patient rooms when we have the staffing to proceed.

MR. SMITH: What is the age, the lowest age, that you permit in the psychiatric unit?

DR. CURCIO: The youngest, sir, that we permit is ten years old.

MR. SMITH: And, what is the oldest patient?

DR. CURCIO: The oldest that we had been taking, up until now, is seventeen. In an effort, though, to do the very thing you're mentioning and at some point move to the third floor, we will be taking eighteen to twenty-one year olds.

MR. SMITH: You will no longer permit anyone under fourteen to be admitted then?

DR. CURCIO: These will be two separate units. The young adult service will be on the third floor.

MR. SMITH: But, you now accept ten year olds and seventeen year olds in the same unit?

DR. CURCIO: That's correct.

MR. SMITH: Alright, do you want to make a statement or give us some idea as to what you do? It would be helpful. I think we're aware of what you're trying to do as far as the people are concerned.

DR. CURCIO: Well, I'd like to say that I feel that I came into a difficult situation at Barcroft. I thought it was in a period of transition. I have some very specific ideas for establishing a program there, which has been begun. I feel in some way that this hearing here is ironically the result of

some good intentions on Mrs. Jakabowski's part and my own to see to it that things were done correctly and properly with our new program there. It was at our request that the Fire Department come to the facility because of our concern over the fire extinguishers being used. I want to emphasize that these were just the fire extinguishers on the mental health unit; they were not from the nursing home unit. There were two or three kids who were involved in it. The staff tried to get to them as quickly as possible to stop it. And, it was really our concern that this not happen again that we called the Fire Department and had them come over the next day. The entire incident really has mushroomed to where it now becomes a riot which was not the case.

MR. SMITH: You speak of coming into this situation in a transition period. Now, is it the thought of the Institute or your thought that you are going to actually or do you think of conducting a psychiatric facility here rather than a convalescent home? In other words, you're eventually going to have your major facility will be psychiatric care and convalescent will become a secondary thing?

DR. CURCIO: The current plan, I believe you have the blueprint for it, is to completely separate the nursing home and the psychiatric facilities.

MR. SMITH: With how many psychiatric beds?

DR. CURCIO: I believe, there would be a space for between 50 to 60.

MR. SMITH: Then, this would leave you how many beds for convalescent patients?

DR. CURCIO: There would be the balance from what the total is now.

MR. SMITH: Does the Board have any questions? Thank you very much, sir.

MR. KELLEY: Mr. Chairman.

MR. SMITH: Mr. Kelley.

MR. KELLEY: One question. I believe Mr. Woods referred to the

zombies that came over. There's one thing that wasn't clear to me there was, was this a result, these zombies, did they have drugs? Were they mentally disturbed because of this action?

DR. CURCIO: Well, let me just say that I greatly resented Mr. Woods reference to patients as zombies. These children are your children.

MR. SMITH: What is a zombie? Can you tell me? Mr. Woods couldn't This is a question I asked Mr. Woods and he couldn't define a zombie. I think it's just a word, actually.

MR. KELLEY: Mr. Chairman, he hasn't answered the question. I just used the word he did. Let's forget about zombies. Let's say the children or the patients that come over, were they mentally disturbed or were they affected by drugs?

DR. CURSIO: I don't know what patients Mr. Woods is referring to. I do know that we have a variety of diagnostic categories at Barcroft. The majority are children with learning disabilities. In addition, there have been several patients with behavior disturbances. I can tell you that I've discharged five patients in the two months that I've been there that I felt were unmanageable in an open setting such as Barcroft. And, I don't intend to admit any patients that cannot be managed in an open setting such as this. There are patients who do take medication there. We do have children who are autistic. They are not any danger to the community at all. They're quite withdrawn. They don't go outside; they don't like to. We have a variety of children.

MR. KELLEY: What I'm concerned about is you say you now have twenty; they've had twenty-one. Basically, I think the, I know the original Use Permit was granted for a convalescent home. And, you've had this type of problem, you've had the problems that have been stated here with 20 or 21 or whatever the highest is. What are you going to have if you get 60 to 100? This is what bothers me.

DR. CURCIO: I can tell you that I feel that it would not be wise to enlarge the adolescent psychiatric facility. My plan is to enlarge the young adult and adult service and to have an adult psychiatric facility as the majority of patients. At this point, it may be then possible to even have some of the adolescents on the adult unit as is common practice in many hospitals and which also eliminates much of the acting out of behavior as you only have four or five adolescents out of twenty patients. It's usually a much quieter situation, too. And, this is the direction I'm going.

MR. KELLEY: One other thing I'm very much concerned with is that you have an empty bed there and there are people who need to be in convalescent homes. You're withholding these from the people who actually need this.

DR. CURCIO: I may have been misunderstood if I said there were empty beds there. I'm talking about the overall planning situation. Since I've been there, I've hired twenty new additional staff members. These people require office space. And, they now have offices on the third floor. Some of the patients who were on the third floor have been moved to the three south and two south. And, the new staff has been placed in some of the offices.

MR. KELLEY: Well, how many convalescent patients do you now have?

DR. CURCIO: I believe the figure is 140 or 142.

MR. KELLEY: About 140 and you have 20 of the others, about 161. How many beds do you have? 220?

MR. SMITH: Let's establish, how many beds are available in this facility at the present time?

MR. STEVENS: Let me interrupt Dr. Curcio by saying one of the things that led us here today was the concern about the intermixing of the convalescent home, the nursing home patients with the psychiatric patients, notwithstanding that there might be beds available. While Dr. Curcio is doing the staff work

and program development that he wants to do, it was my understanding certainly from Dr. Moore and Captain Peck and the State Licensing Agency that they didn't care whether there were empty beds or not. They didn't want nursing home patients mixed in with psychiatric care. Really, what they've been trying to do is move all of the patients out of that area so they can accomplish this physical separation and not have them there.

MR. SMITH: I think that's what we're trying to find out, if this is what they're doing.

MR. KELLEY: Then, what you want to do, then, is just build a wall.

MR. SMITH: How many beds are there available in this facility? Do we still have 222 beds allocated available? You're using some of this for office space but you still have the space for 222 patients. Since you've been with the facility, to your knowledge, has there been a fire started, a patient wandered off on any other property other than that under the control of the Institute?

DR. CURCIO: There have been occasions when a child tends to run away. I have my staff trained not to allow that to happen and if a child does try to run away, to go after it, the child.

MR. SMITH: When you accept an adolescent for treatment, is he brought in forcibly by his parent's and more or less say, "here he is you can do what you can do with him, I give up on him," or

DR. CURCIO: I insist that there be no patient there that doesn't want to be there. And, I tell every parent that we cannot force a child to stay there. They can run away and they have to want to be there. And, this is something we're trying to work into the program so that all the children will want to be there 100 percent. I'm understanding now that they do want to be there. If they get upset and try to run away, we have someone bring them back. I like Dr. Oster's suggestion about having the child sign a form himself.

MR. SMITH: How do you keep them there? Do you lock doors at night or do you lock any of them up to keep them in the facility?

DR. CURCIO: Well, the current plan is to have every staff member have a key to the fire doors. And, every door leading from the mental health unit will be locked at eleven o'clock at night. Between 3 o'clock in the afternoon and 11 o'clock at night, all the doors will again be locked with the exception of one door at which a counselor would be present during those hours for the entire time.

MR. SMITH: Does the Fire Marshall approve of this?

DR. CURCIO: We had to wait to approve the doors that have been installed and we are proceeding with it. He has approved the doors; the doors are installed and we're in the process of getting the keys out to all the staff.

MR. SMITH: Is there a staff member on the premises at all times with the patients?

DR. CURCIO: Several.

MR. SMITH: Several staff members?

DR. CURCIO: Yes, sir.

MR. SMITH: How many would be there with the 20 patients that you have now all night?

DR. CURCIO: Our current staffing pattern is to have, we have our teachers and our counselors and nurses there from six to three thirty. We have nurses, counselors, doctors, psychologists, social workers who are also scheduled from the hours three to eleven. We have a permanent night shift of three people, counselors and a nurse, who are stationed every evening from eleven to seven in the morning.

MR. RUNYON: Mr. Chairman,

MR. SMITH: Mr. Runyon.

MR. RUNYON: Could you briefly sum up, one, how they are referred to you;

how they get to your group. And, then, two, what you try to do with them in the time span you have with these children and adults? In other words, how do you get them first? Are they sent to you?

DR. CURCIO: I can tell you that the majority of the patients, since I've been there, have been referred by psychiatrists who practice in the Northern Virginia area. What was the second part of your question?

MR. RUNYON: What do you do with them when you get them? Do you put them in an organized program to do what?

DR. CURCIO: Well, depending upon what the specific goals are for the child, we develop a program for him. The program that we have consists of a comprehensive therapeutic program consisting of group therapy and individual therapy. Group therapy meets for an hour three times a week and individual therapy at least two times per week, sometimes up to five times per week. We have counselors who are assigned to specific children and spend another four or five hours of individual counseling with the child. In addition, to this, I've started, just last week, a behavior modification program which will penalize a child, for example, if he leaves the unit without a staff member. He will lose fifty points, for example. The points are used by the children to go to the movies. We convert this into a ticket to the movies for them, etcetera. So, they work to get points. The points can be taken away from them for bad behavior. And, I would like to emphasize this to the people of the community that if they can report an incident to us with the name of the child or, at least, when it occurred and get us out there if it should occur, and, we can see the child, then we can deal with it in our program. I don't think they know really what we're doing; what we're working on at this point.

MR. RUNYON: Well, that was kind of my question. What type of child are you dealing with? Are you dealing with a retarded child or just a drug problem child or a relation problem-type child, maybe? In other words, parent relations or

its relationship to its environment or just what types of people are you working with? You're not dealing with violent children, are you? That's not been said here and it didn't sound like you were.

DR. CURCIO: No.

MR. RUNYON: What types of children do you feel you can deal with?

DR. CURCIO: I would say the one thing most of them have in common would be a learning disability, difficulties at school. We have a special education school on the facility. There is a variety of problems, parents problems, school. Some of the children do have a problem going back to early childhood in which they have difficulty in reading and writing. This is the primary type of child.

MR. RUNYON: Thank you.

MR. SMITH: Do you have any children at the facility at the present time that have been on drugs or are now on drugs other than that administered by physician or the Institute?

DR. CURCIO: We accept no child who is addicted to drugs.

MR. SMITH: Who is addicted to drugs?

DR. CURCIO: Several of the children have experimented with drugs before they came in. I do not see with any of the current population, their reason being there as drug taking. I do not view them as a drug taking population. I think it reflects the wide spread use of drugs in the adolescent age group, in general. This is what they've been involved with before they came here.

MR. SMITH: Thank you very much. Any additional questions? Alright, Mr. Stevens, how about Mrs. Jakoboski?

MR. STEVENS: I'll let Mrs. Jakoboski describe to you what she's doing, in general, in her relations with the neighborhood.

MR. SMITH: Again, I think we can get the information we seek better by questions. Because, we assume she's doing all she can to correct these. You want to state your name and address?

MRS. ROSANNE JAKABOSKI: My name is Mrs. Rosanne Jakaboski. I'm a registered nurse and a licensed administrator. And, I live at 5018 Pluming Dr. in Canterbury Woods here in Annandale.

MR. SMITH: Can you tell me what the percentage of the patients that you have now in the Institute--how many of them are actually residents of Fairfax County?

MRS. JAKABOSKI: My patients in the nursing home?

MR. SMITH: In the psychiatric clinic.

MRS. JAKABOSKI: In Fairfax County? Dr. Curcio would have to answer that; but, I would say maybe 80%. Am I correct?

MR. SMITH: Alright, maybe this is a question for the Doctor then. I thought you, being the administrator, would have it.

MRS. JAKABOSKI: I'm the administrator of the nursing home.

MR. SMITH: You're the administrator of nursing.

MRS. JAKABOSKI: That is correct.

MR. SMITH: You are not actually the administrator of the psychiatric facility?

MRS. JAKABOSKI: No, but I have been assisting in getting the separation completed.

MR. SMITH: Well, I think we want to talk to the Doctor, then, Mr. Stevens. What we want to do is to talk to someone who is directly connected to the psychiatric unit. That's what we're basically interested in.

MR. STEVENS: Any references made to the operation as a whole in relation with the neighborhood--Mrs. Jakaboski has had much more to do with that in the

time she has been there than Dr. Curcio. I don't want to belabor the Board, but I don't want to leave the Board thinking that there isn't anybody here that can answer some of these things. That's all. If your concern is with the internal operation of the psychiatric unit, then Mrs. Jakoboski is probably not the person you want to speak to.

MR. SMITH: Alright, Mrs. Jakoboski, since you've been there, to your knowledge, have any of the patients from the psychiatric unit removed themselves from the premises and been found on the property of others in the immediate area?

MRS. JAKABOSKI: No, they have not.

MR. SMITH: Have you been notified of any of your patients being on Mr. Woods' property or the property of other people in the area?

MRS. JAKABOSKI: No, I have not. Mr. Woods has not contacted me.

MR. SMITH: Do you have an executive secretary or clerk or someone?

MRS. JAKABOSKI: Yes, I do. And, my secretary has tried on numerous occasions to get Mr. Woods on the phone because I would like to talk to Mr. Woods. But, Mr. Woods will not talk to me.

MR. SMITH: There hasn't been a patient escape from the psychiatric unit since you've been there?

MRS. JAKABOSKI: Not since I've been there, no.

MR. SMITH: How long have you been there?

MRS. JAKABOSKI: July 16th.

MR. SMITH: Does the Board have any additional questions? Alright, thank you very much. Can we talk to Doctor Fishman? Will you give us your full name and address?

MR. STEVENS: Doctor Fishman is president of the American Health Services.

MR. JACOB ROBERT FISHMAN: I'm Jacob Robert Fishman. I'm a psychiatrist. I live at 1717 Poplar La., Washington D. C. And, I've been associated with Barcroft

for the past year and a half.

MR. SMITH: When you say associated, do you spend all of your time there?

MR. FISHMAN: No. I'm the president of the organization of which Barcroft is a part.

MR. SMITH: American Health Services?

MR. FISHMAN: That's right.

MR. SMITH: How much time do you actually spend at the Institute?

MR. FISHMAN: Within the past year, I have spent approximately half of my time at the Institute. Now, that is based on a seven day week because I've been there many a weekend and evening.

MR. SMITH: Then, you are familiar with the operation of the psychiatric unit?

MR. FISHMAN: Yes, I am familiar with the operation of the psychiatric unit and of the entire facility.

MR. SMITH: How many of the present patients are residents of Fairfax County?

MR. FISHMAN: Of the psychiatric program?

MR. SMITH: Of the psychiatric program.

MR. FISHMAN: At present, probably 50% of the patients are residents of Fairfax County. I would say approximately 80 to 85 per cent of the patients are from the Northern Virginia area.

MR. SMITH: There is another facility in D. C., a similar facility for psychiatric treatment of the young people, is there not? Is this the only one in the whole Metropolitan area?

MR. FISHMAN: I can't answer it that simply. There are--bear in mind that Barcroft began with a psychiatric unit for children and adolescents. It was never

our intention to confine the psychiatric program to children and adolescents nor was it our intention to make that the majority group. But, we did want to move judiciously in developing a good program and a good staff so that, initially, we would have a child and adolescent unit because of the big demand for this and the need for this in the Northern Virginia area. And, as soon as we were ready to open the other part which ^{will} be for adults, so we did not intend, nor do we intend now to ever have more than 30 or 40 child and adolescent psychiatric patients. For the majority of our patients, we have always intended to have young adults and adult in the psychiatric program, which, of course, represents much less of a management problem. We went into the issue of child and adolescent program because of the enormous need ^{that} we felt existed in the community and the great pressure from many public agencies to establish such a program. Now, in the Washington Metropolitan area there are three, including Barcroft, three private psychiatric facilities as such, three. Chestnut Lodge, in upper Montgomery County, a psychiatric institute in the District of Columbia, and Barcroft in Northern Virginia area. There are several public facilities in both the State and the city including D. C. General, the Northern Virginia Mental Health Institute and State hospitals. There are a number of general hospitals in the community, Fairfax being the only one in Northern Virginia. But, there are in D. C. and Montgomery County general hospitals which have small, acute psychiatric units. Barcroft is not an acute psychiatric unit. The patients at these acute psychiatric units are generally admitted on an emergency and stay anywhere from six to thirty days with the latest figures from Blue Cross on utilization rate in psychiatric units in general hospitals being an average stay of 11 to 13 days. That's what we mean by acute hospitalization, emergency, a lot of coming and going. As per the original permission from the Board of Zoning Adjustment here,

and our original plans, the concept for Barcroft was a long term facility, which might, on occasion, take patients who, turned out, required only short periods of stay, but generally speaking, ^{they} would be there for much longer than what is classified as an acute psychiatric hospital, particularly patients who could gain something from a longer period of stay in a therapeutic surrounding. Barcroft is the only private psychiatric facility in Northern Virginia, but it is not classified as an acute facility, certainly not seen that way by Blue Cross or others. There are other facilities. Now the important---

MR. SMITH: (interposing) Let me ask you this at this point.

MR. FISHMAN: Let me just make a point about the child and adolescent and then -- I'm sorry to take your time, but I felt I really had to give you this information. Barcroft and Psychiatric Institute are the only two facilities in the entire Washington Metropolitan area which specialize in child and adolescent services on an in-patient basis, which is one of the problems in terms of need. Children's Hospital, which is an extremely fine hospital serving children, does not have any in-patient facilities for psychiatric patients. Therefore, they don't have any in-patient psychiatric children or adolescents there. The general hospitals require two units, may occasionally take an adolescent but that's only as part of the total adult population. They don't provide special services in this age group and there has been a huge need. We have turned away many, many referrals because of our concern for keeping this an open setting and for having a good program. We have been very concerned about our relationships with the neighborhood, very concerned. Apparently, we have not paid enough attention to it and we've taken great strides in the last month to correct this circumstance. We've tried very hard to develop a good program that meets the needs of the patients and wouldn't disturb the neighborhood. We brought in Dr. Curcio and other psychiatrists, Mrs Jakaboski and many other staff people

who are eager and willing to conform to what we now understand are the requirements of the County and State Health Department and Fire Department for separation of the two programs. If we are allowed to do this, it will mean that there will be no contact whatsoever between the nursing home patients and the psychiatric patients. No contact whatsoever, if we are allowed to implement the plan that's been recommended. We can also take much greater steps with your concurrence and permission to make sure that there is total control over what has been potentially alleged as a nuisance of patients getting out and going on other peoples' property. Since I have been at Barcroft, I have not received any call from anyone complaining about that particular issue, patients getting out and going on other peoples' property. I have been told by our staff consistently that there are some neighbors who are concerned about what's going on. And, as Mrs. Jakoboski has told you, she has also told me, she has made many attempts to contact Mr. Woods. We are very happy to sit with Mr. Woods and to immediately correct all of the issues of which he has complaint, the fence, the potential weeds, the poison ivy, although I have been told that that poison ivy is not on our property; but, be that as it may, I would be very happy to have somebody clear up the poison ivy even if it's on his property, whosever property it's on, to maintain a fence if the neighborhood and this group should desire us to maintain a fence, We'd be very happy to enclose the entire property with a fence of any height that this group should desire. We have no problem with that if that's what you want us to do.

MR. SMITH: What about maintaining the existing fence you have. The Zoning Administrator stated that the existing fence was not properly maintained. He brought that to the attention of the Board.

MR. SFISHMAN: We will immediately take steps to maintain that fence; and, in fact, replace it because that fence itself is crumbling. I inspected that fence

this morning and the wood is rotting. And, that's why the thing has been cracking and falling. We will take immediate steps to replace that fence and to maintain it properly. The reason for the garbage, which is really a container,-- I don't know the technical words for it. It's an enclosed container which is picked up and put on the collection truck; and, I guess replaced with an empty container. The reason for the container having been moved to where it was was that, under the previous administration, that container had been close to the building near the nursing home. We felt it was unsightly. And, it was an offense to patients and visitors. There was no other intent in moving it. We can, and I would be very happy to agree to build an enclosure for that container or do anything else or move it anywhere we were directed to move it on that property. I'm just telling you what the reason was why we moved it.

MR. SMITH: Well, why haven't you moved it in accordance with Mr. Carpenter's request? Mr. Carpenter requested it he said over thirty days ago.

MR. FISHMAN: I have to ask Mrs. Jakoboski if she had a request from Mr. Carpenter.

MRS. JAKABOSKI: No. I have never received a request.

MR. SMITH: To move them away from the property line and back where they were originally?

MRS. JAKABOSKI: That's right.

MR. SMITH: You moved them away from the nursing home because they are offensive to the patients and visitors and moved them out to the property line where they become offensive to the nearby property owners.

MR. FISHMAN: Mr. Chairman, I can understand that concern.

MR. COVINGTON: I personally pointed this out to the Gentleman sitting there (he points) in a red jacket. I went through the yard and through the

building.

MR. SMITH: I know you stated it earlier. What is that Gentleman's position? The one in the red jacket.

MR. FISHMAN: He is the Vice-President of American Health Services.

MR. SMITH: Mr. Covington, the Zoning Administrator, said he did point it out to him. How long ago has this been Mr. Covington?

MR. COVINGTON: (Talking to the Vice-President, the man in the red jacket) I pointed that out to you at the time I went through the building. He took me through the building. It was early August. He told me he was going to have it moved.

MR. FISHMAN: If you can tell me --

MR. SMITH: Now, wait a minute. We talk about all these things and we say that the Zoning Administrator talked with someone and that man said he would have it corrected and here we are 60 days later and it hasn't been corrected. You really have not done anything except, apparently a lot of talk. This is bad. You take up a lot of County employees' time.

MR. FISHMAN: Mr. Chairman, we have had another problem which I would like to point out to you.

MR. SMITH: I would like to know why you have not complied with the agreement you made with the Zoning Administrator. You just disregarded it apparently.

MR. FISHMAN: No sir, that is not what happened.

MR. SMITH: That is the only conclusion that I can arrive at. It has been almost 60 days and you haven't taken any action on it. The Vice-President doesn't tell you what is going on and Mrs. Jakaboski doesn't know about it. Apparently, the word isn't getting around.

MR. SASSER: May I introduce myself sir? (The man in the red jacket)

MR. SMITH: Please.

MR. SASSER: I am Alfred Sasser, Jr. and Vice-President of the American Health Services, 503 Cardova Greens, Lardo (?), Florida. The day that the Zoning Administrator and his Assistant came out to visit and made an inspection and tour^{of} the facility, one of the last points of his visit that day -- we stood in the parking lot -- and he mentioned where the garbage containers, the dumpsters, were located and that this had been a complaint from Mr. Woods and that if we wanted to try to have good relations, he would advise that we take steps in terms of moving that. Mr. Woods had complained about the offensive odors. I indicated to the Zoning Administrator that we would make arrangements to do so. We have made arrangements to do such. We asked the particular company that we are dealing with for a number of the constructional improvements in the building, is the same company. They assured me that the removal of where those are to another area^{with} the proper kind of the base that it must have, because^{there} is an elevation from where Mr. Wood's property is, moving up in this direction and so that we would not be involved in taking any parking space area -- They assured me that this could be completed by the end of the month. That is the reason it was not done in terms of intentionally avoiding, or disregarding what was a very strong suggestion on the Zoning Administrator's part.

MR. SMITH: I suggest you move those things within the next 24 hours, no later than 36 hours, back to where they were originally up at the building and away from the contiguous property owners. I think

that to move them out to a property line and have the offensive odors offend others, other than your own, if there is an offense there, let it stay on the property and not offend others in the immediate area. This is certainly another disregard for the contiguous property owners.

MR. BARNES: I think you could eliminate a lot of these odors if you have it enclosed. Here is one here that is completely wide open (he is looking at the pictures that the Zoning Administrator submitted, taken at the site) So, why not close them and keep them closed at all times and you would have less problem. At least, they would not be so offensive.

MR. SASSER: Absolutely. I agree with you sir. That is what is involved with the construction company to have them built that way. If even, if they were at the other end and we have the same condition and the wind was blowing in that direction -- even though it may be away, it still can carry.

MR. SMITH: These dumpsters have lids on them. Why are they not closed.

MR. SASSER: They are closed most all of the time.

MR. BARNES: They are not closed this time. The pictures show them completely open. The other one has a top but it is open.

MR. SASSER: We will do those garbage bins tomorrow the way they were and we will continue insofar as the permanent time of installation and enclosure, the way we had planned for by the end of this month. But, at least they will be moved somewhere.

MR. SMITH: Have you made an application for a building permit to build the building to enclose it?

MR. SASSER: We were thinking that we were going to have a moveable enclosure such as the kind that you can purchase at Sears and Roebuck

MR. SMITH: The Zoning Ordinance, I don't think, would allow one large enough to cover these two building. In other words, what is it now? Eight by twelve is the largest? Eight by ten. Eight by ten won't cover these two. What's this building that is back there now?

MR. COVINGTON: Construction building.

MR. SMITH: It's still there.

MR. SASSER: That building has been used for the storage of outdoor equipment. It's a temporary building. That's the same one, but seen from another angle.

MR. SMITH: This is just a temporary building. It has no foundation. It is used for the storage of outdoor equipment.

MR. COVINGTON: I was under the impression it was for the contracting people.

MR. SMITH: No, it is being used for storage purposes, apparently.

MR. SASSER: It is being used for storage. We will certainly agree to move that within 24 hours -- to move the garbage bin -- and if we have to make application for the construction of an enclosure, we will do so and enclose it to avoid any kind of a fence. You have my commitment on that and you have my commitment on the removal to the original site within 24 hours. I would like to say just so that we are clear on our intent, I am sorry it has given offense, but if you see where it is located and how it is located, it is hard for me to believe, and I invite you to look at it -- it is hard for me to believe that it can be really seen and either give visual offense or an odor offense to Mr. Wood in his house. Now, it may be that it is doing that; and on that assumption that it is doing that, we will move it and not carry it any further. I just want you to know about what I think about where it is located. It was not done intentionally to give anyone offense.

MR. SMITH: In your own statement, you say you moved it from its previous location contiguous to the nursing facility because it was offensive to the patients and the visitors, so you took it away.

MR. SASSER: (interposing) No sir. Because --

MR. SMITH: (interposing) There must be some offense, either visual or smell.

MR. SASSER: It wasn't smell. There is a high barricade fence on the property line where that's located and I don't believe it's visible from the other side of the property.

MR. SMITH: I think on the property line, that close to it, is in violation of the Zoning Ordinance, anyway.

MR. SASSER: Then, we will move it within 24 hours.

MR. SMITH: Apparently, the Zoning Administrator felt that way or he wouldn't have asked you to move it.

MR. SASSER: It will be moved. May I also make a comment on the parking issue which was raised. We felt that by using portable equipment for recreation and having that portable equipment in place during times when there were few cars on the parking lot, as for example in the afternoons or on the weekends, where the parking lot is seldom more than one third full, and where we don't have any permit for construction with regards to this equipment that we wouldn't be violating anything, we would not be eliminating the use of any parking spaces and we felt it would be of use to the patients. There is no permanent installation. These things are portable. And, that's all they were used for. Now, we did, on grass next to the parking lot but not on the parking lot, we did put in a retaining wall to improve drainage. We put in a fireplace for the use of patients. We put in a sandbox and a swing set. That's on grass and it in

no way affects the parking area.

MR. SMITH: Was the site plan for the Institute amended when you did this? Did the County approve all these changes?

MR. SASSER: I was not aware that, since we were essentially putting
a
in these outdoor things, that we needed/site plan amendment.

MR. SMITH: You need a site plan amendment for the recreational equipment on the -- for the psychiatric ward.

MR. SASSER: This is portable, portable material.

MR. SMITH: Alright, you're making it, you're utilizing it and you're creating an outdoor activity that was not there previously. In other words, we did not have it and did not consider it in the psychiatric application nor the application for the nursing home. Normally, we would not associate basketball with the convalescent patients.

MR. SASSER: Since it was portable and moved around just as it might be with paddle ball or anything like that, we didn't think it was necessary to amend the site plan. It's totally portable. It's as though you took some games out and used some empty space to play the games with. We didn't feel that that warranted, since that was not a permanent alteration in any way involving construction, and since...

MR. SMITH: (interposing) Did you get a permit and a site plan approval for the retaining wall? How high is the wall?

MR. SASSER: Three feet; two and a half to three feet.

MR. SMITH: Anything over two feet you'd have to have a permit for, any kind of retaining wall.

MR. COVINGTON: Any kind of retaining wall.

MR. SASSER: I assume from the contract it was done.

MR. COVINGTON: There were several other features that were constructed.
outdoor
There was an/fireplace and several other features that were constructed.

MR. SMITH: You don't know whether they got a building permit for any of this then? Nobody has checked it?

MR. SASSER: Since it was a local contractor, I assume we had a building permit but we will check it.

MR. SMITH: I think the Zoning Administrator should check it.

MR. COVINGTON: I got the file here but there's nothing in there. I have been through every piece of it.

MR. SASSER: There was no intention to violate. We got a contract, and I assumed that those things would be taken care of.

MR. SMITH: Of course, you are responsible for-- the contractor does the work, but indirectly you are responsible. Did you have in the Agreement that he would get all the necessary permits? Do you have a copy of that?

MR. SASSER: I assume that that was in the Agreement. -- Not with us, but we can get it.

MR. SMITH: Can you produce that and we can establish the time it was installed. Was this a County contractor or out of state contractor.

MR. SASSER: Local.

MR. JAKOBASKI: (Off mike; inaudible)

MR. SMITH: A copy of that contract would be good for the record.

MR. SASSER: The intention in doing this was to beautify the premises. We have put in many trees and flowering shrubs and improved the grass around the building, in the front and on the sides and in the back. I think we have done a great deal to beautify the premises and I am sorry that we overlooked the property line abutting the Woods' property, but we will immediately take steps to deal with that too. So, we did do a great deal of landscaping around the premises.

MR. SMITH: Does the Board have any questions?

All right. Thank you very much. Well, one further question -- in the new Children's Hospital Facilities, there is planned psychiatric facilities, is there not?

MR. SASSER: In the new Children's Hospital building -- No, there is not.

MR. SMITH: There is no planned facilities for Children's Hospital?

MR. SASSER: No, no. Children's Hospital had an agreement until recently with Hillcrest, which is a children's facility adjacent to Children's Hospital. Now that children's facility had accommodations for four children in residence but was entirely, really, a day program. There are no plans for a psychiatric unit, to my knowledge to this date, in the new hospital and I've seen the plans.

MR. SMITH: Well, you're more familiar with it than I am. All my efforts have been trying to raise money for it but I was under the impression there would be some psychiatric facilities sited on Urban Street.

MR. SASSER: (interposing) No, I just spoke to the Clinical Director for the psychiatric program, out-patient program for Children's Hospital, Dr. Nashvites, he tells me that they've had to cut down their time at Children's Hospital because of this change in their relation with Hillcrest. One other point you asked about before, which I don't believe was answered, and that is total number of beds. You asked about the relationship of bed capacity for psychiatric and convalescent. And, if I could just take a moment to clarify that, I think it might be of some use. We have, we have had up until now, and I sincerely hope we'll have an opportunity to prove to you that we can maintain this the proper way,-- a hundred psychiatric beds for the psychiatric program. Now, although the

facility itself has the capacity for 240 beds, you have to be aware that we were never licensed by the State for more than 175 nursing home beds. That is why we could never take more than 175 nursing home patients even though there was capacity for much more. We have reduced the number of nursing home beds functionally now for two reasons. One is, that we have not had the referrals. We have not turned away any patients. Secondly, in accord with the recommendations that we have been given by the State and by the County officials for reorganizing the use of space for complete separation, we have been planning on the use of this space so that we would have approximately 140-145 nursing home patients which also is about the level of which we're getting referrals. We haven't turned anyone away and the other is space for the psychiatric program. So that, totally, we would never be using more than 240 beds for the entire facility under the -- 145 of which, 140 of which would be convalescent and up to 100 which would be psychiatric.

MR. SMITH: (interposing) That wouldn't leave you 100 psychiatric if you had 140 beds; you only had a permit from the County for 222 beds.

MR. SASSER: 220, you're quite right; I'm sorry I got the numbers mixed up, confused.

MR. SMITH: So actually, you'd be over your number.

MR. SASSER: We would not be able to have more than 220 total patients and 20 off. Of those patients, we would never go beyond 100 psychiatric, or correspondingly, go beyond 120 convalescent with complete separation. Now, one never runs 100 per cent occupancy for any facility anywhere that I know of in the Washington-Metropolitan area. Our experience in the convalescent home, and I know that people have been telling me that there is an enormous need for convalescent facilities, our experience with the convalescent home is that we have not been turning away patients. I have been part of the discussions around the need for new facilities and the construction of facilities in the Commission and I've been at the hearings of the Health Advisory Council. But, we have not been turning

away nursing home patients. We have been turning away psychiatric patients.

MR. SMITH: Do you participate in the Medicare program?

MR. SASSER: We do participate in the Medicare program.

MR. SMITH: There was some reference that you are no longer/able to ^{were} participate because your authority had been withdrawn is not correct then, sir.

MRS JAKABOSKI: My Medicare patients were on the three north side. Now, that is the side that will be part of a psychiatric unit. Those patients' beds are Medicare beds. In order to put that unit on the whole one side, I had to decertify those beds. Now, I don't know whether anybody here understands that or not.

MR. SMITH: (interposing) They're no longer certified for Medicare patients.

MRS. JAKABOSKI: That's right. I had to request de-certification to please de-certify me so that was-- yes, it was my choice -- so that the building would be split in half so to speak, one side the nursing home, the other side the mental health.

MR. SMITH: So you really don't take Medicare patients anymore?

MRS. JAKABOSKI: No, I can't because I de-certified.

MR. SMITH: In other words, you no longer take Medicare patients.

MRS. JAKABOSKI: Not until everything is reorganized and I put in for recertification.

MR. SASSER: Now, please understand that it is not an intention here not to. The issue is, when beds are certified by the State for Medicare and for what they call I.C.S., specific beds in a given building location are certified, not the number of beds or the program but these two beds, these ten beds in X place.

MR. SMITH: I think we understand all that. I think I'm beginning to

understand this too that this is -- the psychiatric thing is a far more profitable thing than the Medicare beds and for that reason you switched from greatly needed care apparently to one that is paid for.

MR. SASSER: Mr. Smith, I'm afraid that isn't correct. That is not correct.

MR. SMITH: Then, let's argue that point. You argue that point.

MR. SASSER: Let me try to make a point to you about that, because I think I've been involved in health care for a long time and I know a good deal about the cost and the cost effectiveness of it. The private nursing homes in the area that are running a high census and are doing well and have a proportion of private patients and proportion of medicare patients as they all do, are making a much greater percentage of profit than any private, for profit hospitals or psychiatric hospitals that I know of in the area. Our psychiatric program, at this point, is running at a loss because of the investment we have to make in staff. Although we charge 60 dollars a day which, incidently, is 30% lower, 30% lower than any other private psychiatric program, non-profit or profit, in the Washington-Metropolitan area, 30 % lower, -- although we charge 60 dollars a day which is much more than we charge for a nursing home patient the staff costs and the costs of care are much more, are much higher proportionately for the psychiatric program than they are for the nursing home program. The costs of the nursing home program have been well established. They are in many ways custodial in nature, unfortunately, as you know, since many, many patients in a nursing home are really bedridden and require certain routine functions of a custodial nature whereas psychiatric patients require an active, therapeutic program that is very demanding and very costly. The salaries you have to pay for trained staff that work in the psychiatric program are much, much higher than what you pay for trained people in the nursing home field, some of it nature of the industry, if you will.

It is not true that the psychiatric business is more profitable than the nursing home business. If a psychiatric program is properly done with adequate staffing and adequate concern for patient care and active treatment, it is not more profitable. The costs are much, much higher. Now, if you have question about that, you can refer to the experience of the other psychiatric facilities in the Washington area. For example, Fairfax Hospital recently, during this past year, increased its charges for the care of the psychiatric patient to 110 dollars a day, 110 dollars a day.

MR. SMITH: But this is an acute patient...

MR. SASSER: (interposing) Yes. But we are providing, but by the very fact that that's an acute patient and we have to provide things like school services and other things, our costs can be higher or at least as much as those of an acute psychiatric hospital facility. It's one of the variabilities that's there. They require less staff than we do. They also have adults which require less staff than children and adolescents. A hundred and ten dollars a day. Washington Hospital Center charges 90 to 100 dollars a day. Psychiatric Institute charges 85 to 100 dollars a day. I think you'll find that most of the facilities around charge considerably more. I think the only exception is probably the Northern Virginia Medical Health Institute which is State subsidized. That doesn't cost less; it's just that the taxpayer is paying for it through a different route. Now, we feel that we're doing a very simple community service by being able to provide services at 60 dollars a day and providing all these other related, ancillary services for children and adolescents. We're not making more profit on that than we're making on our nursing home. I mean, that's a common conception that's been floating around; it's been floating around the neighborhood. It's due, I think, through the ignorance of the cost of health care and what goes on. We're are not making more; we're losing money. It's going to take us another year because of what needs to be put into all of this to even break even

with that psychiatric program; whereas, with a nursing home program, nursing home operators in the area are making ten to fifteen percent profits on their bill of sale. Now, that's the reality of the thing. One other comment I'd like to make, I think, in all fairness, because of the rumors that have been floating around about this, in a way we're in a funny position. We're very much on the defensive. Our experience has not been totally without problems. We're trying to overcome those problems the best we can. We're putting a great deal of staff resources and money into doing that. We've gotten some outstanding psychiatrists to work with us like Dr. Curcio who has to believe in the think to be involved in it. We've had others come out and work with us and spend time with us and they're continuing to do so. We're trying very much to comply with what the regulations are. We are willing to immediately comply with the recommendations of the State and the local Health and Fire Department. We're trying to learn to live effectively with our neighbors. But we have been in that kind of defensive posture. We had a meeting with the neighborhood, with representatives of the civic associations, in fact, with the three representatives that spoke today. We had a meeting with them last week. We talked about the problems; we tried to communicate our attempt to right the problems. They told us quite frankly that they were against the nursing home at the beginning, that they fought the use permit for the nursing home, that they fought the use permit for the psychiatric permit and they were going to fight it again because they don't believe there should be any kind of health institution there. It's an encroachment on their residential neighborhood. That's their feeling; they were frank about it. We talked about the problems of the dogs that are kept next door and the communication problem that we have had with Mr. Woods. The leaders of the civic associations laughed and said everybody's got those same problems; we've had problems with his dogs barking; he complains about everything; he's always been a problem. We've made attempts to communicate with him. We will

continue to do this. I want to try to communicate with you our problem in trying to get on top of this, not just the program control and complying with the law and making the necessary separation changes but also the problem of anxiety and communication with the neighborhood. We are willing to work with them closely. We've learned a lot from this. We're going to continue. What we ask is that you give us a chance to demonstrate that we can do this. Thank you.

MR. SMITH: Thank you very much.

MR. KELLEY: Mr. Chairman.

MR. SMITH: Mr. Kelley.

MR. KELLEY: Do you have any other operations, the same, comparable, under the American Health Institute?

MR. SASSER: Yes. In the State of Virginia, we have a facility in Hampton, Virginia. We have a facility in Newport, Virginia. We have three facilities in Richmond. We have a facility in Petersburg, Virginia and we have Barcroft. We've been in Virginia since the very inception of the organization. I must say that developing health care is not without its problems. God knows there are many problems with it. We have tried in all of our facilities to overcome those problems, to run a quality operation, to live well with the neighborhood and with the community. I think you'll find, if you check in these other communities, that our record of sincerity has been a good one, in all of these communities. And, we have been in these communities now for four or five years.

MR. SMITH: Mr. Stevens, do you have anymore now to speak?

MR. STEVENS: No, Mr. Chairman, I think really that Dr. Fishman has summed up as well as can be summed up for American Health Services and Barcroft Institute, where they are today and where they want to go. I think from the point of view of what physically would be accomplished within the Institute to eliminate the problems that brought this hearing or the initial action of the Board here in

the first place, you have the communications from Dr. Miller and Captain Peck. The physical separation will be accomplished, I think, when I last talked to Dr. Miller, Dr. Miller said that it was his recommendation, the recommendation he intended to make to the Board that you, perhaps, keep this under surveillance for 30 or 60 days to give American Health Services an opportunity to accomplish the physical separation and so they come back with it in place and not merely the plans having been approved by the -- or in the process of approval by the County and State. Having said that, the other problems, it seems to me are-- are frankly more psychologic than they are physical. And, some of those problems, we may never be able to solve.

MR. SMITH: Can you tell me how many rooms are available on the third floor of this building?

MR. STEVENS: Rooms?

MR. SMITH: Yes. How many bed facilities are available.

MR. STEVENS: Well, as Dr. Curcio has just described, the third floor north-- now, the building will be split down through the front corridor on the --the north wing is going to be the psychiatric unit, with the classrooms and the treatment rooms on the first floor, presently, the residential rooms on the second floor and offices on the third.

MR. SMITH: The suggestion was that you put the adult psychiatric rooms on the third floor, is that not right?

MR. STEVENS: That is a suggestion. The suggestion of Dr. Miller and Captain Peck have made is that the building be separated vertically so that one elevator serves the psychiatric unit, the other elevator serves the nursing home unit. The classrooms, the residential uses and the office facilities are stacked vertically and that there is no need to go around the nursing facilities to get to, to and from, residential facilities and classrooms and offices. We think that

can be worked out with the State; that was the suggestion the State had made.

MR. SMITH: Thank you very much. This will complete the public hearing. We'll make it part of the record the letter from Mr. Don Ewing, Mrs. Massey, and the other correspondence from Mr. Hamlet and the other State officials in connection with this. Does the Board care at this time to make a decision on this revocation? It seems to me/ ^{that} I'd like to have a little time to digest all this information we were given. Secondly, I'm not yet quite clear. The State has one plan they've suggested; you have another that you've come up with.

MR. STEVENS: Not that we've come up with -- Dr. Miller and Capt. Peck.

MR. SMITH: Well, Dr. Miller and Capt. Peck are only making suggestions, probably. The State, of course, is in control and has the licensing procedure here in consideration. The public hearing is over. We won't take any more testimony.

MR. STEVENS: (inaudible -- off mike)

MR. SMITH: I would suggest that before you do anything concrete that you await the Board's decision in this matter.

MR. KELLEY: I am amazed at what I have heard here today and I agree with you, I think we need a little time to digest this and there is some stuff here I haven't read and I feel the Secretary -- I'm sure she is tired. Do you want to take a 5 minute recess? I am willing to discuss this out in the open, but I think she needs a recess. I have nothing to hide, but I am amazed at what I have heard here today in an operation of this type. Mr. Fishman tells us that he has been President of this for a year and a half and he was over looking at the fence today and he doesn't know whether the poison ivy is on his side and another thing -- the garbagebins, here is something they can move out in 24 hours and it's been 60 days. There are so many things involved here. We are going to

to have to weight out the pros and cons.

MRS. JAKABOSKI: (From the audience) May I say something (inaudible)

MR. SMITH: You are out of order Mrs. Jakaboski. This is at Board level for Board members only.

I am quite concerned too and I question whether the psychiatric facility in the same building with the convalescent unit is compatible at this point. Now as far as the recess in order to give the Secretary or Clerk an opportunity to rest her arm it's way over due. Matter of fact, we should have recessed an hour ago. She's been changing hands and sitting on one and trusting the other. The Board will recess for 15 minutes, return and complete the after item agenda for today. We'll defer this revocation to the first meeting of October 1973. Discussion on the resolution.

MR. RUNYON: Mr. Chairman.

MR. SMITH: Mr. Runyon.

MR. RUNYON: Do you want to look at this place?

MR. SMITH: I don;t necessarily want to look at it; I just want to read some of the information we have here that I haven't had an opportunity to go over because we just got it today.

MR. RUNYON: Well I wouldn't want to make a decision today anyway but I just wondered if you wanted to make a visit to it...

MR. SMITH: Well I think each Board member, those who are not familiar with it and want to go up and take a look at it certainly should do so. If they feel this will help in their decision. Further discussion? If not, those in favor of the resolution to defer will indicate by saying aye.

ALL MEMBERS: Aye.

MR SMITH: Those opposed, no.

No Response.

MR. SMITH: The vote's unanimous to defer as stipulated.

MR. STEVENS: When is the first meeting in October?

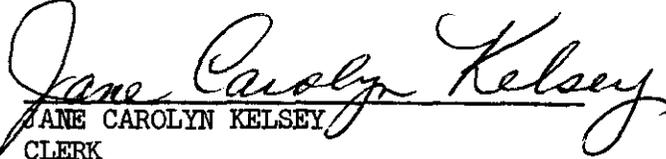
CLERK: The tenth of October

MR. SMITH: The tenth of October. I should have so stated, Mr. Stevens.

This is for decision only. The record's closed.

Final
Page
for 373A

I hereby certify that the foregoing transcript is a true and accurate transcript of the hearing of this case before the Board of Zoning Appeals. This was taken from the records of the proceeding and the shorthand notes taken by me.


JANE CAROLYN KELSEY
CLERK
BOARD OF ZONING APPEALS

SERGASCO, INC., app. under Sec. 30-7.2.10.2.1 of Ordinance to permit remodeling of existing gasoline service station, 2600 Sherwood Hall Lane, 102-1((7))17-B, Mount Vernon District (C-N), S-120-73 (Deferred from 7-18-73 for proper notices)

Notices to property owners were in order.

Mr. Runyon made a motion to approve this application the way the applicants had presented it.

Mr. Smith asked if he was not going to deny the use of the State Inspection Bay.

Mr. Barnes stated that that was the way he would like to second it.

Mr. Baker stated that he would like to ^{have} three bays with the State Inspection Bay, but it worried him with the position of the fire hall and the library there the way it is, because cars do line up to get into a State Inspection Bay. He stated that he could show the Board other stations that have bays that are used for State Inspection Stations that line up at the end of the month. He stated that he could not go along with this Inspection Bay on this small lot.

Messrs. Runyon and Barnes voted Aye; Messrs. Baker and Smith voted No; and Mr. Kelley abstained.

The motion died by virtue of the tie.

Mr. Runyon stated that he would like to offer a substitute motion to exclude the Inspection Bay as he did not want to see this entire application revoked.

In application No. S-120-73, application by Sergasco, Inc. under Section 30-7.2.10.2.1 of the Zoning Ordinance, to permit the rebuilding of the existing gas station to a 3 bay station on property located at 12600 Sherwood Hall Lane, also know as tax map 102-1((7))17B, Mt. Vernon District, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 18th day of July, 1973.

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

1. That the owner of the subject property is Sergasco, Inc.--Atlantic Refining Company.
2. That the present zoning is C-N.
3. That the area of the lot is 17,531 sq. ft.
4. That compliance with all county codes is required.
5. That site plan approval is required.
6. That the service station is operating under Special Use Permit #9997, granted January 24, 1961.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I Districts as contained in Section 30-7.1.2 in the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plans submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes

in signs, and changes in screening of fencing.

4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMITS AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the non-residential use permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. The station is to be of all brick colonial design.

7. There shall be no state inspection conducted onsite.

8. There shall be no storage of vehicles or rental or sales of vehicles on this site.

Mr. Baker seconded the motion. Mr. Smith asked that the condition that the premises be kept in a neat and orderly manner. Mr. Runyon and Mr. Baker accepted this condition. The motion passed 4 to 0. Mr. Kealey abstained.

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M. S. GHAUSI AND C. S. ROBERTO -- Request for an out of turn hearing.

Mr. Ghausi appeared before the Board to ask them to reconsider his request for an out of turn hearing. He stated that the contractor has refused to do any more work on the house until after the outcome of this hearing and the roof is not completely on, therefore, water can get into the house. He stated that he did not know why and how the mistake was made. He stated that he would have liked to have the house back further. He stated that he had a two acre lot, so there was plenty of room. The house is on a private road that serves six houses. The mistake was made after the building permit was issued. He stated that he is now renting a house, but he will not be able to continue to rent this house as the owner plans to return to this area.

Mr. Smith asked who did the survey work.

Mr. Ghausi stated that Mr. Jerritt did the survey work.

Mr. Smith stated that both Mr. Jerritt, the surveyor, and Mr. Roberto, the builder, should be present at the hearing.

Mr. Smith asked Mr. Ghausi if he had contracted with Mr. Roberto to build the house in conformity with the County Code and now you find out that it is not in conformity with the County Code.

Mr. Ghausi stated that that was correct. He purchased the land and contracted to have the house built.

Mr. Covington stated that the Code says that the house must be 75' from the center line of the street. It is only 64.4', therefore, he needs a 10.6' variance. This will not impact anyone.

Mr. Smith stated that the earliest date that this could be heard would be October 17.

Mr. Baker so moved.

Mr. Runyon seconded the motion.

The motion passed unanimously to give Mr. Ghausi an out of turn hearing for October 17, 1973, at 12:20 P.M.

Mr. Runyon reminded Mr. Ghausi that he must notify five property owners of this hearing and two of these property owners must be touching the property in question.

Mr. Ghausi stated that he would do this right away.

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MILDRED FRAZIER -- Out of Turn Hearing Request.

Mr. Smith read a letter from Mrs. Frazier requesting an out of turn hearing for her school. She would like to have additional students.

The Board granted this out of turn hearing for October 31, 1973.

Mr. Smith told Mr. Covington that the Board should have a report as to whether this School complies with the Amended Ordinance relating to private schools.

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FAIRFAX EDUCATIONAL ASSOCIATION, INC. V-58-71

Mr. Smith read a letter from them requesting that the Board remove the stipulation from their Special Use Permit that requires them to pave their parking area and driveway.

They wanted to wait until they build the new building before paving.

Mr. Smith stated that they could not waive this requirement.

Mr. Covington stated that under these circumstances, they would have to tear up the paving in two or three years.

Mr. Smith stated that these circumstances have a way of being planned for three years, but going on indefinitely.

Mr. Smith asked how the Board could waive a specific requirement of the Ordinance.

Mr. Covington stated that this is not a specific requirement of the Ordinance.

Mr. Smith stated that he thought the Ordinance states that all roadways and parking lots must have a dustless surface. He stated that he did not feel the Board has the authority to grant this.

Mr. Barnes moved that the Board deny this request.

Mr. Baker seconded the motion. The motion passed 4 to 0, Mr. Runyon abstained.

Mr. Smith stated the applicant should be so notified along with the information that the Board does not have the authority to waive the requirement of the ordinance as to dustless surfaces in Special Use Permit applications.

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JEFFREY SNEIDER & COMPANY, S-149-72, Recreation Club House incident to PAD, existing bldg.

Mr. Smith read a letter from Harold Miller, attorney for the applicant, requesting a 6 month extension on the above-captioned case as the people who own the house cannot move out until December.

Mr. Baker so moved that this request be granted.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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Mr. Baker moved that the Minutes of July 11, July 18, and July 25, 1973, be approved with minor typographical corrections.

Mr. Kelley seconded the motion.

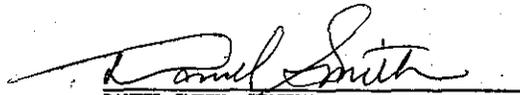
The motion passed unanimously.

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The Board adjourned at 7:00 P.M.

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By Jane C. Kelsey
Clerk


DANIEL SMITH, CHAIRMAN

APPROVED October 24, 1973
Date

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The Regular Meeting of the Board of Zoning Appeals Was Held On Wednesday, September 26, 1973, in the Board Room of the Massey Building. Present: Daniel Smith, Chairman; Loy P. Kelley, Vice-Chairman; George Barnes; Joseph Baker; and Charles Runyon.

The meeting was opened with a prayer by Mr. Barnes.

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10:00 A.M. - ANDERS E. E. LJUNGH, app. under Sec. 30-6.6 of Ord. to permit addition to house closer to side property line than allowed by Ordinance, 7705 Elba Road, 102-1((2))14 and ((19)) Lot A, Mt. Vernon District (R-17), V-167-73

Mr. Richard A. Bartlee, attorney for the applicant, testified before the Board.

Notices to property owners were in order. The contiguous owners were L. W. Johnson, 7707 Elba Road, Alexandria, and Bart Yaeger, 2412 Brentwood Place, Alexandria, Virginia.

Mr. Bartlee stated that there is an error on the plot plan submitted to the Board. It lists the property as 7707 Elba Road and it should be 7705 Elba Road. He stated that the lot is an unusual shape. It is pie shaped. Because of the placement of the house on the lot, it would be difficult if not impossible to put this addition any place else on the lot. The front yard is very small and there is a driveway and garage on the other side. He asked the Board to note in the file that the property owner at 7707 Elba has indicated knowledge of the application. Also, the neighbor who lives directly across the street has indicated approval of the application. The applicants have owned the property for two years and they do plan to continue to live there. The addition is for their own use and not for resale purposes. They are expecting an addition to their family that will require additional space. The construction of the addition will be frame, compatible with the existing structure.

There was no opposition to this application.

In application No. V-167-73, application by Anders E. E. Ljungh, under Section 30-6.6 of the Zoning Ordinance, to permit addition to house closer to side property line, on property located at 77-5 Elba Road, also known as tax map 102-1((2))14 & 19, County of Fairfax, Virginia, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 26th day of September, 1973, and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact

- 1. That the owner of the subject property is Anders E. E. Ljungh.
- 2. That the present zoning is R-17.
- 3. That the area of the lot is 14,573 square feet.
- 4. That the request is for a variance of 7 ft. to the requirement.

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

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:

- (a) exceptionally irregular shape of the lot,
- (b) unusual location of existing buildings on lot.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and specific structure or structures indicated in the plats included with this application only and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

3. Architecture and materials to be used in proposed addition shall be compatible with existing dwelling.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, residential use permit and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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10:20 - GULF OIL CO., app. under Sec. 30-7.2.10.3.1 of Ord. to permit gasoline station and car wash, 5520 Franconia Road, 81-4(1)70 and pt. 71D, Lee District (C-D), S-168-73

Mr. O. G. Cramer, real estate representative from Gulf Oil, represented the applicant. He stated that Gulf will build a station on this property. Tremarco Corporation is a wholly owned subsidiary of Gulf. Gulf Oil's officials are the officials of Tremarco. The Vice-President of Gulf is the Vice-President of Tremarco, etc. Gulf Oil handles all the transactions of Tremarco and it is really a property holding corporation. This request is for the expansion of the existing location.

Mr. Smith stated that the Board needs some clarification on Tremarco because of the contingency contract on the other property. He asked if this property will be in the name of Gulf or in the name of Tremarco.

Mr. Cramer stated that if this application is approved and the sale is finalized, the package will be taken out of the Tremarco Corporation and placed in the name of Gulf Oil Corporation and the land will be combined into one.

Mr. Smith stated that the Board needs something in the file showing this transaction or a memo as to what will take place and that all of the land will be deeded to Gulf Oil Corporation, or a certificate of Tremarco Corporation, whichever they plan to do.

Notices to property owners were in order.

Mr. Cramer stated that this station will be constructed of brick with a mansard roof. It will have three bays opening to the front with a canopy. The car wash building will be completely hidden from the road. The car wash building will be constructed of similar materials. There will be four pump islands. 45' will be taken from this property for road widening.

Mr. Smith stated that they were doubling their land area here. Mr. Smith stated that they should have new plats showing the new structures. They can do away with the existing structures since they will be removed.

Mr. Kelley asked if they had a free standing sign on this property now.

Mr. Cramer stated that they did. They would like for the sign to remain and they are asking for a variance to the sign ordinance to allow it to remain.

Mr. Smith stated that the Board cannot vary the sign ordinance.

Mr. Covington stated that they cannot move the sign at all and continue to have it. The ordinance clearly states that if you move it, you loose it.

Mr. Smith stated that this is a question they would have to do a little research on.

Mr. Covington stated that if they leave it where it is, they can keep it. The same thing happened down on Route 1. They lost all their free standing signs down there.

Mr. Cramer stated that the reason they have to move the sign is because of road widening. They are dedicating the property for the road widening at the request of the County.

Mr. Baker moved that the Board defer this case until October 17, 1973 for new plats and the other additional information that Mr. Smith referred to with regard to the Corporations.

Mr. Barnes seconded the motion and the motion passed unanimously.

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10:40 - PEOPLES BANK & TRUST CO. OF FAIRFAX, AND J. D. COKER, W. A. MANN & J. K. PICKARD, app. under Sec. 30-6.6 of Ord. to permit temporary bank building to remain closer to front property line than allowed by Ordinance, 1900 Elkins Street, 102-3(1)44D, Mt. Vernon District (C-N), V-169-73

Mr. John Berberick, civil engineer with Holland Engineering, represented the applicant.

Notices to property owners were in order. Kwik Check Realty and Mr. Stubbs and Mr. Sprague were the contiguous property owners.

Mr. Berberick stated that back on June 16, 1970, the BEA granted a waiver for the above applicants to allow them to use a temporary bank building closer to the property line than the ordinance requires. They wanted to use this temporary bank while the shopping center directly in the rear of the temporary bank was being built and they had and still have a firm commitment on space in that shopping center for their bank. However, the developer and owner of the land ran into problems and did not build the shopping center. One of the terms of the variance was that the bank could occupy this temporary building no longer than May, 1972 and unfortunately that has expired. They would like to continue to use this temporary building for their bank until the shopping center can be built. It is now held up by the sewer moratorium and there is no way they can go forward. They request that the Board grant an indefinite extension of this 50' setback waiver.

Mr. Smith stated that the Board could not grant an indefinite extension on this waiver of the 50' setback requirement for a temporary structure. He asked when the shopping center will be constructed.

Mr. Berberick stated that he did not know.

Mr. Reynolds, Preliminary Engineering, stated that the site plan waiver was granted November 16, 1972, and in preparing the staff report for this case, he stated that he researched the sewer availability on this site and as the site plan waiver stated that when sewer becomes available, they were to commence construction in six months. Well, sewer is available and there is no sewer moratorium on this property nor was there a sewer moratorium there in 1972 as far as he could determine. There may have been in 1970.

Mr. Don Beaver, Zoning Inspector, spoke before the Board. He stated that ARCO gasoline station and this bank are two separate developments, but parallel to each other. He stated that he had spoken with Dr. Coker, but had not been given any timetable as to when the construction would begin.

Mr. Berberick stated that Dr. Coker is not present today and they do not know when he will begin construction. There has been some talk of his selling this land to another developer.

Mr. Alfred Powell, Jr., 8144 Hallick Place, Springfield, from the Peoples Bank & Trust Company, spoke before the Board. He stated that he also had talked with Dr. Coker, but Dr. Coker did not give him a timetable as to when development would begin on this property. The bank has a valid contract to move into this shopping center when it is completed. He stated that they service 1000 accounts in the area and a number of civic associations. There is a 7-11 and an ARCO station nearby.

Mr. Runyon stated that it is obvious that this need this extension for another year.

Mr. Smith stated that this is not an extension as their original variance has expired. This is a new variance. The Board must ascertain how much longer they will need this variance.

Mr. Charles E. Olson, 8607 Pilgrim Court, spoke in opposition to this application. He stated that his statement is on behalf of many homeowners in this area who are affected by this bank. The residents around the bank are opposed to the continuation of this bank. He stated that there is a letter in the file from the President of the Stratford on the Potomac Civic Association, Section 4 and Keene Mill Development and there are five other representatives who would like to take time to oppose this and speak to the case. The bank has been located at this location in violation to the Zoning Ordinance. He stated that the cars that come to this bank appear to be parking in the living room of the closest home. They submitted pictures to show the problem. There has been no action to construct a permanent structure on the land. This building is shabby, the bricks are falling off, there is trash all around. The owners have been notified by the County Health Department to clean up the area, but they have not.

He submitted a Petition with 45 signatures opposing this variance. He submitted more pictures showing the dumping area in the woods.

Dr. Frank Harding, President of the Riverside Gardens Civic Association, which is located next to the bank property, spoke before the Board in opposition to this variance. He submitted a copy of the Resolution passed by his civic association in September stating

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that they were aware of the desires of this bank to provide service to the community. However, in view of the health hazards caused by the property and the general disrepair of the bank, they oppose the granting of this variance. They realize that it may not be the fault of the bank people, but the conditions do exist. The bank is in disrepair. There should be, at least, a fence put in and the bank should try to provide a better service to the area.

Cdm. Charles Stalzer, 1706 Elkins Street, spoke in opposition to this application. He stated that this bank site is only 2 miles from George Washington's home and the area should be very beautiful and this is a slum. He stated that they have asked the bank people to police the area and pick up the papers and the bank member stated that he wouldn't do it and he wasn't going to ask his employees to do it either. There is no fence between the 7-11 and the bank, nor the bank and the houses next door. He stated that they hope to get injunctive relief from this and they need hope in restoring their neighborhood. There was a fence, but it has been torn down.

J. W. Shirley, 8605 Pilgrim Court, spoke in opposition to this application. He stated that his house faces the property in question. He asked how it was allowed to operate without a valid waiver.

Mr. Smith stated that he could not answer that question as that was in the Zoning Administrator's Department. He asked Mr. Covington if his office had issued a violation notice on this property.

Mr. Covington stated that they did.

Mr. Shirley stated that this condition existed 16 months before this hearing. He stated that the bank has an agreement with the 7-11 that they will share the parking lot. Therefore, this Agreement makes them responsible for cleaning up the mess made by people frequenting the 7-11 and dropping their trash all over.

He requested that the bank chain off the parking lot after hours.

Mrs. Christopher Cross spoke in opposition to this application. She stated that the trash is so bad in this area that rats have been sited. There have been problems with drugs at this location. She stated that she happens to bank at that location, but she could go three miles and use their other bank and she would rather do that rather than have this facility continue in its unsightly manner.

Mr. Smith stated that there is a letter in the file from Mr. Price of the 7-11 to Mr. Olmi of the bank dated May 27, 1970 regarding the parking lot agreement.

Mr. Wendell Carricker, 8606 Pilgrim Court, spoke in opposition to this application. He stated that his property backs up to the road which is fronting the bank. The neighbors are frustrated by the conditions that exist at this location and the way the bank is kept in such an unsightly manner. When he purchased the house three years ago, he was told that there would be a small professional building at this location. The neighbors have not expected this temporary bank to continue for this long a time. These conditions do not contribute to the value of their property, in fact, it detracts from their property values. Cars accumulate in the parking lot in the evenings are not just local people shopping at the 7-11. They did contact the Health Department regarding the trash and refuse that has been dumped in the area behind the bank and they were given 16 days in which to remove it. It has not been done as of today.

Mr. Beaver, Zoning Inspector, stated that he made an inspection of this property on June 27, 1973 and found it pretty much in the same state as the photographs show. He stated that he sent Dr. Coker a letter advising him to have it cleared up. He talked with Dr. Coker on the 24th of September and Dr. Coker stated that he couldn't get anyone to clean it up. He stated that he informed Dr. Coker that if he didn't clean it up within 15 days the County would have to do it and send him a bill. Mr. Beaver stated that he called John Newton and they have requested the Department of Public Works to clear the property. Dr. Coker did clear it up last year, but it has redeveloped.

Mr. Smith stated that it is his property and his responsibility to keep it clean. He stated that he was sure the bill would not be enough to compensate the County for doing the work and he did not feel the County should have to do it. Perhaps Dr. Coker is not willing to pay anyone enough to do the job.

Mr. Sprague, 8612 Pilgrim Court, immediate in back of the bank, spoke in opposition to this application. He stated that his property abuts the bank's property. The problem comes from the 7-11 and the prevailing winds blow it through the bank property and he ends up with most of it. There is no fence between this property and the 7-11. The bank started to put up a fence right on the property line and they were stopped. It was a 6' redwood stockade fence.

Mr. Mitchell stated that they were stopped probably because the fence was not in the location that was shown on the site plan for the shopping center. It must be setback a certain number of feet from the property line, 25', and they must put in at least standard screening.

Mr. Smith stated that the BZA waived the 50' front setback requirement, but the BZA did not waive the parking requirement nor the screening requirement.

Mr. Smith stated that this should be checked into as this seems to be one of the biggest concerns of the citizens that the fence is not up. If the bank is allowing parking right up to a residential property line, then it is an understandable concern of the citizens.

Mr. Berberick testified in rebuttal stating that the Board has talked about two things: the conditions of the site plan waiver and the condition of the site of the temporary building. The site plan considered the ultimate development on the entire site and the conditions of the waiver calls for a fence on the property line. The Site plan calls for standard screening 12' off the property line, but it is the site plan waiver that permits paving up to 2' off the residential property line.

Mr. Smith stated that it was a very inconsiderate act on the part of the site plan people. That is certainly not in keeping with the site plan department. He stated that he was surprised that it was granted. Then the site plan waiver was granted based on a sewer moratorium that didn't exist. Therefore, there was no reason for the extension of the site plan waiver. He stated that he would like to talk with the people in site plan. He stated that he could understand that the bank is in the middle on this.

Mr. Berberick stated that the bank is established in the community. The bank has no connection with the 7-11 except for the parking agreement. It is a C-N zone and the bank is permitted by right in that zone. In good faith they made a contract with Dr. Coker to occupy a building that is supposed to be completed and he hasn't done that.

Mr. Smith advised the applicant to get together with Dr. Coker to clean up the property.

Mr. Berberick stated that there is continually new trash there. They have hired neighborhood boys to come and pick up the trash.

Mr. Smith stated that the Inspector just inspected and he said it still exists.

Mr. Powell stated that he knew the trash had been picked up because he himself had picked it up at times and he had also hired neighborhood boys to clean it up. He stated that they were not responsible for the rats. They are not responsible for the drug problem. They can't clear the parking lot off at night because it is in use. They could put a chain across the lot, but somebody is going to drive right through that chain. They did stop putting up the fence because Mr. Beaver called and told them to.

Mr. Baker moved that this case be deferred until October 17, 1973 and that the applicants obtain the information that is requested from Dr. Coker.

Mr. Barnes seconded the motion.

Mr. Smith asked that the motion be amended to have the Clerk request the presence of Dr. Coker in addition to the Bank's request of him to be present and explain when they will begin construction of the shopping center and why it has been delayed so long.

Mr. Baker agreed with this amendment. Mr. Barnes also agreed.

The motion passed unanimously.

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11:00 - MORTON S. TRUPP & THE PRINCESS CORP., app. under Sec. 30-16.8.3 of Ord. to permit erected sign to remain for coin-op laundry under or near pile-on sign, 7867 Heritage Drive, 70-2((1))2a, 2c, Annandale District (C-D), S-170-73

Mr. Trupp appeared before the Board. Notices to property owners were in order. The contiguous owners were Boyer & Webb, 781 17th Street, N.W. and American Fairfax c/o M. J. Duffy.

Mr. Smith asked if he leases property in the shopping center.

Mr. Trupp stated that he leases from Carl Freeman Associates.

Mr. Smith asked why this application was not made in the name of the owner.

Mr. Trupp stated that he has a letter from the owner stating that he could put up the sign.

Mr. Smith stated that this application is not in accordance with the Ordinance as the ordinance states that the BZA can issue a variance to that ordinance if it is located at the entrance of an arcade or an internal mall. He stated that this is a free standing sign.

Mr. Covington stated that the Board did this at the Graham Shopping Center. Mr. Smith stated that that was in an arcade. The sign at the restaurant in McLean, called Caesar's Forum, was also at the entrance of an arcade.

Mr. Covington stated that the ordinance is designed to help people, or stores, that could not be seen by the roadway.

Mr. Smith stated that it says an individual enterprise located within a shopping center would be so located as not to have frontage so as to be visible from the store. He stated that this applicant does have frontage visible from the store.

Mr. Covington stated that this store is not visible from the road.

Mr. Smith stated that there are several stores there and if the Board grants this one all five stores can come in and say they can't be seen from the road either.

Mr. Kelley stated that he did not think this sign is in keeping with the other signs that are there.

Mr. Smith stated that he remembered when this ordinance was adopted and it certainly wasn't adopted for this type of sign. It was designed to help interior stores.

There was no opposition to this application.

Mr. Trupp stated that the store could not be seen because there are trees in the way.

Mr. Smith read the letter to Mr. Trupp from the owner of the land, Mr. Freeman, which stated that they would approve the request under the conditions that it be removed by September 1st, 1973 or earlier; that the erection of the sign will not violate any County or State Ordinance or Law; and should any other merchants register complaints relative to the erection of the sign, it will be removed.

Mr. Smith stated that he was in violation to the Sign Ordinance and it is after September 26, 1973.

Mr. Kelley suggested that Mr. Trupp talk with all the people who have stores near him that also cannot be seen from the road and see if they can come up with a proposal to put all their signs under Peoples sign.

Mr. Smith stated that Peoples have used up all the space allocated for signs at this shopping center.

Mr. Runyon stated that he didn't think the Board has much choice in this case under the existing ordinance, but he would also like to see this man get together with the merchants and see if they can't come up with some proposal for an attractive sign. He moved that this be deferred until October 31, 1973 to give the applicant time to work it out.

Mr. Baker seconded the motion.

Mr. Kelley stated that since the sign is there in violation, he should remove it until the Board has made a decision if the decision is going to be that far away.

Mr. Runyon stated that he would like to change the time to October 17. and also amended the Resolution to request that Mr. Trupp comply with the terms of the letter.

Mr. Smith stated that the Board then is condoning the violation.

Mr. Runyon then reworded the Resolution to say that he would like to defer until the 17th of October.

Mr. Baker seconded the motion.

Messrs. Runyon, Baker, Kelley and Barnes voted Aye. Mr. Smith voted No.

The Board continued to discuss the placement of the sign.

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11:40 - BURKE VOLUNTEER FIRE DEPT., INC., app. under Sec. 30-7.2.6.1.2 of Ord. to permit addition of a community building to the Burke Volunteer Fire Department Inc. property, 9501 Burke Lake Road, 78-1(1)23 and 24, Springfield District (C-N), S-186-73 OTH

Mr. Wayne Niskenn, 10604 Warwick Avenue, represented the applicant. He did not know who the contiguous property owners were, therefore, the case was recessed until he could find out. Notices to property owners were in order. The contiguous owners were also notified.

In looking at the plats, the Board noticed that No. (3) of 3. stated that "Community Building facilities will be rented to organizations and/or individuals for miscellaneous functions (receptions, dances, reunions and etc.)"

Mr. Smith stated that that would not be allowed under Community Use.

Mr. Niskenn stated that the size of the building would be 115'x100'.

Mr. Smith asked what the type of architecture would be.

Mr. Niskenn stated that he had not seen the plans.

Mr. Kelley stated that the plats that are before the Board states that the building will be of brick. The roof will be cedar shake or metal, the plats state.

Mr. Niskenn stated that they are proposing to have 157 parking spaces. He stated that they have a well, but the septic tank will be removed and filled with concrete.

Mr. Smith asked if they would be allowed to construct the building over this septic tank area as long as they construct it with concrete.

Mr. Niskenn stated that they would be allowed to do this.

Mr. Niskenn stated that this is a non-profit organization. He stated that another organization might pay them \$50 or so for the use of the building.

Mr. Smith asked if this is a rental fee.

Mr. Niskenn stated that it is not a rental fee, it is a fee to clean the place up.

Mr. Smith stated that under community uses, the Board has prohibited these organizations from renting space to other organizations. He stated that any activity that raises funds under which the sponsoring organization has direct supervision is accepted, but this No. (3) 3. is not in keeping with the ordinance. This is on commercial land, but they cannot do this by right. Perhaps they should consider commercial recreation use and reapply, if they feel they want to lease or rent the premises to other people. If the Board should grant this use with that stipulation in it, then other people could come in and ask and expect to get the same thing. The Board would then have trouble denying it.

There was no opposition to this application.

Mr. Kelley suggested that that item (3)3 on the plat be marked out and signed by the applicant's agent, then the Board could go ahead with the rest of it.

The applicant crossed out No. (3) 3 on the plat and initialed it.

In application No. S-186-73, application by Burke Volunteer Fire Department, Inc. under Section 30-7.2.6.1.2 of the Zoning Ordinance, to permit addition of a community building to Burke Volunteer Fire Department, on property located at 9501 Burke Lake Road, also known as tax map 78-1(1) 23 & 24, Springfield District, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 26th day of September, 1973.

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is C-N.
3. That the area of the lot is 2.6951 acres.
4. That site plan approval is required.
5. That compliance with all county codes is required.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I districts as contained in Section 30-7.1.2 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. Architectural materials to be as indicated on plan.
7. Use to be limited to community uses for the benefit of the Fire Department.

Mr. Baker seconded the motion.

The motion passed unanimously.

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ANNUAL CONSIDERATION - VULCAN QUARRIES -- Report from Staff

Mr. Jack Maize, from the Staff of Zoning Inspections, gave the report for the annual review of Vulcan Quarries at Occoquan, Virginia. He stated that this annual review is required by the Special Use Permit that the Board of Zoning Appeals granted Vulcan in order to determine whether or not the conditions imposed on Vulcan by the Board of Zoning Appeals are being met. He stated that in general these conditions are being met; however, in three areas, it is necessary to continue to evaluate the quarry. These areas are air borne noise; blasting vibrations; and air quality.

With regard to Air Borne Noise, no monitoring has been performed inasmuch as the equipment has not been delivered. They have purchased a precision Sound Level Meter and Analyzer at a price of \$1845 and when it arrives the County will be able to monitor the peak overpressure from any blast at an occupied structure (.003 psi or 120 db, as well as 58 dba in residential or 65 dba in commercial areas).

Mr. Smith asked when it was ordered, and why was it taking so long.

Mr. Maize stated that it was ordered the 1st of 1973, but they had had to analyze many types of machines available since this is a new field for the Department and they had to make a comparison which took time. It took approximately 6 months to order and they check last week and it was estimated that it would be here in 2 weeks. It is an

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item of great demand and delivery is running most industries about six months.

Mr. Smith asked who would be operating this machine.

Mr. Maize stated that he would be as he has used similar equipment in the past. He stated that he may ask for some general training, but at the present time, he did not believe it would be necessary.

Regarding blasting vibrations, the County has acquired a seismograph and between the dates of March 1, 1973 and May 30, 1973, conducted an engineering study of 27 quarry blasts to determine what effect those blasts had on the nearest residential property and the Town of Occoquan. He stated that he did not observe all the blasts from March 1 until May 30.

He submitted two charts to the Board. He stated that Mr. and Mrs. W. Lynn are the closest residents. They live on Ox road about 500 to 550' from the quarry property. The Highway took a portion of their land and they have the small triangle at the base of the new bridge. The next nearest house would be over in the Town of Occoquan. He estimated that to be about 1,000 feet.

Mr. Maize displayed a chart indicating frequency versus particle velocity. When a blast occurs below the 2.0 in/sec. line, it is considered to be in a safe zone (he indicated on chart), and anything above that is considered to be in a danger zone. Now, minor damage occurs within the danger zone at 5.4 particle velocity per second as against serious damage occurring at about 7.6. The Vulcan Quarry is limited as to particle velocity by this Board of .4 inches per second. He, then, shows a chart indicating the 27 shots. They are indicated by the mean of certain data relating to the shot as against the average of that data.

He stated that what they wanted to determine is the effect the blasting had in a radius from the center of the blast out toward the Town. He presented a series of 5 charts, each with an increasing radius to show the effect on the Town at varying distances from the blast site. He stated that they selected 6 shots at Lynn's Store. The results of this indicate that: the average distance was 865' from the center of the blast; the average particle velocity was .326, just under the limits prescribed by this Board; the average weight of the explosive charge was 4712 pounds; and, the individual pound per delay of explosives was 296 pounds.

He then stated that they took all shots between 1000 and 1200 feet, which resulted in seven shots averaging 1097 feet. The data associated with this distance is as follows: a particle velocity of .177 in/sec.; an explosive weight of 4126 pounds; and, the pounds per delay was 286.

Using this same technique, the next chart showed a collection of 5 shots at a distance each between 1200 and 1300 feet from the blast site at an average of 1190. You will note that the particle velocity of each shot is well within the safe zone prescribed by the Board of Zoning Appeals and the average velocity of all shots is .184 in./sec.. In this case, the total weight of explosives was about 4000 pounds with 288 pounds per delay.

The next chart displayed was of six shots between 1200 and 1400 feet that came to an average of 1325'. Please note the following: the particle velocity is running well under the prescribed limitations and averages .16; the total explosive weight was 4190 and the explosives in pounds per delay was 320.

Mr. Smith asked if the item marked "river" is the Occoquan Creek.

Mr. Maize stated that it was.

He displayed another chart). This is the last of the "distance" charts. We took five shots that averaged 1400 feet. At this distance the particle velocity was .10. The total weight of the charge was 4120 lbs. and the pounds per delay was 333. This would generally encompass most of the downtown area of Occoquan (some 22 acres).

He stated that one might draw this conclusion, that in general, anyone living in that downtown area will not be affected extremely by the type of blast that has occurred during the 60 day study period. The one problem that is a control factor is the nearness of Mr. and Mrs. Wallace Lynn who live across the river from Occoquan. They are the nearest residents to the Quarry and the effects of the Quarry blasting in this area up here (he points to the ridge nearest to the Lynn property) which has occurred during the past 6 to 7 months, has affected them far more than anyone else within the Town of

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Occoquan. He showed a chart which showed three shots that were recorded at the Lynn home. The distance in feet is quite close, 666 feet average. The average velocity was .35. There was 4853 pounds of explosives used with a delay of 279.

Mr. Smith stated that the pounds per delay were running a little higher here. They exceeded 0.4 in one instance and the average particle velocity here is much higher than in the Town of Occoquan.

Mr. Maize stated that the Lynn home is a critical area to keep monitoring. Anything that is done within the Quarry will normally affect them most.

Mr. Smith asked about the water facility down there and asked if he had any reason to suspect any damage at all to any of the water facilities?

Mr. Maize stated that he had no knowledge of any damage.

Mr. Smith asked what the deepest point in the Quarry is.

Mr. Maize stated that it is 250'. He stated that as a result of this study, I have made two suggestions in an attempt to give a bit more margin to the .4 velocity that this Board has imposed on the nearest resident. (1) Limit Quarry practices within 700' of Mr. W. Lynns home to: 3 1/2 inch drill holes; 200 maximum of explosives per delay; and, in general, limit the total charge of 4400 pounds. The expected results would be a minus velocity. (2) Beyond the 700 feet of Mr. W. Lynn's home, they can go back to: 6 3/4 inch holes; 300# maximum delay with a total charge of 5500#.

Mr. Smith asked what the average size drill hole is of these testshots that he monitored?

Mr. Maize stated that two sizes, 3 1/2 inches and 6 3/4 inches, were used. They have 5 small drilling rigs and one large 6 3/4' drilling rig.

A spokesman for Vulcan stated that they would work with Mr. Maize to implement these suggestions in the near future.

The last area of the report today has to do with air quality. Mr. Maize stated that a sixty day study was conducted between February 22, 1973, and April 22, 1973, to determine whether Vulcan during the past year had made progress in reducing its contribution to the air borne dust in the Occoquan vicinity. Mr. R. M. Steward, Chief Environmental Engineer gave that report.

Mr. Steward stated that he is the Chief Environmental Engineer for Vulcan Materials Company, Birmingham, Alabama.

Mr. Smith asked if this study was done by Vulcan.

Mr. Steward stated that it was done by the Fairfax County Health Department. They supervised the testing under which he was giving the report. They met and mutually agreed on a test program. He submitted to the Board for the file a report called "Occoquan Dust Study Report".

Mr. Smith asked how this study that they have conducted over the past few months compares with the quality of the air that is being suggested by the State.

Mr. Steward stated that the primary standard for air quality is 75, with a secondary standard of 60. They have shown an arithmetic average of 86.8. The state standard is a geometric mean which would be 10 to 15 micrograms less than what an arithmetic average would give you.

Mr. Smith asked if they would be able to meet this standard within the next year.

Mr. Steward stated that the primary standard they would be able to meet.

Mr. Smith asked if they were attempting to meet the primary standards.

Mr. Steward stated that they are making every effort to meet these and to control any dust.

Mr. Smith asked what the time limit is as far as the State is concerned and how much more time the State has given them to meet these standards.

Mr. Jimmy J. Nelson, Chief of Monitoring, Air Pollution Control, Fairfax County, spoke before the Board. Mr. Nelson stated that the quality air standards are 60 micrograms as the primary and secondary for the State of Virginia at this time and an emitter that is not meeting those standards is required to have a compliance schedule in to the State with time for meeting these standards.

Mr. Smith asked if he had seen such a time schedule from Vulcan.

Mr. Nelson stated that he personally had not heard. He stated that he is in the monitoring division and the enforcement division handles this.

Mr. Smith asked Mr. Steward if they had submitted a time schedule for meeting those standards.

Mr. Steward that they had not as they had not been requested to submit such a schedule.

Mr. Smith stated that State law requires it.

Mr. Steward stated that it does, but this is not indicative of all Vulcan's pollution of 86.8 as shown in the report.

Mr. Smith asked if this means that they are not going to try to bring this particular facility into compliance with the State requirements.

Mr. Steward stated the results do not indicate that they are out of compliance. The particular area of the Town of Occoquan is out of compliance, but there is no way of showing what percentage of this is coming from the Quarry.

Mr. Smith stated that he wanted to go back again to the gentleman who is monitoring the air quality in the area. He asked Mr. Nelson if the air quality in this area is generally as good as it is anywhere else in the County or if it is worse.

Mr. Nelson stated that the data base is somewhat limited in the immediate vicinity of Occoquan. You have nine other stations throughout the County and it varies from up in the Dulles Airport area which is a remote area from about 47 micrograms to 61 to 63 in the Baileys Crossroads area. He stated that he did not have a high volume sampler with sufficient data to be reliable in the Occoquan area.

Mr. Smith stated that according to this test, the Occoquan area is a high area.

Mr. Nelson stated that according to this test, it is above the other areas in Fairfax County.

Mr. Smith asked the representative from Vulcan again if they had a time schedule or if they have even considered a time schedule being submitted to the State. He stated that the statement he made earlier is that the Town of Occoquan is not in compliance, but apparently Vulcan is adding to the problem down there.

Mr. Steward stated that air quality standards are not intended to be used as enforcement regulations against this specific type of operation such as their quarry. The intention is to regulate groups of sources to obtain this level of pollution within a certain area.

Mr. Smith stated that he understood this, but asked what else is in the Occoquan area that is causing this pollution other than the Vulcan Quarry.

Mr. Steward stated that construction activity and people in general were a contributing factor.

Mr. Smith stated that contributing factor, this "people in general" and "construction", is going on in all other sections of the County as well, but what other source is there in this area.

Mr. Steward stated that first the air quality standards are written as an annual mean. The report today is from a two month period and it happens to be in the spring. He stated that when the test is done over a year, they will see the numbers come down.

Mr. Covington, Zoning Administrator, stated that there are a couple of activities in that area that would contribute to this; one is the construction of and removal of earth in and around the water authority dam and the operation of the water authority and also the construction of the bridge that is going across the Occoquan.

Mr. Smith asked what is happening up at the Occoquan Reservoir at the present time.

Mr. Covington stated that they were repairing flood damage caused by the hurricane that we had last year. They are grading and moving stone.

Mr. Covington stated that the Federal Penitentiary is opening a landfill and they have dug holes in the ground 300 to 400 feet deep. He stated that 61 at Baileys Crossroads is the highest point in the County.

Mr. Steward stated that when you compare this 86.1 to the 60 standard, it would actually be 77.6 by geometric mean.

Mr. Smith stated that this concludes the annual review. He complimented Mr. Maize and the Health Department on the report and stated that it was an excellent report. He thanked Mr. Maize for his efforts.

Mr. Smith asked if all other conditions of the Special Use Permit were being met at the present time such as the seeding that was outlined in the permit.

Mr. Maize stated that it was to a degree. Shrubs and trees have been planted but some of the trees have died. Grass has been planted, but it is difficult to get that to grow. He stated that the Company is making a concerted effort to conform to the general plan of restoration. The Company, also, under his direction, is arranging to enclose the entire Quarry area in a fence.

Mr. Smith stated that the trees were rather small to begin with. He asked if they were attempting to replace the dead trees.

Mr. Maize stated that he did not think they had attempted to replace the dead ones at this time. They are going to have to change the type of tree. Mr. Coleman, the County's Soil Scientist, was down and they discussed it briefly, recently and he indicated that the Virginia pine is the hardy type of pine and they had tried to grow some white pine and there is not enough food, earth and moisture to keep them alive.

Mr. Smith asked if the gentleman from the Health Department had any suggestions as to what Vulcan could do in the Town of Occoquan to improve air quality other than what is now being done.

Mr. Nelson stated that they are undertaking a much more comprehensive testing program this year. There will be testing 10 times per month with a 24 hour sample. They will test in the Town of Occoquan, at the Reservoir, up the Occoquan Creek and at the Water Authority. In addition to the monitoring, which is high volume sampling monitoring, they are proposing to put in two meteorological stations so they can attempt to correlate wind directions, wind velocities with the particular loading that they obtained. They will have a weather station in the Town of Occoquan which is a portable mechanical station that will give them this data on a continuous data and also one at the Water Authority on the hill. The correlation between these two should give annual seasonal trends. They can give certain months that are high and certain months that are low. This will all be recorded and will have a statistical base of 120 tests per year where they had 25 to 30 tests this last year. That is basically the testing program that is the recommendation of the Health Department.

Mr. Smith stated that he felt this was an excellent program. Mr. Smith asked Mr. Spence, the attorney for Vulcan, if they had agreed to these recommendations.

Mr. Spence stated that they had.

Mr. Smith asked if they were going to comply with the two suggestions of Mr. Maize regarding the size of the drill holes.

Mr. Spence stated that they want to obtain the same result that Mr. Maize is aiming for and that this Board is aiming for and that is .4 at Mr. Lynn's home. They feel that there are other ways that it can be done. They would hope that this Board would not change the Permit at this point in time, but allow them the flexibility of working with Mr. Maize to work out a different way, perhaps, that would obtain the same results and yet allow them to have less damage to their procedures that they have down there and still utilize all of their equipment.

Mr. Smith stated that that is not a goal. They have to live within that goal and they have exceeded it apparently on one occasion.

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Mr. Spence stated that there were 32 shots taken and the permit says that they may exceed .4 on 1 out of ten shots. Three shots out of 32 exceeded .4, but none of them exceeded .6 which is within the letter of the permit. They have not violated the permit at all.

Mr. Smith asked if they had made these suggestions to Mr. Maize when they were discussing his suggestions.

Mr. Spence stated that they had discussed this.

Mr. Spence stated that he felt that Mr. Maize is agreeable to leaving the permit as it is and allow Vulcan to work with him to change their procedures; maybe not the specific ones that Mr. Maize made today, but the result will be the same as Mr. Maize is aiming at and that is the important thing.

Mr. Barnes stated that he felt that if they kept it at .4, they could get there any way they could.

Mr. Smith asked if they had an alternative suggestion. He stated that Mr. Maize made a specific suggestion to the Board.

Mr. Spence stated that they are now using the 6 3/4 inch drill with two holes per delay. It is possible they can cut that down to one hole per delay reducing the size of the charge that goes off at any given instance, thereby reducing the amount of the particle velocity at Mr. Lynn's home. He stated that there are a number of other ways that could be used.

Mr. Smith stated that the Board would prefer specific proposals.

Mr. Spence stated that for example it is about 500' from the face of that Quarry to Mr. Lynn's home and they would be willing to not use the 6 1/2 inch drill within 550' from the Lynn home. Outside of that 550', they would use it at varying numbers of times in each given destination, so as to arrive at the goal of .4 and these could be worked out with Mr. Maize.

Mr. Maize stated that what he had been trying to do over a period of a number of weeks is present these suggestions to the Company and they did not see fit to adopt. He stated that he didn't care what procedures they follow, or what practices they use provided that they get down to that .4 or less. He stated that the Company indicated to him this morning that they would favorably consider these two suggestions or variations of them or combination of things that I do not know about. He said that as an inspector, all he could do was blow the whistle when they exceed a given limit. These suggestions are only an endeavor to alert them that if they aren't more careful with their practices and procedures within a close-in range of the Lynn home, they are going to exceed the Board's limits.

Mr. Spence stated that as well as Mr. Maize's intentions are his suggestions may not go far enough and if they don't go far enough and they are complying with the Permit, then the results that he is seeking would not be obtained. Mr. Spence stated that they have 5 drilling apparatuses, 4 of which have less than 6 3/4 and one of which has a 6 3/4 drill. The 6 3/4" drill is an expensive piece of equipment and the only place that they are working at the present time is the area that Mr. Maize indicated. They would like to utilize that drill at least to some degree so they can get their return on their money.

Mr. Smith stated that there is no restriction on the 6 3/4" drill beyond a certain point.

Mr. Spence stated that they are working at this point in that area that he is talking about. There would be a limited amount of use of it, but there would still be some use of the 6 3/4 inch drill.

Mr. Smith stated that Mr. Maize would not be making these recommendations if he was not concerned about it.

Mr. Runyon stated that, based on the results of this Review, it looked like they were doing a fairly decent job that the Board had instructed them to do last year. Being an engineer, he could appreciate the problems they and the Board might have, when you try to instruct them on how to reach those goals. It is a dangerous thing. If something goes wrong the Board had told them to do it, they will say "you told us to do this." If they exceed .4 after following Mr. Maize's suggestions, it would be pretty easy to say,

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"We are operating within your limit." I think the specifications and procedures today tend to be giving a certain limit to operate and how they do it is up to them. He stated that he would like to encourage them to work with the Inspector as they apparently have been doing. He stated that he felt they should continue to operate keeping in mind that this is a suggestion of Mr. Maize and not something that should be hard and fast.

Mr. Kelley stated that he felt that Mr. Maize is to be commended for his report and he felt that Vulcan is doing everything within their power to meet these requirements. They have the equipment and engineers to look into this. He stated that he felt Vulcan and Mr. Maize are doing an excellent job and he would like to see it continue.

Mr. Barnes stated that was his feeling.

Mr. Smith stated that Mr. Maize is quite well qualified and has a great deal of knowledge in this area from his past background in another occupation.

Mr. Kelley stated that Mr. Stewart's report is also very well prepared and it is appreciated.

Mr. Smith asked Mr. Maize how long it would be until he had an indepth report as far as air borne noise is concerned.

Mr. Maize answered that about 30 days after they receive the equipment, they can have a fairly responsible answer.

Mr. Smith suggested that Mr. Maize return within 6 months and give the Board a report on the new equipment and how it is working.

Mr. Baker stated that he so moved that within Mr. Smith's and Mr. Runyon's suggestions that the Report be accepted and commend those who have been a part of it and ask Mr. Maize to return with a comprehensive report on the air borne noise, a report on how well the applicant is endeavoring to live within the limits of the Use Permit in all areas of it, blasting, planting, etc., and whether or not the conditions are all being met to the best of their ability. This Review will be held 6 months from now.

Mr. Barnes seconded the motion and commented that they sure have improved the main entrance to the Quarry.

This motion passed unanimously

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2:00 - DEADLINE FOR CITGO'S OBTAINING NON-RESIDENTIAL USE PERMIT at 8318 Hoopes Road, 89-3 ((1))pt. 24 (C-N), Springfield District, S-149-69. Notified on July 25, 1973, that if they had not finished all construction and obtained Non-Residential Use Permit, Special Use Permit would be revoked at the end of sixty (60) days.

Mr. John McIntyre, from CITGO, represented the applicant before the Board.

Mr. Smith read a memo from Mr. Douglas Leigh, Zoning Inspector, which stated that the improvements at the site will not meet the minimum requirements for a Non-Residential Use. He stated that in haste to meet the September 26, 1973, deadline curbing was placed that does not meet county standards. Since this is a prerequisite to paving, there are subsequent difficulties such as seeding or mulching open areas for the winter months. He further stated that according to the present situation, the completion of site work is definitely not immediately possible.

Mr. McIntyre stated that part of that memo is correct and part of it is not. They have problems on this site and he stated that he did not expect to be standing in front of this Board originally when the Board gave him 60 more days to finish the project. The concrete man laid the forms and then left the job. They had to get another contractor to come in to complete the work. There has been some question as to what is standard and what is substandard. There was an inspection made where the claim was made that the entire thing would have to be done over. This was straightened out. They also had a problem with where to put the curb cut.

Mr. Douglas Leigh, Zoning Inspector, stated that he had a conversation with the Public Utilities Inspector and he said definitely that conditions were not there to meet the standards and that they would not be able to meet it before winter time. He stated that he was on the site with an Inspector and there were curb marks showing that they had to be removed, therefore, that was the basis for the memo that was sent to the Board.

Mr. McIntyre stated that there are pieces of curb to come out, but that has nothing to do with the sides of the road. It will be done on everything except the sidewalk as soon as the dispute is settled.

Mr. Kelley asked if they were operating the service station.

Mr. McIntyre stated that they were in operation.

Mr. Smith asked how they happened to be in operation without a Non-Residential Use Permit.

Mr. McIntyre stated that they had one, but only a temporary one. If they had a paving waiver from Mr. Cooper's office, they could have gotten a temporary permit, Mr. Leigh stated.

Mr. McIntyre stated that he did not remember how they got the temporary permit.

Mr. Smith stated that the Board revoked their Special Use Permit effective 60 days from the July meeting and stated that it was to be revoked immediately as of September 26, 1973, if they had not completed all construction. This action actually began last year because November 15, 1973, they had a Show-Cause hearing to see why the Permit should not be revoked and the Board has been continually deferring this case to allow the applicant additional time.

Mr. McIntyre stated that they had done nothing to delay the job.

Mr. Smith stated that they probably had not done anything to delay the job, but they had not done anything to hasten it along either, or it would be done by now, almost a year later.

Mr. Runyon asked Mr. McIntyre what he wanted the Board to do, help pour the concrete. This puts the Board in a terrible spot.

Mr. James Smith, Engineer for the site, spoke before the Board. He asked if they paved on the service station part, if that would satisfy the Special Use Permit. The site plan does not include the road widening. There are two separate site plans.

Mr. Kelley stated that if the Board of Zoning Appeals closed that station today, they would move in and finish it.

Mr. McIntyre stated that he would just have more people on his back.

Mr. Kelley stated that this Board granted the Special Use Permit in 1969. This is 1973 and the station is still not completed. This has taken up a considerable amount of the Board's time and the Inspector's time.

The Board took action to revoke the permit and the applicant has not indicated that he wants a hearing on the revocation notice and the time has expired as of today, so the Board has no alternative to confirm the revocation.

Mr. Covington stated that the only thing the Board has control over is the site itself not the roadway contiguous to the site. There are two site plans.

Mr. James Smith stated that he believed the site plan requirements will be met as soon as the road is paved on Hoos Road.

Daniel
Mr./Smith stated that Mr. Covington has indicated that you didn't have to pave the road.
James

Mr./Smith indicated that they could have the paving done on the site itself in two days.

Mr. Daniel Smith asked what else had to be done.

Mr. Covington stated that he had to meet all other site plan requirements as to the site plan for the site.

Mr. James Smith stated that this could also be done. He stated that the State Highway Department's Inspector turned their paving down. Then they went to ask him why and he had gone on vacation. It turned out that there was no problem. He had measured from the wrong place.

Mr. Runyon stated that he would suggest that the Board suspend this revocation notice as of this date and give the applicant until Halloween and they should get a report from Doug Leigh on the 17th. He stated that he would make that his motion.

Mr. Smith asked him to include that this hearing would be also a hearing on the Revocation Notice. There will have to be a new Resolution on this Special Use Permit if they are permitted to continue, if they have completed the construction and have the Non-Residential Use Permit.

Mr. Runyon accepted this. Mr. Baker seconded the motion. The motion passed unanimously.

Mr. McIntyre agreed that this would be considered a hearing on the Revocation Notice and he would be present on October 31, 1973.

DEFERRED ITEMS:

EDWARD R. CARR & ASSOCIATES, INC., app. under Section 30-7.2.6.1.1 of Ord. to permit swimming facility, Newport Drive & Penwith Court, Centreville District (RTC-10), 44-2((5))Parcel A1 and 125 through 132, S-137-73 (Deferred from September 5, 1973, to allow Board to check Preliminary Plat showing why this parcel of land belongs to Section 3 and 4 instead of Section 2)

Mr. Runyon stated that he went to Preliminary Engineering and checked the records, checking the over-all plans for this particular subdivision, and it is designed into sections and this area where they are requesting a swimming facility is shown as being the open space for a community pool site for Section 2.

Mr. Smith stated that that would indicate that it would be used for Section 2, but the people in Section 2 were not going to be allowed to use it and the people in Sections 3 and 4 are getting to use it.

Mr. Stevens stated that the people in Section 2 could use it if they want to pay a small fee. The people in Section 2 paid much less for their houses than are the people in Sections 3 and 4. The people in Section 2 were not charged for the pool when they purchased their houses as the people in Sections 3 and 4 will be charged. Therefore, they are asking the people in Section 2 to pay a small fee to help cover the cost of building the pool.

Mr. Smith stated that the Board is in receipt of correspondence from several of the citizens in the area. One is from Terry R. Brown, Chantilly, Virginia, stating that they wish to go on record as being against the pool. A letter was received from Catherine and John Harrington stating that they were against the pool. A Petition was also received which was signed by eleven people who oppose the pool.

Mr. Runyon asked Mr. Stevens the total number of members if all the Sections were included.

Mr. Stevens stated that the membership would then be 380 and he had applied for 280.

Mr. Smith stated that there is still the questions of adequate parking. That was the main reason the people were objecting to this pool.

In application No. S-137-73, application by Edward R. Carr & Associates, Inc. under Sec. 30-7.2.6.1.1, of the Zoning Ordinance, to permit swimming facility, on property located at Newport Dr. & Penwith Ct., also know as tax map 44-2((5))Parcel A 125 - 132, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 1st day of August, 1973.

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

1. That the owner of the subject property is Edward R. Carr & Assoc., Inc.
2. That the present zoning is RTC-10.
3. That the area of the lot is 75,678 sq. ft.
4. Site plan approval is required.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

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

and is not transferable to other land.

2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.

3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership; changes of the operator, changes in signs, and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. The maximum number of family memberships shall be 380, residents of Brookside.

7. Hours of operation shall be 9 A.M. to 9 P.M. Any after hours parties will require a permit from the Zoning Administrator and such parties shall be limited to 6 per year.

8. There shall be parking for 66 cars and 100 bicycles and an emergency lane to the pool. All parking shall be confined to this site.

9. All loudspeakers, noise, and lights shall be confined to this site.

10. Supplemental screening along Newportt Drive shall be provided to screen the pool and parking (low shrubs within the Building Restriction Line, taller stock outside the Building Restriction Line).

Mr. Baker seconded the motion.

The motion passed 4 to 2.

Mr. Smith voted No.

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Mr. Stevens stated that Edward R. Carr would transfer the pool to the Homeowners Association as soon as one is organized. He asked if the Board would authorize the Zoning Administrator to transfer the name to the Homeowners Association upon receipt of the papers of incorporation, etc.

Mr. Smith stated that part of the Resolution states that any change in ownership is cause for this Special Use Permit to be re-evaluated.

Mr. Stevens asked if that meant new plats, etc. and would they have to file a new application.

Mr. Smith stated that it meant new plats if there has been any change to where the structures that are now proposed are constructed. The Resolution says the Board must re-evaluate.

Mr. Runyon stated that he would agree to a re-evaluation, but he could not see the necessity for a complete new hearing.

Mr. Smith stated that the Board has a duty to the County's citizens to keep these records in order and in good shape and it does not work any way except with a new application. They have tried substitution of plats and the Board has gotten into trouble with that method. He stated that he hoped the Board would not permit that again.

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LAKE BARCROFT RECREATION CENTER, INC., Re-Evaluation Hearing Held on September 5, 1973 and deferred for decision only until this date.

Mr. Runyon stated that the applicants have sent some additional information in regarding the development plan. This has been sent to the County Staff.

Mr. Smith stated that changes in the plan is what brought this hearing about. He asked if there was any change in the situation.

Mr. Runyon stated that he did not know, but it might be a good idea to find out. He stated that Mr. Waterval is present. He asked Mr. Waterval if there was any new information.

Mr. Waterval stated that he had requested permission to be able to make a statement earlier this morning to the Staff. There will be a meeting tomorrow morning between members of the County Staff and Lake Barcroft Recreation Association Inc. and the applicant, Lake Barcroft Recreation Center, Inc. It is set up for 10:00 A.M. He stated that he had asked for this meeting over two weeks ago with the Design Review people and they had called back just yesterday and said that the only available date was tomorrow morning. The meeting will have Mr. Samansky, Assistant County Attorney, Art Rose and Mr. Jack Chilton, both from Design Review in attendance also. They will try to work out their problems.

Mr. Smith asked Mr. Waterval if he felt it would benefit the Board in making their decision to wait until after this meeting.

Mr. Waterval stated that his clients asked him to tell the Board that they are willing to negotiate to attempt to solve this problem and will accept any reasonable practical conditions that this Board would like to put on them.

Mr. Smith stated that the Board could not arrive at anything other than the fact that the applicant has deleted part of the land under the Special Use Permit and used that land for the Cloister development. He stated that the Board was not aware of this, nor were they made aware of this at the time of the substitution of the plats in 1972. He stated that if Mr. Waterval felt that a delay until the 10th of October would help the Board make a better decision, he would go along with it.

Mr. Waterval stated that he would like to have the opportunity to present to this Board in an informal session what they are trying to accomplish as a result of the planning they have done and as a result of the Staff meeting tomorrow.

Mr. Smith stated that he would have an opportunity to do that on the 10th of October.

Mr. Covington stated that an informal meeting would mean without the citizens and he didn't feel that would be fair.

Mr. Smith stated that this would be a public meeting on the 10th. This was deferred until today for decision only, but if the Board opens the hearing for additional testimony or additional plats from the applicant, they would also open it up for testimony from the citizens who are opposing this.

Mr. Waterval stated that they plan to also ask for a formal amendment to their application and they plan to ask for an out of turn hearing.

Mr. Smith stated that there has been a hearing on the questions raised and he did not feel the Board should go further with this discussion. If the applicant wants to come in with a complete new application at a later date, then that will be taken up as a complete new application at that later date. This problem must come first and be solved. Mr. Smith stated that this Board is here to uphold the Ordinance to the best of its ability. He asked the Board for its decision on the request for deferral.

Mr. Barnes so moved that it be deferred until the 10th of October.

Mr. Runyon seconded the motion.

Mr. Smith reminded the Board that if they were going to open this up for new plats and additional testimony from the applicant they would have to open it up for additional testimony from the citizens. He stated that the citizens should be notified of the time and date of this deferral and the circumstances involving it.

He asked Mr. Waterval if he would make the plats available to the men who are representing the citizens in the area, Mr. Goodell and Mr. Brown.

September 26, 1973 meeting of the Board of Zoning Appeals

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LAKE BARCROFT RECREATION CENTER, INC. Re-evaluation Hearing Held on September 5, 1973, and deferred for decision only until this date.

MR. SMITH: The next item is the Lake Barcroft Recreation Center, Inc. The re-evaluation hearing was heard on September the 5th, 1973 and deferred for decision only until today. This was deferred for decision only, gentlemen. Are you prepared to make a decision at this time? May we have it in writing? (pause). I would like to have a resolution to resolve this application, or do something on it.

MR. RUNYON: Mr. Chairman, I contacted the applicant's engineer and then the staff also mentioned some things to me earlier in the day that they had been working back and forth with the applicant and his engineer trying to corrolate all this information. Do you know of a meeting that is set up tomorrow, either of you? I think it's with the planning staff and Mr. Samanski.

MR. SMITH: What is this in reference to? It would be good if the whole Board could be informed of these things when they take place so we all know what's going on.

MR. RUNYON: Well, they had sent some additional information regarding the development plan into the staff and I had discussed it with Mr. Reynolds and Mr. Sooksanjan and also endeavored to try to find out what the problems are. There was some problem, you know, with the additional space in the recreation area being used by the residential development.

MR. SMITH: What about the re-evaluation hearing? We've already they're discovered that/trading area part of the Use Permit area and this is what caused a re-evaluation hearing to begin with. Is there any change in this situation has this been---?

MR. RUNYON: I don't know. This is just additional information that they were trying to set up a meeting with Mr. Waterval. Maybe, he knows what the status of that is or whether there is a meeting or just what is coming about. It might be good to find out from

MR. SMITH: I'd like to resolve this. I think we should resolve this. Mr. Waterval, do you have any new information other than---

MR. WATERVAL: Not argument, Mr. Smith.

MR. SMITH: We're not going argue it because we don't have --- this is not anything other than for decision.

MR. WATERVAL: I had asked earlier in the morning to be permitted to make a statement and it relates also to the meeting. There was a meeting, there has been a meeting set up. Because I asked for it over two weeks ago with the Design Review people and the only available dates that everybody could get together on was 10:00 tomorrow morning. I didn't set it; that's what they called back and told me about.

MR. SMITH: Tomorrow morning?

MR. WATERVAL: And that's Mr. Samanski, I believe, the County Attorney, Mr. Rose from Design Review, Mr. Chilton from Design Review, Mr. Wes Harrison

MR. SMITH: What time is the meeting tomorrow morning?

MR. WATERVAL: 10:00

MR. SMITH: Alright, in view of this/^{if}the Board wants to defer final action, final decision on it until the tenth of October why let's have a resolution to that affect.

MR. WATERVAL: I can't conceive of all the problems being solved in that one meeting; I can conceive alot of headway

MR. SMITH: I'm opposed to continuing this for a period longer than the tenth of October. If you have a meeting tomorrow and if you feel this meeting will be of benefit to the Board, then I'm willing to go along with this. But this is

another delay in this and the Board has been under fire as well as everybody else on this thing. I think we should take some action.

MR. WATERVAL: I understand that, sir. And, my client asked me to implore this Board to understand that we are willing to negotiate to adjust to do anything to solve any reasonable and practical conditions that you want laid upon us consistent with our needs, of course.

MR. SMITH: Mr. Waterval, I think we've gone back into the public hearing now. We could not arrive at anything other than the fact that you've deleted the land that was involved in this Use Permit and made it part of a development plan apparently for a development, a cloister development or something. I was not aware of it at the time you made a substitute plat. I don't think we need to discuss that any further than that. If you feel that a delay until the tenth of October will benefit you, I'm willing to go along with that; but any further time, I'm not.

MR. WATERVAL: I would also like to have the opportunity, Mr Smith, to present to this Board in informal planning session what we are trying to accomplish as a result of these staff meetings.

MR. SMITH : Well, you'll have an opportunity to do that on the tenth, if the Board desires to do it.

MR. COVINGTON: Mr. Smith, do you mean without the citizens?

MR. SMITH: This is what concerns me that we further delay this without any--- This was deferred for today, until today for decision only and if we open this up for additional testimony on the tenth, we'll have to open it up for the opposition.

MR. WATERVAL: I'm not asking for additional testimony, Mr. Smith.

MR. SMITH: Well you're asking for submission of plans and additional information.

MR. WATERVAL: Yes, sir.

MR. SMITH: Well, this would take discussion. I don't know how we

could do it on finger basis.

MR. WATERVAL: If you'll permit me, Mr. Smith, I've got two more sentences in my statement, if I could, sir. We had asked for deferral while we do this planning and negotiation. We will also agree to file for a formal amendment to the application area and ask for an early out-of-turn hearing to clarify any confusion that might be involved

MR. SMITH: We've had a hearing on this, and I certainly don't feel that we should go through another public hearing on this particular application. Now if you want to come in with a complete, new application at a later date, that's your prerogative. It seems to me, we should take action on what we have at the present time and what we have done. This is my personal opinion. What you're asking us to do now is to open this up completely again to public hearing with a revised plan, apparently.

MR. WATERVAL: What I'm trying to do, sir, is to resolve a dilemma. I am searching for what the solution is. And, I'm having a tough time doing it all by myself.

MR. SMITH: Well, Mr. Waterval, I didn't have any part in your getting into this dilemma, no member of the Board did to the best of my knowledge and I don't know why we should continue with that. In other words, we set dates for decisions and we're criticized by the Board of Supervisors and by the citizens for not making these decisions on the dates that we so indicate. We come in and revise and change and delay.

MR. WATERVAL: If I may, Mr. Smith, comment that we have been criticized about prospective things that we may do in the future that are shown on the approved plan.

MR. SMITH: Well, we went through all of that in the public hearing, in the re-evaluation hearing. Now we're opening up all over again. Now, you had an opportunity to present all this information at that time. And, we spent

enough time on it. Over a period of years, we've spent an awful lot of time and the Board's been very patient.

MR. WATERVAL: We have innocent people who will be irreparably harmed by an adverse decision. People who have found themselves in this position through no fault of their own but for the administrative processes. And, all we're asking is to try to unravel the thing so that no one gets hurt and this Board gets what it would like to have and my people have some reasonable opportunity to get what they feel they need.

MR. SMITH: Well, it's not a matter of what the Board wants; it's what the Ordinance dictates. This Board is here to enforce/and to the best of our ability to uphold the Ordinance adopted by the Board of Supervisors. We've heard the request for a deferral, gentlemen, what's the pleasure of the Board?

MR. BARNES : I move that it be granted.

MR. RUNYON: I seconded that.

MR. SMITH: Alright, until the tenth of October? Alright, then we'll have to open it up to a new hearing and all the opposition will have to be notified, if we are going to accept new information from the applicant and we had deferred this for decision only now. You realize that that procedure was that we would defer, the record was closed, we deferred it for decision only. We had a resolution read on it. Now, if you're going to open it up for additional information and additional testimony for the applicant, you're going to have to notify the opposition of the time and place of the discussion.

MR. RUNYON: Well, what will we be doing? We had a re-evaluation hearing because of the changes in use, right?

MR. SMITH: In the change of the land area connected with the use.

MR. RUNYON: Now, were we evaluating this information? The reason I got involved in all this was because I really didn't know what actually had occurred. I don't think any of us were that well informed other than the fact that the thing was changed, and the plats were signed and sent back, but there were apparently a lot of things that went on that nobody pointed out whether it was the applicant that ^{had not} pointed it out or the staff that didn't point it out. I don't know which it is and that's why I got involved; I wanted to see what the history was.

MR. SMITH: Well, I thought we got the history of it at the re-evaluation hearing. Actually,--

MR. RUNYON: I got a lot of charges and counter charges but it's kind of hard to sift through all this information.

MR. SMITH: But, we did get the information that the land area, a certain ^{that under} land area had been deleted from/the existing Use Permit.

MR. RUNYON: But, what do you do when the land area is deleted, usually. I don't know. I'm new at this. I thought re-evaluated it and decided---

MR. SMITH: Well, you can't delete a land area from a Use Permit without first obtaining permission from the Board.

MR. RUNYON: Well, I thought this is what they were here to do.

MR. SMITH: The Board requested their appearance here. They didn't come here on their own. They did not request a re-evaluation. ^{becomes}

MR. RUNYON: That is what / foggy to me. I saw the plan that was signed and sealed and I saw all the information---

MR. SMITH: Well, we accepted the substitute plan based on the information that was provided to the Board that there were no changes other than the pool, the relocation of the pool. And that was the only thing that was supposed to change --- that was supposed to take place in it. And, we accepted it based on that. And, in this re-evaluation hearing, we discovered that there had been a deletion in the

land area assigned to this Use Permit.

MR. RUNYON: And, that's what we were re-evaluating/^{it}for and I assume now we're trying to find out whether it's detrimental to the use. I have really never heard anything that went into the discussion of that.

MR. SMITH: Well, I don't know how you can do without new plats and a new application.

MR. WATERVAL: That's what we're prepared to do, sir. Just tell me how to do it.

MR. RUNYON: Well, how would you normally do it? How would he normally do it? I'm asking you, now. I don't know. I'm not trying to argue it; I'm trying to ask. How would he normally do it?

MR. SMITH: Well, my suggestion is that the Board revoke the Use Permit that's now existing and let them come in with a new application.

MR. RUNYON: What are we talking about in time. He's got people (inaudible).

MR. WATERVAL: Well, what are the grounds, sir; that's my problem.

MR. SMITH: Because you deleted the land area.

MR. WATERVAL: I have not deleted it, sir. It remains the same today as it was when I applied.

MR. SMITH: No it isn't.

MR. WATERVAL: It's not deleted until the plat is recorded, Mr. Smith. And, that is not recorded.

MR. SMITH: Well, then we're getting again into technicalities.

MR. WATERVAL: It is highly technical, sir. And that's what you're causing as a forfeiture of 800,000 dollars worth of contracts on.

MR. SMITH: It's technical. You're being technical, you say you have not yet done this, but this is the intent. In other words, you're subdividing a parcel of land over here. And, you tell the County/^{that}you're going to use this for open space for this development. You're telling the Board of Zoning Appeals

you're going to use the land under a Use Permit. It, really, --- you're not being quite honest.

MR. WATERVAL: I have been very consistent and very honest, Mr. Smith. And, what I am trying to find out from this Board is guidance on what would you like in the way of procedurally to get from here to there.

MR. SMITH: I think the Board should procede to make a decision on the re-evaluation hearing. If there's any question on this hearing, it should have been,--the discussion should have been,--the record should have been left open at that time, and given everybody an opportunity. We're spending a considerable lenght of time discussing it this afternoon without the people who opposed it being present and this was another thing that the Board was critisized for. For allowing additional discussion which we had indicated would not be allowed today and without...

MR. DAN LECOS: Mr. Chairman, may I address the Board for a moment? My name is Dan Lecos; I am president of Recreation Corporation, the land developer in this case. I am the operator.

MR. SMITH: What's your address?

MR. LECOS: My address is 6324 Beachway Drive, Falls Church, Virginia.

MR. SMITH: I am going to say that I am not going to allow you to make a statement. And, I am going to close this discussion because it is not appropriate.

MR. LECOS: The statement I wanted to make to you was...

MR. SMITH: Wait, just a minute, will you?

MR. LECOS: I think courtesies go both ways, Mr. Smith.

MR. SMITH: This is courtesy and procedural circumstances. The procedure here was that there would be no discussion today. We did accept, at Mr. Runyon's request, a statement from Mr. Waterval. But, the Board, I think, is out of order to accept discussion or testimony from you without the benefit of the opposition

being present. Now, if we're going to reopen this discussion then I want everybody present.

MR. LECOS: I think I can just make one statement that can unravel alot of the problem that's developed from both sides.

MR. SMITH: I'm going to declare you out of order unless the Board wants to override me.

MR. LECOS: Alright, thank you, Mr. Chairman.

MR. SMITH: I think that we're getting into (inaudible)
a very crifical area.

MR. RUNYON: We do have a problem. Is there any representative here from the citizens at all.

MR. SMITH: No, this is supposed to be a closed discussion.

MR. RUNYON: And, they had understood that there would be no more public discussion.

MR. WATERVAL: There is a citizen here from Belvedere.

(A lady in the audience rose)

MR. SMITH: Did you participate in the discussion at the Re-Evaluation Hearing ma'am?

LADY IN AUDIENCE: I was here.

MR. SMITH: But, did you participate in the discussion?

LADY: No.

MR. SMITH: Are you authorized to speak for the Belvedere Citizens Association?

LADY: No.

MR. RUNYON: I will just leave it at ~~that~~. I think it would be

unfair to have testimony without the benefit of their input.

MR. SMITH: You would have to notify them. If this is what the Board wants to do, well and good, but --

MR. RUNYON: I can see deferring it for a couple of weeks and if there is additional constructive information that comes forth, I think we should reopen the public hearing. I don't see any that is before me that makes me think it should be reopened, but if we defer it in order for him to meet with the Staff and maybe he can unravel some --

MR. SMITH: Wait a minute now, if you are going to reopen it for additional information from Mr. Waterval, you have to open it for new information from the citizens.

MR. RUNYON: All right.

MR. SMITH: Do you want to set the 10th of October, but first we have to go through the procedure of reopening the hearing or discussion on it. Your Resolution is that the Board reopen the case for additional information and additional testimony?

MR. KELLEY: I am in full accord with Mr. Runyon's statement. I have been -- this is the first time I have said anything on this. I was not on the Board at the time this was granted and I am at a dead end as far as what is supposed to be done and I think he has a very valid question. What are we supposed to do -- What is the procedure and the way of handling this after we hear all of this.

MR. SMITH: All right. The Board heard the Re-Evaluation case and deferred final decision until today and there was not supposed to be any additional information taken. Now, Mr. Runyon has requested the Board reopen the hearing on the Re-Evaluation Hearing for additional information for October 10th, 1973. Is this your understanding of the Resolution, Mr. Runyon?

MR. RUNYON: Yes.

MR. SMITH: Mr. Barnes?

MR. BARNES: Yes.

MR. SMITH: And, in so doing you would have to notify the opposition of this reopening of the hearing.

MR. KELLEY: Well, I am in favor of getting, if the Gentleman who attempted to speak and Mr. Waterval have information that will help us make the correct decision, I am in favor of reopening. I am at a loss as to which way to vote.

MR. SMITH: We can't reopen it until we set a date and time for it and have the opposition present. That is why I cut the Gentleman off. Mr. Runyon requested Mr. Waterval be allowed to make a statement and at that time he requested deferral. This is as far as we can go, under the procedure that we operate. I am not being arbitrary. I am trying to follow the procedure so we will not be criticized.

MR. KELLEY: May I ask Mr. Waterval one question?

MR. SMITH: Yes.

MR. KELLEY: You can just answer me Yes or No.

MR. KELLEY: The information you have, was it available at the time we had the public hearing?

MR. WATERVAL: It was not.

MR. KELLEY: Thank you.

MR. SMITH: Let's set a time on the request to reopen the hearing. All those in favor of reopening the hearing on the Lake Barcroft Recreation Center, Incorporated's Re-Evaluation, indicate by saying Aye and the date being October 10, 1973.

ALL MEMBERS: Aye.

MR. SMITH: Could we set a time to allow Mr. Waterval's group, the Recreation Association, not more than -- can you do it in 10 minutes, because we have a very tight schedule on the 10th of October?

MR. WATERVAL: I can do it in 10 minutes if (A) I am permitted to send the plats to you folks in advance.

MR. SMITH: Unless we get the plats in advance, we won't be able to hear it that day.

MR. WATERVAL: The plans in advance and let me speak for ten minutes.

MR. SMITH: You also will have to submit these plats to the opposition at least 10 days before the hearing.

MR. WATERVAL: They won't be available sir. We are meeting tomorrow.

MR. SMITH: At least five days prior to the hearing.

MR. WATERVAL: I would think so sir.

MR. SMITH: All right -- the Board should have the plats and any information -- any information that you propose to discuss five days in advance of the 10th of October.

MR. WATERVAL: Would you kindly tell me sir, who my opposition is?,

MR. SMITH: I would assume that you would have known that.

MR. WATERVAL: I am sorry but --

MR. SMITH: Haven't you been working with this group to try --

MR. WATERVAL: (interposing) No Sir, they are impossible to work with. Well, I can send it to Mr. Goodell who purports to be the president

of the Barcroft Hills Civic Association.

MR. SMITH: Mr. Brown, I think, was the attorney for the ---

MR. WATERVAL: (interposing) He is not a licensed attorney and has been so admonished by the State Bar Association.

MR. SMITH: He didn't state he was a licensed attorney in the State, I'm sorry---

MR. WATERVAL: (interposing) I am professional. I cannot deal with Mr. Brown. I can deal with Mr. Goodell, however, who is the president of the Belvedere Civic Association.

MR. SMITH: Alright, Mr. Brown and Mr. Goodell will be notified of the Board's action today of reopening the hearing. And, would you submit to Mr. Goodell then at least five days in advance and get to Mrs. Kelsey an extra copy so that Mr. Brown might be able to obtain it from the Zoning Administrator's office?

MR. WATERVAL: Alright.

MR. COVINGTON: Could you include Mr. Sheps, too?

MR. SMITH: Who is that? Shep?

MR. COVINGTON: Sheps.

MR. WATERVAL: He's over in that same area, too. It is supposed to be the same Civic Association.

MR. COVINGTON: I would like to make sure he gets it.

MR. SMITH: Alright, do you happen to know his full name?

MR. WATERVAL: I know who he is, one of my shadows.

MR. SMITH: Mrs. Kelsey says she has it in the files.

MR. WATERVAL: How many copies do you want, Mrs. Kelsey? I'll let you make the distribution. I'll give you six, each Board member, personally, one and I'll see that Goodell gets a set. Now, I want the Board to understand this

is probably three sets of plats that you can relate them back and forth. And, I'll give you a covering letter to explain it.

(To the Clerk)

MR. SMITH: Do you have the address for Mr. Sheps? Would you notify all three of these people by letter tomorrow of the Board's action today in reopening this hearing so that they'll have ample notice of the date. Squeeze it in there sometime and set the time.

MR. WATERVAL: Do you have a time for the deferral?

MR. SMITH: You can get the time tomorrow. Mrs. Kelsey will squeeze in the 10th's agenda. it in somewhere/ And, the opposition, if there is any opposition or any testimony to be taken be limited also to 10 minutes, or the same time span that you use. If the Board wants to allow more time, we can do it. I would like to set up an equitable situation / ^{since} we are very tight on time on the 10th.

MR. BARNES: Very tight.

MR. SMITH: We are making an exception. This is final.

Hearing concluded.

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Mr. Waterval asked if the President of Lake Barcroft Recreation Center, Inc. could speak.

Mr. Smith stated that he was not going to allow him to make a statement and the discussion is closed. He stated that he did not think that any discussion other than the discussion on the deferral was appropriate, since the citizens from Belvedere Citizens Association are not represented.

Mr. Waterval stated that he felt it was only courtesy to allow the President of Lake Barcroft Recreation Center, Inc. to speak.

Mr. Smith stated that it is the procedures that are involved. The procedure is that there will be no more discussion today. The Board did accept at Mr. Runyon's request a statement from Mr. Waterval, but he stated he felt it is out of order to accept discussion or testimony from anyone else regarding anything but the deferral without the benefit of the opposition.

Mr. Waterval stated that there is a lady present from the Belvedere Citizens Association.

The lady in the audience stood up.

Mr. Smith asked her if she participated in the discussion at the earlier re-evaluation hearing and if she was authorized to speak for the Belvedere Citizens Association.

She stated that she was not.

Mr. Runyon agreed that any discussion other than a discussion on the deferral would be unfair without the benefit of the citizens input.

Mr. Kelley asked for an explanation as to what the Chairman felt should be done in this case.

Mr. Smith stated that the Board had a Re-Evaluation hearing on this case and deferred final decision until today and there was not supposed to be any additional testimony. Now Mr. Runyon is requesting that the Board reopen the hearing on the Re-Evaluation hearing for additional information and Mr. Runyon has moved that this be deferred until October 10.

Mr. Kelley stated that he was in favor of getting all the information that will help the Board make the right decision, therefore, he was in favor of reopening the hearing.

Mr. Kelley stated that he wanted to ask Mr. Waterval one question.

Mr. Smith stated that he could.

Mr. Kelley asked Mr. Waterval if the information he has was available at the time the Board had the public hearing on the Re-Evaluation.

Mr. Waterval stated that it was not.

Mr. Smith asked for a vote on the Resolution.

The Resolution passed unanimously.

// Mr. Smith asked Mr. Waterval to submit these plats to the opposition at least 10 days before the meeting.

Mr. Waterval stated that that would be impossible.

Mr. Smith asked him if he could have them to the opposition and to the Board five days prior to the meeting.

Mr. Waterval stated that the Board would have the plats and any new information five days in advance of the 10th of October.

Mr. Smith asked him if he would notify Mr. Brown.

Mr. Waterval stated that he was not a licensed attorney. He stated that he could not deal with him.

Mr. Smith stated that he did not represent to the Board that he was representing the citizens as an attorney for them, but as a citizen. One doesn't have to be an attorney in order to represent a group of citizens and be their spokesman.

Mr. Smith asked if he would notify Mr. Goodell who has been working with Mr. Brown. and Mr. Sheps.

Mr. Waterval stated that he would. He stated that there would be three sets of plans in order that the Board could relate them back and forth.

Mr. Smith stated that the testimony on October 10 will be limited to 10 minutes for each side.

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AFTER AGENDA ITEMS:

FAIRFAX CIRCLE BAPTIST CHURCH -- Mr. Smith read a letter from them requesting an out of turn hearing because they had been having their services in one of the schools, but were notified that they would be out of a place to have services by the end of November, as their lease was not being renewed.

The Board granted the request for the out of turn hearing and it was set for October 31, 1973.

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CENTREVILLE HOSPITAL CENTER, INC. -- S-228-71

Mr. Smith read a letter from the Fairfax County Health Care Advisory Board's Chairman, Mrs. Geraldine Ehrlich stating that at their September 12th meeting, they requested that she forward a letter to the BZA to obtain certain information about the above-captioned application. They want to know:

- (1) Does Centreville Doctors' Hospital have at present, or now need, a Special Use Permit?
- (2) If a Special Use Permit is not now held or required by Centreville Doctors' Hospital, for what reasons and based on what information was a decision made by the Board of Zoning Appeals that sufficient work on the site had actually occurred to obviate the need for Centreville Doctors' Hospital to continue requesting renewal of its Special Use Permit?

The Board then discussed the extent of the construction. Mr. Smith stated that the Board had ruled the permit valid previously based on the testimony of the applicant that footings had been poured. He asked Mr. Covington to what extent were these footings poured.

Mr. Covington stated that a piece of footing was poured and a permit was obtained and the site has been graded.

Mr. Smith asked if the site was graded at the time the Board ruled the permit valid.

Mr. Covington stated that it was, the bushes had been pushed off by the bulldozer.

Mr. Smith asked if they have site plan approval for the hospital.

Mr. Covington stated that he did not know.

Mr. Smith stated that it had been over a year, or at least a year, since the Board had answered the request from Site Plan stating the status of the permit. Mr. Smith stated that the footings were considered to be a start on the beginning of construction, but the fact that they haven't pursued it since that time makes one wonder whether or not they intended to actually begin at that time.

Mr. Covington stated that they have obtained \$42,000 worth of sewer taps. They got them about six months ago.

Mr. Covington stated that Mr. Lawson, the attorney for the applicant, stated that he would come in and explain to the Board the status of the hospital if the Board wishes.

Mr. Smith stated that the Board should have a report from the Site Plan office and they also would accept information from Mr. Lawson.

Mr. Covington stated that they are having financial difficulties.

Mr. Smith stated that the Board cannot consider that reason under the Ordinance.

Mr. Covington stated that they have come to the County's Industrial Bond Authority to try to raise the money.

Mr. Smith stated that perhaps the Board should reevaluate the case, then everyone would be entitled to be heard including the Hospital and Health Commission.

Mr. Kelley so moved that this case be called in for a re-evaluation and the hearing be set for the first meeting in November, November 14, 1973.

Mr. Baker seconded the motion.

Mr. Runyon stated that he would like to know what the Board intends to do this time and what action will be taken.

Mr. Smith stated that they want to find out the status of the case at this point and if they have actually begun construction and if they have diligently pursued the Special Use Permit. Under the ordinance; if they do not diligently pursue the permit, then the right to the permit can be rescinded.

Mr. Runyon stated that in other words, the Board would revoke the permit as of that date if they find the applicant has not diligently pursued the permit.

Mr. Smith stated that the Board could revoke the permit at that time and the applicant would have ten days to file an appeal.

The motion passed unanimously.

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BAILEYS CROSSROADS VOLUNTEER FIRE DEPARTMENT AND FAIRFAX COUNTY FIRE AND RESCUE SERVICES -- Request for an out of turn hearing.

Mr. Alexander, Fire Marshall, appeared before the Board to state that they want this out of turn hearing because they are under contract for this land and the need for rescue services and a fire station at this location is great. He stated that the Baileys Crossroads Volunteer Fire Department would run the station. The land would be under a lease agreement to them. The arrangement for that lease is now under way.

Mr. Kelley moved that the request be granted and the out of turn hearing be scheduled for the Extra Meeting of October 31, 1973.

Mr. Baker seconded the motion and the motion passed unanimously.

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OXFORD PROPERTIES, S-177-73

Mr. Mitchell submitted a letter to the Board stating that this application is scheduled for a public hearing on October 17, 1973. The property involved in the application lies within the Dranesville Tavern Historic District, and although review by the Architectural Review Board is not required for approval of the special use permit, it is required before the Board of Supervisors can authorize the Zoning Administrator to grant "a permit for the erection, reconstruction, exterior alteration, restoration, razing or demolition, or relocation of all or a part of any building within a historic district". Since the Architectural Review Board has given some consideration to the subject application, the EZA might wish to request a report of the ARB's findings to be available at the time of the public hearing.

Mr. Smith stated that he felt the Board would be out of order to request this unless the ordinance requires it and it doesn't, but he did feel the Board could welcome this report as it would be helpful in the Board's decision.

He asked the Clerk to so notify the ARB of this.

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KOHL, Variance Application -- V-194-72, 7214 Doncaster Street, 80-3((3))(79)1, Montecello Forest Subdivision

Mr. Smith read a letter from Mr. and Mrs. Kohl stating that at the time of the hearing they had solicited letters from the neighbors stating that they had no objection to the pool location. They told these neighbors that the fence would be 6 feet high. There were 12 neighbors who had no objection. Mr. Grafmuller the adjacent neighbor next to the pool did complain about the six foot fence and did not feel they could construct it across their side yard and back to the rear of the house. They contacted the Zoning office and was told that legally the fence could come within 35 feet of the front property line. At the time of the hearing they were not prepared to specifically discuss the fence. The Board in the motion stated that the fence would have to be even with the house. Yet, in the discussion the Board determined that the pool could go as far as the setback and since the street curves, the pool was well within the setback. Again, because of this discussion, they thought this 35 foot setback applied to the fence as well as the pool as an accessory use.

In May, 1973, they began construction on the pool and if they had thought they could not have a six-foot fence surrounding the pool they would not have proceeded to build the pool as a four foot fence would be insufficient protection for the children in the neighborhood. In mid-June, 1973, they put up the four foot posts on Grafmuller side and Mr. Grafmuller told them they would have trouble if they tried to make it six feet. They told him they were within the restrictions and were staying within the 35-foot setback since the road

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curves. A few days later the Zoning Inspector, Mr. Leigh, came out stating that he had received a letter of complaint about the location of the pool and height of the fence. He substantiated their interpretation of the regulations and stated that he would be sending the complainant a letter stating that they were not in violation thus far.

In July of 1973, the fence was complete and Mr. Leigh stopped by again because of a second complaint letter from the same complainant. Mr. Leigh measured the fence and said they were behind the 35 foot setback, therefore, he would send the complainant another letter.

After much more continued discussion after the fence, they were advised to consult the Board of Zoning Appeals for their interpretation of what they meant by their Resolution.

The applicants submitted photos of the fence and pool site.

The Board studied the plats and the minutes from the previous meeting on this case.

Mr. Smith stated that he felt they could come as close as 36.3 which is the closest point of the house to the street. If the fence is that far from the street property line, then notify the Kohl's that they are not in violation.

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GULF OIL CORP., S-29-72 and V-30-72, Southeast corner of Gunston Cove and Lorton Road, Lee District.

This Special Use Permit was granted March 22, 1972 and extended for six months on March 22, 1973. Therefore, this Permit would expire September 22, 1973. A letter was received by the office of Zoning Administration on September 22, 1973, requesting that this permit be extended for another six months as they have again been delayed because of the many engineering problems they have encountered with the site. They stated that they were sure the Board was aware of the continuing increases they face in construction costs and any additional delay could cause cancellation of the total project.

Mr. Kelley stated that the only reason he gives for the delay is the many engineering problems. The Board according to their by-laws, can only grant one six month extension. Since the Board has already extended this Permit one time for six months, he did not see how they could again extend it.

Mr. Baker moved that the Board require a new application on this case and deny the request for another extension.

Mr. Kelley seconded the motion.

The motion passed unanimously.

Mr. Baker moved that the minutes for August 1, 1973, be approved with minor corrections.
// Mr. Kelley seconded the motion and the motion passed unanimously.

The hearing adjourned at 5:55 P.M.

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By Jane C. Kelsey
Clerk


DANIEL SMITH, CHAIRMAN

APPROVED: November 14, 1973
(Date)

The Regular Meeting of the Board of Zoning Appeals Was Held On Wednesday, October 10, 1973, in the Board Room of the Massey Building. Present: Daniel Smith, Chairman; Loy P. Kelley, Vice-Chairman; George Barnes, Joseph Baker and Charles Runyon.

The meeting was opened with a prayer by Mr. Barnes.

10:00 - ELLEN D. DeBLANC., app. under Sec. 30-7.2.6.1.5 of Ord. to permit beauty shop in home, 2602 Stone Hedge Drive, 93-3((8))(1)7, Mt. Vernon District (R-17), S-171-73

Mr. Alvin DeBlanc represented his wife before the Board.

Notices to property owners were in order. The contiguous owners were Earl P. Lee, 2511 Popkins Lane, Alexandria and Doris Forney, 2600 Stone Hedge Drive, Alexandria.

Mr. DeBlanc stated that they have a small room in the back built in 1959 which is 9 1/2 by 14 feet. It has its own entrance. His wife plans to have a one chair shop there with two dryers. She has no followers, but only wants to fix a few of the neighbor's hair. She is a licensed beautician and graduated from a beauty academy six months ago. They have no off street parking, but as they understood it, there is nothing in the ordinance that requires it. The people who come there to have their hair done will be neighbors and most probably will walk. There will only be one customer at a time. They live at the end of a deadend street, so there should be no traffic problem. They have owned the property since November 4, 1948 and have lived there ever since.

Mr. Smith stated that they would not be allowed to have any signs. She could not hire a helper.

In application No. S-171-73, application by Ellen D. DeBlanc, under Section 30-7.2.6.1.5 of the Zoning Ordinance, to permit beauty shop in home, on property located at 2602 Stone Hedge Drive, also known as tax map 93-3((8))(1)7, Mt. Vernon District, County of Fairfax, Mr. Barnes moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 10th day of October, 1973.

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

1. That the owner of the subject property is Alvin F. & Ellen D. DeBlanc.
2. That the present zoning is R-17.
3. That the area of the lot is 10,000 square feet.
4. That site plan approval is required.
5. That property is subject to pro-rata share for off-site drainage.
6. That compliance with all County and State Codes is required.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to,

changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.

5. The resolution pertaining to the granting of this Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. There will be only one customer at a time.

Mr. Baker seconded the motion.

The motion passed 3 to 1, Mr. Kelley voting No and Mr. Runyon out of the room.

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OUT OF TURN HEARING REQUEST - ANNE CAVINESS -- October 10, 1973

Mr. Smith read a letter from Mrs. Caviness requesting an out of turn hearing as the owner of the land is anxious to sell the property and an early hearing would determine whether the contract to purchase the land would be void or complete. The application is for a school.

Mr. Baker moved that the request be granted.

Mr. Kelley stated that the Board has too many of these out of turn hearings and everyone has the same problem, why should the Board favor one applicant over another when they all have the same reason.

Mr. Barnes agreed with this.

There was no second to the motion. Mr. Smith stated that that would mean that the applicant will have to take the normal turn for a hearing.

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Mr. Smith read a letter from the Pastor of the Centreville Baptist Church requesting an out of turn hearing. In this case, the Church's lease was not going to be renewed and their Church would be in jeopardy if this request could not be heard before the latter part of November when the lease expires.

Mr. Barnes moved that this request be granted and the hearing be scheduled for November 14, 1973.

Mr. Kelley seconded the motion and stated that he felt this applicant has a valid hardship to justify the out of turn hearing.

The motion passed unanimously.

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Mr. Knowlton brought up the AMOCO sign that had been before the Board a few months ago in which Mr. Hanes, the attorney for the applicant, had requested the Board to amend the Resolution granting the use to delete the condition that required them to comply with all State and County Codes. The Board had denied the request and AMOCO had now taken the BZA to Court.

Mr. Knowlton asked what should be done with the sign that now exists at the station. He stated that he thought the sign was still in the crate and had not been erected.

Mr. Barnes suggested that if that was the case, the Board should wait and see what happens in Court.

Mr. Smith and Mr. Baker agreed to hold off on any further enforcement until the Court hearing. Mr. Runyon was out of the room. Mr. Kelley stated that this was all right with him.

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FORESIGHT INSTITUTE -- Mrs. Kelsey stated that she had had a telephone call from the attorney in this case and the attorney stated that he would like a further deferral of this case as the applicant, Mr. Smythe, was still ill and could not attend the hearing.

Mr. Smith stated that the Board would take this up again when the applicant could get in all of the proper information. This case had been deferred for decision only in order that he could revise the plats and get information in pertaining to trip generation and the number of people driving cars who would be on the property at any one time.

The other Board members agreed to defer this case until the applicant would be able to get his plats and other additional material into the Board.

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Mr. Baker moved that the Minutes for August 3, 1973, September 5, 1973, September 12, 1973, be approved.

Mr. Barnes seconded the motion.

Mr. Kelley stated that the word "acres" should be added to the Resolution granting Grace Presbyterian Church under Findings of Fact - No. 3 "The area of the lot is 3.3826 acres".

The Board members agreed to this.

The motion passed unanimously.

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10:20 - ARLIN E. RANEY, app. under Sec. 30-6.6 of Ord. to permit less frontage than allowed, 11208 Chapel Road, 76((5))11C, Springfield District, (RE-1), V-172-73

Mr. Arlin Raney, 2720 Chain Bridge Road, Vienna, Virginia, represented himself before the Board.

Mr. Smith stated that the Staff Report states that Mr. Raney is not the record owner of the property. He stated that the applicant must be the owner.

Mr. Kelley asked Mr. Raney if this was under a contingency contract.

Mr. Raney stated that it was not. He stated that he bought the property outright. They have settled on it. Under the contract to purchase, no deed exchanged hands. It isn't even delivered to a third party. It is a fact, he stated, that one can buy a piece of land under a contract and say he will pay the owner a certain amount per month and the deed will not be changed until the last payment is made.

Mr. Smith stated then if that was the case, he is not the record owner of the property. Shirley Bacon is the only one entitled to the variance. He stated that he was sure the Staff was not aware of these facts at the time they accepted the application, or they would have informed the applicant that only the owner of the land is entitled to a variance under the Ordinance.

Mr. Raney stated that they were trying to make three lots out of this parcel. They will have more than one acre of land in each lot. It is zoned RE-1. They do not want to put in a 50' State maintained road as that would then make one of the lots a corner lot and would then require 175' frontage. They want to put an easement in there. He stated that he was told there was a Court case and this is what is required.

Mr. Smith asked if he was advised of this by the Zoning Administrator.

He stated that he had not sought the advice of the Zoning Administrator.

Mr. Smith stated that the application would have to be amended to include the name of the owner of the land, the record owner, there would have to be a new fee to cover the cost of the advertising. If there is no written record regarding the type of ownership Mr. Raney has of this land, then Mr. Raney could not even be a co-applicant. The variance would go to the owner of the land. This case can be rescheduled after the record owner, Mrs. Bacon, signs the application. The applicant will have to renotify adjacent property owners of the new time for the hearing.

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10:40 - MCI TELECOMMUNICATIONS CORP., app. under Sec. 30-7.2.2 of Ord. to permit erection of a tower for micro-wave communications, Winfield Farm, off Route 29, between Camp Washington and Centreville, 55-4((1))Parcel 24, Springfield District (RE-1) S-173-73

Mr. Mark Friedlander, attorney for the applicant, 2017 North 16th Street, Arlington, Virginia, represented the applicant before the Board.

Notices to property owners were in order.

Mr. Smith stated that the Board was in receipt of a communication from the the Assistant County Executive stating that the Board of Supervisors requests the Board of Zoning Appeals to defer decision on this case until the citizens have had an opportunity to study this case. He asked Mr. Herrity, Supervisor from the Springfield District who was present, if he had any comments to make on this.

Mr. John Herrity then spoke before the Board of Zoning Appeals. He stated that he did not believe that anyone could speak to this application because they are not familiar with the circumstances and the attorney for the applicant, Mr. Friedlander, has agreed to defer this case for a period of two weeks.

Mr. Friedlander stated that this was agreeable to the applicant.

Mr. Kelley moved that this case be deferred for two weeks at the request of the applicant and citizens in the community, to give the citizens an opportunity to study the case.

Mr. Baker seconded the motion.

The motion passed unanimously.

Mr. Smith stated that he should renotify all the people that he had notified today. He asked Mr. Friedlander if he was prepared to give the citizens the information on the case.

Mr. Friedlander stated that he was.

Notices for this hearing were submitted and were in order.

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MCI TELECOMMUNICATIONS CORP., app. under Sec. 30-7.2.2 of Ord. to permit erection of a tower for micro-wave communications, Winfield Farm off Route 29, between Camp Washington and Centreville, 55-4((1))Parcel 24, Springfield District (RE-1), S-173-73 10:40 A.M. end at 11:15 A.M.

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11:00 - CONGRESSIONAL SCHOOL, INC., app. under Sec. 30-7.2.6.1.3 of Ord. to permit continued operation of a private school of approximately 550 students, 3229 Sleepy Hollow Road, 61-1((1))Parcel 5, Mason District (RE-0.5), S-174-73

Began hearing at 11:15 A.M.

Mr. Mark Friedlander, Jr., 2018 N. 16th Street, Arlington, Virginia 22201, attorney for the applicant, testified before the Board.

Notices to property owners were in order. He stated that they all are contiguous, but two specifically are Frances Straus, 3129 Sleepy Hollow Road and Mr. and Mrs. Wallerwood, 3228 Sleepy Hollow Road.

Mr. Friedlander stated that this is an application for the continued operation of a private school. There are 39.4 acres of land here as indicated in the plats submitted with the application. There are several school buildings on the property. This school has been in operation since 1939 and at this site since 1959. Originally the Special Use Permit was in the name of Mr. and Mrs. Deavers and subsequently the operation was leased to Lilly Long, who had a corporate name known as Tri-M, Inc. T/A Congressional Preparatory School. Mrs. Long obtained a Special Use Permit. Mrs. Long's operation had difficulties and went into a state receivership and under the lease arrangement the owners of the property came back in and took over the operation.

He stated that this property is located in the middle of a residential community and is an oasis of greenery.

Mr. Smith stated that he noticed from the file that they have State accreditation from the Commonwealth of Virginia's State Board of Education.

The Board then discussed the adequacy of the parking spaces there.

Mr. Friedlander stated that there are approximately 45 teachers and they have about 15 administrative staff and 20 janitorial staff, but they are not all there at the same time. Only the seniors are permitted to drive to school and they must have a permit.

The Board then discussed the violation that had been issued to the School and Mr. Friedlander stated that they were issued the violation because the Special Use Permit had never been changed back to the original holder of the property from when Mrs. Long operated the school.

Mr. Smith stated that the file reflects complaints from the neighborhood regarding the School's cutting of a lot of trees in the back of the school.

Mr. Friedlander explained that these trees, about 15 to 20, were cut down because of a drainage problem that they were having. He asked Mr. Deavers to elaborate on this.

Mr. William Deavers, son of the original owners, spoke before the Board. He is the Administrator of the school. He stated that they had their first problems last spring with the drainage off the right bank near the elementary school. There was raw sewage that was coming down the hill. They called the Health Department and began to try to find out where it was coming from. The water came right into the classrooms. They had a lot of County officials out there. They could not find out the source of the problem, but it has cleared up now and they hope it does not happen again next spring, or anytime. They did have some surveying done on the property. They also put in a trench so the water could drain off that hill without coming into the classroom. They had a serious problem in the woods with people dumping a lot of old furniture and junk there, but they have removed all the old junk. They cut off a lot of old dead limbs off the trees.

Mr. Barnes asked if they still had summer camp there, and if they have horses there.

Mr. Deavers stated that they do have summer camp and they also have horses. They have five acres across the creek that is fenced. The horses are sent to the mountains to their farm in the winter time. They have eight horses.

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Mr. Smith asked what method they use in disposing of the refuse from the horses during the summer months.

Mr. Deavers stated that they use it as fertilizer around the bushes.

Mr. Smith stated that since this is so close to residential property they are concerned about the fly problem.

Mr. Barnes asked if they have stables to house the horses at all.

Mr. Deavers stated that they do not have stables, they have feed troughs.

Mr. Barnes stated that it would not hurt the horses to be outside during the summer, but it would be nice to have a shed for them to run in and out of in bad weather. The horses need shelter from the wind. Horses do not like wind.

asked
Mr. Kelley/If they were asking for a Special Use Permit for 550 students and asked that he be given the age groups.

Mr. Deavers stated that they were asking for permission to continue to have 550 students. The age group is from 3 years to eighteen years. They operate from 9:00 A.M. until 3:30 P.M. Occasionally there will be some students who will stay from 9:00 A.M. until 6:00 P.M. Occasionally they have parents meetings in the evening. They have programs in the evening inside the building. There are no programs outside the building.

Mr. Smith read a letter from the Ravenswood Citizens Association stating that the applicants have always been a good neighbor.

Mr. Smith stated that after their conversation regarding the adequacy of parking, let the record show that the applicants do have adequate parking.

In application No. S-174-73, application by Congressional School, Inc., under Section 30-7.2.6.1.3 of the Zoning Ordinance, to permit continued operation of a private school, also an increase in number of students, on property located at 3229 Sleepy Hollow Road, also known as tax map 61-1(1) parcel 5, Mason District, County of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 10th day of October, 1973.

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-0.5.
3. That the area of the lot is 39 acres (plat shows 39.4 acres).
4. That site plan approval is required.
5. That compliance with all County and State Codes is required.
6. That property is subject to pro-rata share for off-site drainage.
7. A private school has been operating on the subject property, which is located on the southeasterly side of Sleepy Hollow Road approximately 600 feet northeast of its intersection with Kerns Road in Mason District, pursuant to special use permit S-767-68, which was granted January 23, 1968 to Tri-M, Inc., a lessee, for a maximum of 500 children at any one time.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

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NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The maximum number of students shall be 550, age 3 to 18 years.
7. The hours of operation shall be 7:00 a.m. to 6:00 p.m., 5 days per week, Monday through Friday.
8. The operation shall be subject to compliance with the inspection report, the requirements of the Fairfax County Health Department, the State Department of Welfare and Institutions, and obtaining a certificate of occupancy.
9. All buses and/or vehicles used for transporting students shall comply with County and State requirements as to color and lights.
10. There shall be a minimum of 84 parking spaces.
11. Landscaping, screening and/or fencing shall be as approved by the Director of County Development.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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11:40 - UNITED PENTECOSTAL CHURCH, app. under Sec. 30-7.2.6.1.11 of Ordinance to permit church and rectory, South Van Dorn Street, 81-4((1))26A, Lee District (R-12.5) S-176-73

11:40 - UNITED PENTECOSTAL CHURCH, app. under Sec. 30-6.6 of Ordinance to permit variance to specific regulation of Ordinance for variance to parking setback, South Van Dorn Street, 81-4((1))26A, Lee District (R-12.5) V-173-73

Variance withdrawn and applicant's money is to be refunded. The application accepted in error as this parking requirement is a Specific Requirement to the Group VI uses in the Zoning Ordinance and cannot be waived by the Board of Zoning Appeals.

Mr. J. M. Kelley represented the applicant.

Notices to property owners were in order. The contiguous owners were Frank Sherry, 4201 Cathedral Avenue and Dennis Corbett, 7112 Norwalk Street, Falls Church, Virginia

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UNITED PENTECOSTAL CHURCH (continued)

Mr. Kelley stated that this will be a new church and the material to be used will be brick and frame. The front park which is the rectory will be brick. They have 19 parking spaces and the required number is 18. They have moved the parking spaces to comply with the Ordinance and are well within the setback area.

There was no opposition to this application.

In application No. S-176-73, application by United Pentecostal Church, under Section 30-7.2.6.1.11 of the Zoning Ordinance, to permit church and rectory on property located at South Van Dorn Street, Lee District, also known as tax map 81-4((1))26A, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 10th day of October, 1973.

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

1. That the owner of the subject property is D. K. Macklin etux and V. E. Hansen etux.
2. That the present zoning is R-12.5
3. That the area of the lot is 0.6906 acres.
4. That site plan approval is required.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the NonResidential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. Screening and landscaping is to conform to the requirements of the Department of County Development.
7. Parking for 19 cars is to be provided.

Mr. Baker seconded the motion.

The motion passed unanimously.

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ST. MARK'S SCHOOL (MONTESSORI) BY MRS. ESTHER GUERRA
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12:00 - ST. MARK'S SCHOOL (MONTESSORI) BY MRS. ESTHER GUERRA, app. under Section 30-7.2.6.1.3
Noon of Ordinance to permit increased enrollment, 5800 Backlick Road, 80-1((5))(7)
1A and 80-2((1))20, Springfield District (RE-0.5), S-178-73

Mr. Carlson, President of the School, 6633 Ranard Drive, Springfield, Virginia, represented the applicant before the Board.

Notices to property owners were in order. The contiguous owners were J. O. Del, Inc., 5804 Brunswick Street, Springfield, Virginia send to their mailing address of 389 Devonshire Road, Baldwin, New York and Mr. Winfield Nevins, 5807 Brunswick Street, Springfield.

Mr. Carlson stated that Mrs. Guerra, Director of St. Mark's School, is also present to answer any questions the Board might have.

Mr. Smith read the Health Department memo stating that the facilities are adequate for 160 students daily, at any one time for four hours or less daily. A later reports states 180 children for 4 hours or less and 30 for four hours or longer.

Mr. Carlson stated that they plan to enroll a maximum of 100 children in their classes, which is an increase from their current enrollment of 75. They have school from 9:00 until 12:00 Noon, five days per week, with 100 students. They plan to have 30 children in the afternoon. They will not transport any of the children.

There was no opposition to this application.

Mr. Kelley asked if there was another school operating in this Church.

Mr. Carlson stated that there is not.

This school is in the St. Mark's Lutheran Church which is located on the west side of Backlick Road, approximately 500 feet south of its crossover of the Capital Beltway in Springfield District. They have been operating under Special Use Permit S-20-69 which was granted February 11, 1969 for a maximum of 60 students.

In application No. S-178-73, application by St. Mark's School (Montessori) Mrs. Esther Guerra, under Section 30-7.2.6.1.3 of the Zoning Ordinance, to permit increased enrollment to 100 students, on property located at 5800 Backlick Road, Springfield District, also known as tax map 80-1((5))(7)1A and 80-2((1))20, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 10th day of October, 1973.

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

1. That the owner of the subject property is St. Mark's Evangelical Lutheran Church.
2. That the present zoning is R-10.
3. That the area of the lot is 4.2196 acres.
4. That compliance with all County and State Codes is required.
5. That the applicant is operating under Special Use Permit S-20-69, granted February 11, 1969.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs & changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The maximum number of students shall be 100, age 3 to 6 years.
7. The hours of operation shall be 9:00 a.m. to 2:30 p.m., 5 days per week, Monday through Friday.
8. The operation shall be subject to compliance with the inspection report, the requirements of the Fairfax County Health Department, the State Department of Welfare and Institutions, and obtaining a non-residential use permit.

Mr. Baker seconded the motion.

The motion passed unanimously.

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12:20 - MICRO SYSTEMS CO., app. under Sec. 30-7.2.10.5.9 of Ord. to permit motel, 1834 Howard Avenue, 29-3((4))4A, 4B, Providence District (C-G), S-131-73 (Deferred from 7-25-73 and again 9-19-73 in order that Board of Supervisors might hear and approve a road plan for the Tyson's Corner area)

Mr. Ronald W. Tydings, attorney for the applicant, 4085 Chain Bridge Road, Fairfax, Virginia, represented the applicant before the Board.

He stated that the Board of Supervisors heard the road plan as recommended by the Staff. It was deferred for two more weeks for the Staff to come back with additional information. He stated that as far as their project is concerned, it is in the same posture as it was on September 19, 1973, when they appeared before this Board and urged this Board to take action at that time. Their position is that this plan that is before the Board of Supervisors is a good plan, but the actual design may be from two to five years in the future and as they see it, it may not even affect this property. If it does affect this property, it would only affect the air rights as there is an elevation of 33' there. It would be an elevated ramp. They could position the motel to the back end of the property and put the parking under the ramp. They are still asking for a 98 unit motel, three stories in height. This will be a modular unit, the same type of this Board granted to the applicant on July 11, 1973 for another site. This motel is now under construction. As the Board will recall, there was a memo from the County asking that this Board take no action until this plan is approved by the Board of Supervisors. This property is presented zoned C-G and if they desired, they could file a site plan for a commercial office building and if the Highway Department is going to take their property, then the Highway Department would have to pay commercial prices for it anyway.

Mr. Smith asked if the applicant is the owner of this property.

Mr. Tydings stated that they are not, they are the contract purchasers. They are beyond the contract limitation, but the owners gave them verbal agreement to an extension in order to come back before this Board.

Mr. Knowlton, Zoning Administrator, explained to the Board that the Board of Supervisors had before it on October 1, 1973, an amendment to the Vienna Comprehensive Plan which covers up to Tyson's Corner and includes the south side of Route 7. In connection with that, they also were including a transportation study of the Tyson's Corner area. They did approve the plan that was before them in such a way as to approve improvements to the existing interchange of Route 123 and Route 7, but it did not specify the specific form of this improvement. He stated that he had a copy of that plan for the Board to see and also a copy of the plan prepared by the Virginia Department of Highways which does show tentatively as of March of this year that the intersection might be improved, but nothing specific or tied down that would say a ramp was or was not going to be built. There is no time element mentioned as to when they would have a specific plan. This was an amendment to the Comprehensive Plan and this plan will be implemented over a period of years.

Mr. Smith stated that under State Code unless the applicant will agree with an additional deferral time, the Board must make a decision within 60 days or shortly thereafter. He stated that he assumed from Mr. Tydings testimony, they would not agree to another deferral. He asked Mr. Tydings if this assumption was correct.

Mr. Tydings stated that it was correct.

Mr. Kelley asked Mr. Knowlton if under Site Plan requirements, this applicant would be required to dedicate certain roadways if they approve the road plan and if this Board approves this motel.

Mr. Knowlton stated that Site Plan can require dedication where there is a widening of the road. The problem here is that the plan as they see it and as prepared by the State would affect the property so greatly that he doubted if they could be required by Site Plan to dedicate.

Mr. Smith asked if it would leave enough reserve so that the applicants could use the property.

Mr. Knowlton stated that that is the question. It is impossible to really tell at this point. He stated that they had asked this Board to defer this case in order to try to find out what the transportation plan was going to be. The Staff felt it important that that Section of the Code which says that the use must be in harmony with the Comprehensive Plan be upheld. That plan has now been adopted to the extent that it says that this interchange will be improved. There are as many ways to improve it as there are engineers to do it. However, any other plan other than the one that is suggested now would probably be much more expensive. It is the Board's responsibility to determine whether this amendment to the Comprehensive Plan will affect this property.

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Mr. Knowlton stated that according to the proposed sketch, that motel would be right in line with where they plan to put the road. If this were granted and the motel was constructed, it would cost the State and the taxpayers much more.

Mr. Smith stated that if by denying this, the Board was keeping the owners from the reasonable use of their land, it would be different, but as the attorney for the applicant has stated, they could build an office building. The Board would not be depriving them of the use from which it was zoned.

Mr. Barnes stated that he did not think they should start anything on this until they knew how the road and traffic pattern would be worked out.

Mr. Tydings stated that it should not make any difference whether this is a motel or office building. If this should go for condemnation, it would still be commercial prices for the land.

Mr. Smith stated that it is evident from the plan that the road would jeopardize the development of a motel at this location.

Mr. Barnes stated that there is a Site Plan and they will not issue the Site Plan unless they know what is going on.

from Preliminary Engineering

Mr. Reynolds stated that the Highway Department has done survey work in this area for designing the loop. He stated that there was a loop in the other quadrant where Koon's Chevrolet is now being constructed, but there was no Master Plan for the proposed loop. The Staff does not want this to happen again, therefore, they brought this to the Board's attention. So, the Highway Department is actively doing work on this loop, but as to the status of that work, he stated that he did not know.

Mr. Smith stated that it is an adopted plan by the Board so it becomes part of the Comprehensive Plan.

The Board and Mr. Tydings had further discussion regarding the loop that had been proposed for the Koon's Chevrolet location.

Mr. Runyon stated that he had gone out to this site and looked at it and he had done some research on it also. He stated that the Highway Department has approved this loop to come around this way and this is the natural way for it to come. He stated that he would not call it a concept, but a matter of what is going to be accomplished. He stated that he would like to approve the application, but he felt it would be wrong when the plan shows a ramp right through the middle of the property. Now, if the plans were revised moving the motel back, it would be a different matter. The ramp will not be up in the air, it will be on the ground and it would be through the middle of the proposed building. He started to make a Motion when Mr. Smith stated that in all fairness to Mr. Tydings, the Board would give him an opportunity to comment on the statement that was made regarding moving the building back.

Mr. Tyding stated that if what Mr. Runyon says is true, they could move the building back to the rear of the property. He asked if Site Plan would handle that part of it.

Mr. Smith answered that they would not be able to handle it unless the Board has new plats showing the location of the proposed building at this time. He told Mr. Tydings that if he wishes to revise the plats, he may do so, but he did not think the Board can approve the application with the building shown right where the ramp is going through.

Mr. Runyon stated that they would not have access to that ramp. That will be a limited access. The access would have to be the other way, therefore, the plats that are before the Board are totally inaccurate. He asked Mr. Tydings if he wanted the case deferred until the engineer could redraw the plats.

Mr. Tydings stated that they want the application approved and if it is the Board feeling that it cannot be approved in the present posture, then they have no alternative but to restudy the location of the building. He stated that he was sorry that he was misinformed. He asked if it would be possible to defer this case until the next meeting, or the 24th.

Mr. Kelley stated that the reason he pointed out why he could not support the application is because Mr. Tydings stated that he wanted a decision today.

Mr. Baker moved that the case be deferred until the 24th of October, 1973. Mr. Barnes seconded the motion. The motion passed unanimously.

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2:00 - AMERICAN HEALTH SERVICES, INC., KNOWN AS BARCROFT INSTITUTE, HEARING ON REVOCATION NOTICE, Special Use Permit Granted by BZA 10-20-70, S-178-70, under Section 30-7.2.5.1.2 of Ordinance to permit psychiatric facilities -- an amendment to the existing use permit retaining as a primary use the nursing home, 2960 Sleepy Hollow Road, 51-3((1))9A, Mason District (R-12.5)Def. for decision only.

Mr. Smith asked if the Board was prepared to make a motion on this.
Mr. Runyon stated that in the Barcroft Institute case, he supposed the Board had enough information to prepare a Resolution based on the findings that they had arrived at at the previous hearing.

Mr. Runyon: In the matter of American Health Services, Inc., also known as Barcroft Institute, S-178-70, granted October 20, 1970, under Section 30-7.2.5.1.2 of the Zoning Ordinance to permit psychiatric facilities as part of the care given in a nursing home, property located at 2960 Sleepy Hollow Road, 51-3((1))9A, County of Fairfax, Notice was given on August 8, 1973, of certain violations to the Special Use Permit and after public hearing held September 19, 1973, the Board of Zoning Appeals has found that because of violations of law and because the use is not compatible with the nursing home use and because the subject use is not in harmony with nor compatible with the character of the neighborhood, these findings are exemplified by but not limited to the following:

1. Breach of the Rules and Regulations For The Licensure of Convalescent and Nursing Homes In Virginia;
2. Frequent occurrence of fires and vandalism by patients from the psychiatric unit;
3. The failure of the Institute to maintain proper control of the psychiatric patients both within and without the institution;

the Revocation dated August 8, 1973, is hereby confirmed.

Mr. Baker seconded the motion.

Mr. Smith: It has been moved and seconded that the Board confirm or uphold the Revocation of the Special Use Permit for American Health Services, S-178-70. Is there any discussion on the Resolution? (There was no discussion)

Mr. Smith: All those in favor of the Resolution to confirm or uphold the Revocation, say Aye.

ALL MEMBERS: Aye.

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2:20 - RE-EVALUATION HEARING ON LAKE BARCROFT (Deferred from September 26, 1973) Case reopened to receive new plats from the applicant and to allow citizens to testify on these new plats.

(See verbatim transcript)

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AFTER AGENDA ITEMS -- Noted on Page 400 and Page 401.

The hearing adjourned at 4:25 P.M.

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By Jane C. Kelsey
Clerk


DANIEL SMITH, CHAIRMAN

APPROVED _____
(Date)

October 10, 1973 meeting of the Board of Zoning Appeals

RE-EVALUATION HEARING ON LAKE BARCROFT (Deferred from September 26, 1973) Case reopened to receive new plats from the applicant and to allow citizens to testify on these new plats.

MR. SMITH: The next scheduled item is that of Lake Barcroft Recreation Center, Inc. and this was deferred from 9/5/73 for decision only and this was for a re-valuation hearing that was held 9/5/73. In the intervening time since this re-evaluation hearing, Mr. Waterval requested that the Board try to defer a decision from the last meeting until today to give ^{him} an opportunity to confer with the staff and the various County departments on aspects of the violations that the Board was concerned with. In the intervening time we have received, as I stated earlier, new plats or plats. These plats do not show setbacks from property lines or anything really. They're probably not proper plats but architecture renderings or drawings more than anything else. Really we have no new information other than these plats which again they're not substantial information. It appears at this time that the Board should not go into any additional testimony on this application. But, I will, Mr. Waterval, allow you five minutes to argue the point, if you want to go into additional testimony on it. Because, actually the plats are not any more than what we had earlier unless you have some confirmation or some agreements with the County or other parties that we're not aware of at this time. If you'll state your name and address for the record, please.

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MR. R. A. WATERVAL: Mr. Smith, I'm R. A. Waterval, an attorney at law representing the permittee, Lake Barcroft Recreation Center, Inc. It is my understanding, sir, the record the previous 25th of September gave me ten minutes of presentation out of a prepared statement.

MR. SMITH: Alright, we will give you the ten minutes if you so desire and we'll also give ten minutes to anyone that might want to rebut your testimony.

MR. WATERVAL: That's correct. And, I would like to have my ten minutes.

I have a prepared statement as does Mr. Jim Granum , who is the President of the permittee organization. I'll take about five minutes and he'll take five. Mr. Chairman, this is a long prepared statement. It repeats some of the information that I wanted to give on the 25th. I however, would like to confine my remarks to specifically page six, paragraph ten and eleven which relate to the plats involved. I would ask that the prepared statement in $\bar{t}\bar{o}$ - $\bar{t}\bar{o}$, however, be entered into the record of the proceeding. The permittee is not insensitive to the reaction of its enterprise. While in no way intending to retreat from its stated position, the leadership of both your permittee, Lake Barcroft Recreation Center, Inc., and the landowner, Lake Barcroft Recreation Corp., in consultation with counsel and engineering staff have thoroughly re-reviewed the construction plans and layout of the status of present construction, legal and environmental constraints to see if there are any feasible ways to distribute the user impact on crude accessibility. We, accordingly, offer the following suggestions for the Board's consideration. The Voorhees Traffic Survey which is part of this file concludes that upon observation of the habits of users of other similarly situated recreational facilities and the intended service area of this facility, that 20% of the people present on a given day, walk to the facility. Common experience tells us that many of the children and adult users of this facility will be bicyclists. This is particularly fashionable today. Common experience would also indicate the use of family members carpooling a load of children to the facility, to be dropped off for a time and where they'd be picked up, but not without the carpool vehicle necessarily being more than a safe on and off loading point. The approved site plan under the 444C already shows an emergency

vehicle and service access point to the rear of the pool complex from Lakeview Drive to the Beach II parking lot. With the minimal impact on the environment, this same service point can be expanded into a vehicular turn around and loading zone for the multiple purpose of emergency vehicles. Service point, carpool dropoff and pickup, pedestrians and bicyclists -- a portion of this expanded turn-around will encroach upon parcel A-2 and that is acceptable. The steps up the hillside from the turn-around will be redesigned and relocated to accomodate the turn-around. The pool enclosure fence will be setback from the top of the stairs to the edge of the concrete pool deck to provide a walk-around ^{walkway} along the south edge of the pool to the existing main entrance. The concept is invited in our engineer's drawing of September 1, 1973, caption - revision of site plan 441-C, proposed turn-around and pool deck details attached to the letter of record which you people have already received. It sets forth the physical details, the actual pool complex construction as it presently exists today in accordance with previously approved building permits. Copies of this plan were furnished to your staff, each board member and the Belvedere Civic Association. We ask for your approval of this revised plan.

8. Pursuant to the comprehensive Fairfax County Staff meeting for coordination and information with the developer and engineer on September 27, 1973, the above stated plan and over-view development plan was submitted and discussed with a follow-up memorandum from our engineer dated October 4, 1973. This plan and the memorandum are attached hereto. Copies have been furnished to your staff, each board member and the Belvedere Civic Association. The impact and intent of this plan is clearly expressed in the Engineer's letter. While time would not permit detailed engineering

refinements, that are necessary to accomplish a detailed formal revision to both the Site Plan #441-C and the Cloister's lot development plan, this plan demonstrates the ability of the overall tract to be divided and clearly segregated without overlapping jurisdictional problems into well defined areas:

(1) 3 acres set aside with recreational use development as shown for the use of Cloister's lot owners and excluded from the Lake Barcroft Recreation Center, Inc. Special Use Permit.

(2) The Developer will have the economic loss of one lot dropped from the Cloister's Subdivision (i.e. only 21 lots) to accomplish the plan.

(3) The land area of Recreation Lane, a public street, is segregated as such and excluded from Lake Barcroft Recreation Center, Inc. Special Use Permit.

(4) The approved Special Use Permit granted 5 tennis courts; the location of two of them has been moved from the stream valley to a location adjacent to the three court location. This minimizes environmental impact and increases user access. One tennis court is excluded from the Lake Barcroft Recreation Center, Inc. Special Use Permit and placed into the Cloister's Subdivision recreational area along with the other recreational uses of tot lot, basketball backboard, picnic area, rain shelter, horseshoe pitching pit, and hiking trail.

(5) The land area exclusively segregated and set aside only for the purpose of the Lake Barcroft Recreation Center, Inc. and subject to its Special Use Permit would be the residual area shown of approximately 8 3/4 acres comprising two separate parcels - one parcel on the north side of Recreation Lane, the other parcel of the south side of Recreation Lane. The perimeter boundary lines of the parcel on the south side of Recreation Lane are static and already established. All perimeter boundary lines of the parcel on the north side of Recreation Lane are static and established except the dividing line between the Cloister's three acres recreational area which is subject to engineering

detail refinement of land area and formal approval by the Director of County Development.

(6) The original 13 $\frac{1}{2}$ acres land area will substantially maintain its integrity as to the physical land use except that it will now be subject to two separate Special Use Permits of adjacent properties under the control of this Board of Zoning Appeals - i.e. the present Permit to Lake Barcroft Recreation Center, Inc. and a new application to be filed by the Cloister's Homeowners Association dealing with the 3 acres recreational space in accordance with this plan. A covenant running with the land as determined by the Circuit Court of Fairfax County previously referred to in the record of this case prevents any other practical use of the total 13 acre land area.

(7) The designated 8 $\frac{3}{4}$ net land area to be under the Lake Barcroft Recreation Center, Inc. Special Use Permit is a reasonable amount of land for the purposes stated. There is not stated minimum land area requirement under the Zoning Code for this type of Special Use Permit. Accordingly, the Real Estate Tax Assessor's Office and a physical inspection of the premises, there are three directly comparable recreational facilities in Fairfax County which have been granted Special Use Permits by this Board and their land area and uses are comparable standards for your consideration and should be consistently applied:

- (a) Sleepy Hollow Recreation Association, Inc./5.533 acres of land area
is only on
- (b) Sleepy Hollow Bath & Racquet Club, Inc./7.92 acres of land area
is only on
- (c) Tuckahoe Recreation Club, Inc./7.26 acres of land area

Finally, your permittee requests approval of the intent of this comprehensive plan in principle, and modifications of the Use Permit conditions accordingly. Thereafter, permittee will submit detailed engineering site plan revisions in accordance with standards of Fairfax County administrative practice to accomplish the intent of this overall development plan; and the Cloister's Homeowners Association will submit its application for a Special Use Permit in due course

Those conclude my remarks, Mr. Chairman. I await any inquiry by this Board and turn the podium over to Mr. Granum president of the permittee.

MR. SMITH: Would you state your name and address, please.

MR. JAMES GRANUM: Mr. Chairman, members of the Board, my name is James Granum I live at 6417 Lyric La., Falls Church. I am a member of the Alabama, Virginia and District of Columbia bars and president of the Rec. Center over the past 2 to 3 months. We're not a bunch of ogres. We're trying to do---

MR. SMITH: What is an ogre?

MR. Monsters.

MR. SMITH: You say you're not a bunch of what?

MR. GRAN. A bunch of ogres.

MR. SMITH: Ogres. What are ogres?

MR. GRANHAM: They're monsters.

MR. SMITH: Thank you, sir.

MR. GRAN. We're a community of positive, dedicated, do-gooding people. I've been a coach down at the boys club for five years, president of the Sleepy Hollow P.T.A. the last year, president of the Belvedere P.T.A. this year. Mrs. M.A. Lecos, wife of Dan W. Lecos, is chairman of the School Board. There's no possibility of profit in this project at all. We're spending considerable amount of time and effort and trying to develop the community in a very beautiful, very serviceable way. We have 129 members out of the 400 that are permitted. We sent out 2,100 applications to the membership area taking considerable care at my expressed directions that we distribute membership applications to the area outside of Barcroft before it was distributed to the Barcroft area. These replies are just now coming in. We have about \$735,000 of members money, personal responsibility and liability tied up in this

project. Twenty-five of these people sitting in the audience have signed up to guarantee these \$735,000 worth of construction alone and these people can be hurt, very badly hurt. Several of these people have taken two memberships to carry the construction project through this difficult phase that we're in.

MR. SMITH: Will you answer just one question? Does that include the development that you've done in the road in the Cloister Development, also, that amount of money that you're talking about now? Pertaining to the swimming pool and recreation facility.

MR. GRANUM: The Cloister development has not had much money expended at all, just for clearing and preparatory. The money's been spent in the road

MR. SMITH: Have you not spent money on the drainage for the Cloister development?

MR. GRANUM: No, sir, it hasn't been.

MR. SMITH: Wasn't it included in your overall drainage plans?

MR. GRANUM: The drainage work is contemplated. It has not yet be done. I have here four polaroid pictures that were taken this afternoon to show the status of construction. I've shown them to Mr. Goodell and Mr. Brown and would like the Board to see this 2 hour old update of what it looks like in the ground. With the indulgence of the Board, I would also like to have stand the members, interested people, in support of our project in this neighborhood. Would you all please stand?

MR. SMITH: Alright, we'll take a count. While we're counting, the road that you indicate here, is this the road that the public proposed, the public road to serve both the Cloisters, is that correct? It originally was a private road?

MR. GRANUM: Yes, the state of construction that you see would be the first thousand feet, which would serve as access to the rec center and to the tennis courts. It would have to curve around and it would entail another

construction extension to get to the Cloister area.

MR. SMITH: But, you're aware of the fact that originally, when the initial Use Permit was granted, this was part of the Use Permit and was a limited private road to be used by the Recreation Association only. And, since that time, it's been dedicated and now it's become a public street or will become a public street.

MR. GRANUM: No, sir, it's my understanding that I think some of the conflict comes from three separate jurisdictions having authority over what's going on there, the Virginia Department of Highways with Recreation Lane, you with the recreation facility that you see the photographs of, and the County Zoning people with the forthcoming development of the Cloister. And, we've tried to go to the three jurisdictions with their respective authority. The Recreation Lane has not been dedicated; as far as I know, there is no irrevocable commitment to do so. Right now, it's a street being developed by us for access to the recreation facility.

MR. SMITH: This is contradictory to what Mr. Waterval told the Board just a few days ago, sir, that it was dedicated for public use, street use.

MR. WATERVAL: Well, Mr. Smith, you unfortunately don't have the permittee's lawyer. And, let's get the record straight here, you have a subdivision approved plan---

MR. SMITH: Did you or did you not make a statement to the Board that this street was--would be a public street.

MR. WATERVAL: That is correct and the permittee's President's remarks are incorrect and are in error. That's all it is to it.

MR. SMITH: All right. O.K.

MR. GRANUM: I have been in a family funeral and drove all night to get here at 5:00 o'clock this morning, so I have not been in touch with Mr. Waterval.

MR. SMITH: I just wanted to clarify some of these points as we go along. You are also aware of the fact that the -- one of the conditions set forth in the original use permit was the limited use of this private use from 9:00 A.M. until 9:00 P.M. Of course, this Board cannot limit the use of a private street. We have no authority to do so. That is another factor. You may not be aware of this.

MR. GRAN I had one other point.

MR. SMITH: Go right ahead, I will give you an additional five minutes to finish.

MR. GRANHAM: I have done, I have been in contact with other swim facilities in the area through our committees. The Sleepy Hollow Racquet Club referred to in Mr. Waterval's memo has 5.5 acres of land, 370 members. That comes out to 67 families per acre. Sleepy Hollow Bath & Racquet Club, Inc has 7.9 acres 475 families, 60 families per acre. The Tuckahoe facility has 7.2 acres of land. They have individual members rather than family membership but, they have 3,250 members. We're talking about, and this, I think, is our plea there's some way that/to arrive at a solution to this problem. And, if the rec center were forced to throw out control ownership over Recreation Lane the 3 acres of total use property, the land on the other side of Recreation Lane, if we just drew a circle around everything and just said the hect with it this is the Use Permit area, we would have eight acres of land with 450 families or a ratio of 50 families per acre versus 60 and 67

MR. SMITH: Let's go back now to the original Use Permit. What was the land area covered in your original Use Permit for this use?

MR. GRANHAM: It was around thirteen acres.

MR. SMITH: So there has been a change; you've deleted a certain amount

of that land. Also, I think it should be pointed out at this point that I believe I know Tuckahoe Recreation Assoc., recreation club and I believe all these as opposed to Sleepy Hollow and Sleepy Hollow Bath and Racquet Club were on primary streets, or primary roads. The entrances to them, a direct entrance off a primary road and not necessarily through a subdivision. So there, the land area other than the fact that the land area has been deleted is not in question. You have deleted certain land areas from the original Use Permit without first amending the Use or in a formal manner. I think that this is one of the things that concerns the Board. In fact, it's one of the violations in question.

MR. GRAN In the situation in having to plea to the Board to find a solution and a way out of it, you can see---

MR. SMITH: I think this--- the solution here does not lie with the Board but it lies with the Recreation Assoc. You committed the violation and the Recreation Assoc. will have to find a solution to it. If there is a solution and I see there is a solution to every problem that I ever encountered one way or the other.

MR GRAN Well, we're in the unfortunate situation of having had to carry this 600-700 thousand dollars worth of expenses and interest and all through the this very trying time. We also have, I think we're not admitting that there has been any violation of the Use Permit that we're trying to reach to you and do anything reasonable to remove any doubt about it without getting to court or getting to the hard point. And, if there's any way we can modify our facility, our application, the site plan or whatever, we are trying to do that to meet the demands of the Board.

MR. SMITH: Does the Board have any questions? Thank you very much.

MR. GRAN Thank you, sir.

MR. SMITH: Alright, you've actually used fifteen minutes, Mr. Waterval.

So, is there anyone to speak in rebuttal to this by the Recreation Assoc. just step forward and give us your name and address for the record, please. You'll be allowed fifteen minutes.

MR. RUFUS BROWN: My name is Rufus Brown; I live at 5506 Oakwood Dr. I plan to take about five minutes. I commend Mr. Granham's efforts to seek a solution to this problem. I think the obvious solution is one I already suggested and that is to revert back to the original plan. We have here delays; we have here new plats but the effect is the same. The Permittee is asking the Board to accept what the Recreation Center has intended all along and that is to change the use. I don't think there is anything that has been submitted since the public hearing that has changed the intention of the Recreation Center. We submit that we deserve a decision in this case. We started June 19th; we wrote a letter to the Board July 31. We had a hearing on August 3; we had a public hearing on September 4th or September 5. We're here again today. The Board has gone out of its way to be fair and accommodating to Lake Barcroft. But, we urge the Board to be equally fair to us and give us the decision we think we deserve. Thank you.

MR. SMITH: I think in view of the State Code that the Board is compelled to render a decision today on this matter today without agreement between both parties. additional deferral would not be permissible.

Does the Board have any questions?

(A gentleman in the audience raised his hand)

I'm sorry, do you want to step forward and give us your name and address.

You still have ten minutes of time if anyone wants to use it.

MR. BERNARD SHEPS: My name is Bernard Sheps. I am a resident and owner at 3838 Pinewood Terrace which is the Belvedere Subdivision, Lot 29 and I would also like to qualify myself as representing twenty-five Petitioners

who signed my letter of who signed my letter of September 10, 1973, to your Board and also would like to further qualify myself as a --

MR. SMITH: Do we have that Petition on file in the record?

MR. SHEPS: It should be. It was mailed to the Board.

MR. SMITH: We will include it in the folder then.

MR. SHEPS: I would like to further qualify myself as a Geographer with a Masters from Maryland U on a full research fellowship. One of my research projects being erosion in the Upper Rock Creek Valley as the result of urbanization, something that has brought me into contact with the problems of this sort. I will skip many of the notes that I have made here because I think you've made a good many of the points of the conflicts that have already arisen; the fact that the Permittee has made this a cross-jurisdictional problem when initially it was not so; and has thus made matters much more difficult for your Board. I will proceed instead to the request which the people -- by the way I support everything which Mr. Brown and Mr. Goodell have presented -- I support fully that which the Belevedere Civic Association and Lake Barcroft Woods Association have presented to you in their Petition. I asked and you have already suggested some of the remedies that you vacate the approval of the revised site plan as having been obtained without full disclosure, which is a positive and active responsibility of the Permittee, returning to the original site plan insofar as it is now possible in view of construction already completed. This will eliminate any consideration of the Cloisters as related to the Recreation Area, or if they wish to include the Cloisters, then obviously, they have got to vacate that Special Use Permit and go for a new one since they have now defused the Recreational facility originally intended for the Recreation site into the Cloister site. In fact, their letter just received indicates that this is their intention and I say that it is impossible for the Board to consider

this Permit without seeing what their further intent is for the Cloister site. At any rate similar protection would have to be afforded to surrounding neighbors, screening from noise and a very unpleasant view. Fencing would likewise have to be provided. I think, really, that is all that is necessary to say. Their submissions are that (inaudible) and I suggest that the Board might want to consider dismissing their action with prejudice.

Thank you.

MR. SMITH: Does the Board have any questions? Thank you Mr. Sheps.

MR. SMITH: Is there anyone else to speak in rebuttal?

All right Mr. Waterval, we will give you a couple of minutes. Actually this has been in rebuttal to your earlier statement. But, you have heard the testimony.

MR. WATERVAL: There is no point in taking issue with whether or not the Permittee has to make active or passive disclosures of the questions in due process and that is spelled out in the memorandum of record already. I would say, however, before this Board makes its decision, that this memorandum of record is a formal modification of the Use Permit application.

MR. KELLEY: Mr. Waterval. I would like to apologize to the people that came up here today and I would also like to apologize to the Board of Zoning Appeals. I think when you and the Gentleman sitting over there -- I forget his name -- asked to submit new plats on September 26, 1973, as you thought you could solve all these problems. You assured us at that time -- Mr. Smith had planned to dispose of the case that day -- and I took the liberty of asking the Board to give you people and to give you this chance and you assured this Board -- and I think the minutes will bear me out in this -- that you

would have this information and the plats in each Board members' hand five days prior to today. Now, I get it as the entire audience saw here -- a nine page document of typewritten material and you walked up and handed it to me here when you came up to make your final plea. I just want to say that I apologize to everybody for prolonging this two weeks. I was trying to be fair to everyone.

MR. WATERVAL: May I comment Mr. Kelley. If you will recall sir, I am sure the minutes will reflect this -- I asked for 30 days because I knew it was an impossible exercise of administration on our part -- now, we got the plan out as rapidly as possible. My engineer, Mr. Durette is in the audience today to so testify. It was put in your Staff Office on the 5th of October. That was the most expeditious way that we could possibly get it to you people individually. I talked with Mr. --ah -- ah -- Mr. Mitchell that is here today, on the 5th and he could not mail the plats to you folks, you do not have any boxes, as such to hand carry them to. He was sending you your Agenda today and I implored upon him to at least drop a note in each envelope to you people that these plats were there along with the engineer's letter. Now, there again, we are up against a physical impossibility situation. We have a Holiday in there and I did get those plats and the engineer's memorandum physically handed, hand carried, to Mr. Goodell and to Mr. Sheps on the 5th and we have a receipt for them. Now, the lengthy nine page record memorandum, sir, that you have before you right now, the first seven pages I would like to have put in the record on the 25th of September, but we had other things to talk about, so there is nothing in the first eight pages there that are not in the record somewhere already. It is simply summarized. The part that is salient for today's discussion so that you can understand what those

plats are and the formal amendment to the Special Use Permit which we proffered today, is why I read those last three pages.

MR. SMITH: Mr. Waterval, I think you have just supported what Mr. Kelley said. There has really not been any change since the 25th. The plats that we received, and of course I think the majority of the Board -- you did indicate to the Board that you were going to have a meeting with County officials and representatives of various Departments to iron out a lot of these problems -- and apparently you really didn't iron out anything, we are really right back where we started.

MR. WATERVAL: I'm sorry Mr. Smith, I didn't say that I could get concurrence from the County. I said that there was a meeting scheduled and I had called for it over three weeks ago and that was the first time I could get anybody to meet with me, the day after, the 27th. I cannot make those people agree to something, I can only explain to them that concept because that is part of our problem here -- nobody has been willing to read or to listen about the complexities of this case.

MR. SMITH: I disagree with your statement on listening. I have listened for quite awhile and I'm sure the other Board members have too. The hearing is completed now unless the Board has other questions. Are we in a position to arrive at a decision at this point.

MR. RUNYON: Mr. Chairman:

MR. SMITH: Mr. Runyon.

MR. RUNYON: This puts us in a difficult position as we have stated over and over again, but I think its the magnitude of what has been done/puts us in a position of not having too much choice. By our
that

Ordinance, we are limited as to what we can do and I think what has been presented to us at this time is such that I think we do not have any choice but to move ahead with the Revocation, as I see it. I do not know if that reflects your view or not.

MR. SMITH: I agree. At this point, in view of the changes that have taken place that this is the only position the Board can take with what we have and the changes that have taken place as far as the land area is concerned and the additional uses and the change from a private entrance and exit to a public street. This does change the impact.

MR. RUNYON: It is the magnitude of what the changes are. If it was a minor change, I guess that would be all right. But, having looked this over, it certainly leaves us up in the air. To a point. Once I see the magnitude, I guess really legally, we do not have much choice, but go ahead with what we had started to do.

MR. KELLEY: I agree with Mr. Runyon and that is why in the finding of fact, Mr. Chairman, I would like to real a motion.

The Board of Zoning Appeals^{did}/in the original application, No. S-142-69, find as a Finding of Fact that the roads serving the proposed facility were extremely narrow and without proper notice to the Board and without the Board formally amending the Special Use Permit,^{the applicant changed}/the ownership of the property under Special Use Permit and without application for amending their application, he proposed to make double use of part of the application territory, using the land area for the Cloister Open Space on an adjacent subdivision. The applicant, did without proper notice, and without amending the application delete part of the land for a road and change what had been a private road to a public road, thereby greatly affecting the traffic to and from the Special Use Permit property and this is in violation of the conditions of the Special Use Permit, particularly numbers 3 and 7 of the

conditions. In view of these violations, the Special Use Permit is hereby
revoked effective twelve days from today.

MR. BARNES: Second.

MR. SMITH: It has been moved and seconded that the Lake Barcroft
Recreation Association, Inc. Use Permit be revoked effective 12 days from
today. Discussion on the resolution.

(No discussion)

If not, all those in favor of the resolution to revoke 12 days
from today will indicate by saying Aye.

ALL MEMBERS: Aye.

MR. SMITH: The vote is unanimous to revoke as stipulated.

(The end of hearing)

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The Regular Meeting of the Board of Zoning Appeals Was Held On Wednesday, October 17, 1973, in the Board Room of the Massey Building. Present: Daniel Smith, Chairman; Loy P. Kelley; George Barnes; Joseph Baker and Charles Runyon.

The meeting was opened with a prayer by Mr. Barnes.

10:00 - HEART ASSOCIATION OF NORTHERN VIRGINIA, INC., app. under Section 30-7.2.6.1.1 of Ordinance to permit headquarters building, 3456 Gallows Road, 59-2((1))50, Annandale District (RE-0.5), S-179-73

Mr. Donald Stevens, Post Office Box 547, Fairfax, Virginia, attorney for the applicant, testified before the Board.

Notices to property owners were in order. The contiguous owners were Sneider and White.

Mr. Stevens stated that a dilapidated house exists on this site at the present time. This house is probably a hazard to the neighborhood. He located the property on the screen for the Board. The Holmes Run Civic Association is nearby and the Holmes Run Acres are the newest of the dwellings along Gallows Road. He stated that Gallows Road is basically residential down past Hummer Road and Annandale Road until you enter downtown Annandale itself. What is proposed here, he stated, is the headquarters of the Heart Association. It is a non-stock, non-profit organization. It is community oriented. The Heart Association now owns the property, they closed in April of this year.

Mr. Stevens continued in his presentation by stating that the Heart Association is engaged in two community functions. One of these is the education function in making people aware of the kinds of problems that contribute to heart disease, and the kinds of things that are done to help those problems once they arise. One of the things they do to help people in the community who have heart disease is furnish medicine on a non-profit basis and they also furnish equipment for in-home use. There is no actual treatment rendered. This is not a clinic. They will have seven employees at this location. They also have volunteers that work in the community conducting the educational programs. The Heart Association also, number two, works with the professional staff and professional community, Fairfax Hospital for example, that deal with this disease.

Mr. Stevens stated that there are floor plans of the proposed building in the Board's file. What the floor plans show is a structure that will accommodate 12 employees. There is room for growth that will accommodate this area for generations, so they are not talking about coming back and asking for expansion. On the ground floor, as indicated by the floor plan, will be a storage area for the educational brochures, and equipment that can be rented out to people who need it in their home. There is also a meeting room for the Board of Directors composed of citizen volunteers. They meet about six times a year. That meeting room can be made available to citizen groups in the immediate vicinity should they desire to meet there. There is a school and a church down the road, therefore, he didn't expect the need for this to be great.

Mr. Stevens stated that this is in a quasi-institutional area and it is fair to anticipate that a fair amount of redevelopment of some of the houses on the south side of the road will transpire in the near future because of the age of these houses. This building has been designed to be in harmony with the neighborhood. A copy of the rendering is in the file also. Because of the way this structure sits into the hillside, it would be practically invisible coming from Annandale. You could barely see it come from Gallows Road and Route 50. The site plan also shows the trees that will be preserved.

In summary, Mr. Stevens stated that in terms of impact from the visual nature, this is not dissimilar to the kinds of residential structures on the north side of the road. There will be no effect on the neighbors to the rear. The grade falls to the rear so the structure cannot be seen from Gallows Road and there is considerable fall from the ridge line back toward the interior neighborhood. He stated that he would ask to have the Board grant this Special Use Permit. He stated that he submits that the community does use this facility and it is a community use. It is not designed to only serve the immediate vicinity, but also people from outside Fairfax County, but it will center on Fairfax County.

Mr. Smith stated that he felt they had established that it does serve the local community as well as the surrounding communities. He stated that if there is any question on the validity of this organization as a community service, it should be brought out now. It was filed under community uses and under the ordinance community uses does include civic or cultural centers that are not conducted for gain. He asked Mr. Knowlton, the Zoning Administrator, for his opinion on this.

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HEART ASSOCIATION (continued)

Mr. Knowlton stated that he had no questions on whether or not this is a community use. He stated that he feels that it is a community use, it was accepted under that Group in the Ordinance.

Mr. Stevens stated that the Board's file does contain a communication from the Holmes Run Citizens Association that represents that the area to the north surrounding this property voted to approve this application.

Mr. Smith stated that the Board is also in receipt of a communication from Mr. Iams, the Executive Director of Fairfax Hospital stating that they support this application.

Mr. Stevens stated that the hours of operation would be from 9:00 to 5:00, five days a week except for most unusual circumstances when they might have to work on Saturday.

Mr. Smith read the letter signed by Keither Gardner, President of the Holmes Run Civic Association, stating that they had considered this application and a great majority voted in favor of it. They feel it would be a service to the community.

There was no opposition to this application.

Mr. Kelley stated that he had heard that there were a lot of people at the Planning Commission hearing in opposition to this use.

Mr. Smith stated that there did not seem to be anyone in the room who was interested in the case. There are nine letters in the file in favor of the application. There was one letter in opposition.

Mr. Smith read the recommendation from the Planning Commission and also read Mrs. Becker's verbatim transcript of her Resolution requesting the Board of Zoning Appeals to deny this application.

Mr. Smith stated that no evidence has been presented this morning that this use would in any way adversely affect the local community. It does meet the standards of the ordinance relating to community uses. He asked if the building would be brick.

Mr. Stevens stated that it probably would. The original plan was to construct the building of natural wood siding, but the present proposal is brick, to blend in with the residential area. The architect is a resident of the Holmes Run Acres Subdivision is working with the neighbors every step of the way so that it will be constructed according to their wishes, their knowledge and approval. This will be a one story building with a basement. The meeting room will be 20'x28'. Normally there would be about 20 people for the Board of Directors meeting. They hold their symposiums at the Tysons Corner Holiday Inn and there are numerous meetings throughout the year held in schools. Their educational programs go to the people. They are not held in the Headquarters Building.

Mr. Kelley stated that he was rather confused that the Planning Commission voted 7 to 1 against this application and today there is not a single person here to object to it.

Mr. Smith stated that one of the things the Planning Commission mentioned was that this might cause an influx of commercial uses and there might be a change in use. If there were a desire to change the use, that applicant would have to file an application and that case would be heard on its own merits. Should the Heart Association wish to discontinue occupying this structure, it would revert back to its residential status. Mr. Smith stated that he could not understand the Planning Commission's recommendation to deny based on the merits of the case.

Mr. Stevens stated that in answer to Mr. Kelley's earlier questions about the Planning Commission hearing, there were three people who spoke in opposition to this application, one was Commissioner Becker, Mr. Becker, Mrs. Becker's husband, and another gentleman who lives to the southwest of the site.

Mr. Smith stated that all applications are based on the merits of the application. There is no precedent set in the community because a Special Use Permit is granted. The Board has to establish that it will not have a detrimental effect on the community.

Mr. Runyon stated that he felt that under the ordinance this is a community use. Therefore, he would make the following motion.

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 HEART ASSOC. OF NO. VA., INC. (continued)

In application No. S-179-73, application by Heart Association of Northern Virginia, Inc. under Section 30-7.2.6.1.1, of the Zoning Ordinance, to permit headquarters, building, on property located at 3456 Gallows Road, Annandale District, also know as tax map 59-2(1)50, Co. of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 17th day of October, 1973.

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

1. That the owner of the subject property is Heart Association of Northern Virginia Inc.
2. That the present zoning is RE-0.5.
3. That the area of the lot is 40,033 sq. ft.
4. Site Plan approval is required.
5. That the Planning Commission on October 4, 1973, recommended denial of the application.

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

1. That the application has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMITS AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. Special emphasis shall be given to supplemental evergreen screening for the parking areas on all sides. Architectural emphasis shall be given to the building to keep it in harmony with the residential character of the area.
7. The hours of operation are to be from 8 A.M. to 9 P.M.
8. The sign is limited to the standard 2 sq. ft. identification sign.

Mr. Baker seconded the motion.

The motion passed unanimously.

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10:20 - OXFORD PROPERTIES, INC., app. under Section 30-7.2.9.1.7 of Ordinance to permit real estate office, 12101 Leesburg Pike, 6((1))Parcel 11, Dranesville District, (RE-1), S-177-73

Mr. Richard Dixon, 4101 Chain Bridge Road, attorney for the applicant, represented them before the Board.

Notices to property owners were in order. The contiguous owners were Hammond, Route 1, Box 118, Chantilly, Virginia and Cloverdale Corporation, 2600 Tilden Street, N.W., Washington, D. C.

Mr. Smith read a memorandum from the Planning Commission which asked the BZA to give them the opportunity to hear the above application under Section 30-6.13 of the County Code. They stated that they did realize that the case was advertised but they would appreciate the Board's deferring decision until they could make their recommendation. The applicant has been notified of the October 30, 1973, Planning Commission hearing date.

Mr. Dixon stated that they would like the Board's opinion on that memo as it was not within the 30 day requirement. He stated that each Board that wishes to hear this application asks the other Boards not to do anything. The Architectural Review Board has heard this twice. They are trying to cooperate. However, they want information the applicant feels is not necessary.

Mr. James Stokesberry, Office of Comprehensive Planning, Historical Planner and Staff Member for Architectural Review Board, spoke before the Board. He stated that the applicant has made two presentations before their Board. In this case the subject property falls within the Dranesville Tavern Historical District. The Architectural Review Board has not yet received enough information to make a final determination of the exterior appearance of the property after alterations. This involves landscaping, topography and grading. The ARB, therefore, makes this request to the Board of Zoning Appeals, to make any granting of a permit in this case conditional upon full approval of all matters to be considered by the Architectural Review Board.

Mr. Smith stated that the Board is in receipt of a letter from that Board stating that their position on the application is:

- "...1. To recommend approval of the use as being compatible with the character of the Dranesville Tavern Historic District.
- 2. To recommend approval of the architectural finish as submitted by the applicant with regard to color, texture and materials.
- 3. To require further submission by the applicant of professionally done, complete exhibits including plans showing topography, grading, sign and exterior lighting and landscaping plans, following the applicant's receiving reasonable assurance from appropriate County agencies that he can develop the subject property for the proposed use.

Therefore, the ARB conveys to the Board of Zoning Appeals its opinion that the proposed use is compatible with the historic district.

The ARB recommends acceptance of the concept of providing parking in the rear with appropriate access, but reserves its final approval until more detailed information concerning topography grading, sign and lighting and landscaping is available. Accordingly, the ARB request the BZA to make any granting of a permit in this case conditional upon full approval of all matters to be considered by the Architectural Review Board."

Mr. Smith asked Mr. Dixon when they would be able to furnish these plans.

Mr. Dixon stated that it is his understanding that the next meeting of the ARB is November 8, 1973, and they will have the plans to them on the 8th.

Mr. Smith asked if they had been submitted at this time.

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 OXFORD PROPERTIES (continued)

Mr. Dixon stated that they had not and would not until the 8th.

Mr. Smith stated that there is some question whether or not the BZA could or should even hear the case until the Architectural Review Board has had an opportunity to hear this matter. This is in a historical district and it is quite different from most of the BZA's applications.

Mr. Dixon stated that their position has been fortified by the County Attorney and that is that this Board does not have to wait for the approval of the Architectural Review Board.

Mr. Smith stated that this Board needs all the information that it can possibly assemble to make a decision. This landscaping information would be very helpful to the BZA and without this information, he did not see how they could hear the case.

Mr. Smith stated that the Board actually does not have correct plans and the plans do not show the landscaping and that is one of the requirements. The plans also must be concurrent with the plans submitted to the Architectural Review Board. These plans should indicate the landscaping and any other changes that the Architectural Review Board might propose.

Mr. Smith asked Mr. Dixon when he would take possession of the property.

Mr. Dixon stated that they took possession three weeks ago.

Mr. Smith asked if he had submitted that information to Mr. Mitchell so he could verify it before the hearing.

Mr. Dixon stated that he had not, but he would do so before the 14th.

Mr. Smith stated that the record should show that this case was deferred, the Oxford Property case, by agreement. Mr. Runyon abstained as his firm prepared the plats.

The Board members concurred in this action.

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10:40 - MYRON C. NAGURNEY, app. under Section 30-6.6 of Ord. to permit carport closer to side property line than allowed by Ordinance, 8331 Stonewall Drive, 39-3(16)) 59A, Centreville District, (R-12.5) V-180-73

Mrs. Nagurney testified before the Board.

Notices to property owners were in order. The contiguous owners were James Robert 8327 Stonewall Drive, Vienna and Luther Martin, 2503 Jackson Parkway, Vienna, Virginia.

Mrs. Nagurney stated that they have drainage problems and topographic problems that cause them to need the variance.

Mr. Barnes asked why they could not build on the other side.

Mrs. Nagurney stated that they have a slope on the other side. She showed the Board pictures showing the slope.

Mr. Runyon stated that the angle of the house on the lot doesn't help matters. If this were a Cluster subdivision, they would not need a variance.

Mrs. Nagurney stated that the carport will have brick columns and the top portion will be aluminum siding. This is the same as the rest of the house. The roof will be the same color as the rest of the house. If they did build the carport on the other side of the house, it would do violence to the neighbor.

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MYRON C. NAGURNEY (continued)

In application No. V-180-73, application by Myron C. Nagurney, under Section 30-6.6 of the Zoning Ordinance, to permit carport closer to property line than allowed by Ord. (ie. 23.2 front yard), on property located at 8331 Stonewall Drive, Centreville District, also know as tax map 39-3(16)59A, County of Fairfax, Virginia, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 17th day of October 1973, and

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

- 1. That the owner of the subject property is Myron C. Nagurney & Irene M.
- 2. That the present zoning is R-12.5.
- 3. That the area of the lot is 15,222 sq. ft.
- 4. That the variance is a minimal request.

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

- 1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
 - (a) exceptional topographic problems of the land.
 - (b) unusual condition of the location of existing buildings.

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

- 1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
- 2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
- 3. Architectural detail of the addition is to conform to that of the existing building.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, non-residential use permits and the like through the established procedures.

Mr. Baker seconded the motion.

The motion passed unanimously.

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11:00 - B. C. THEATRES (partnership) app. under Section 30-7.2.10.44 of Ordinance to permit four movie theatres, U.S. Route 1 and Memorial Street (Beacon Hill Mall Shopping Center), 93-1((1))1a (part), Lee District (C-D), S-181-73

Mr. Walt Burk from the B. F. Saul Company testified before the Board on behalf of the applicant.

Notices to property owners were in order. He stated that the Beacon Hill Apartments is the only contiguous property owner.

Mr. Calvin O. Cox, Mrs. Linda Cox and Mr. John Broumas are the partners in this. This theatre will be in an enclosed mall. The total space is 9,525 square feet. There will be 192 seats, a lobby, snack bar and restroom facilities. This partnership operates the theatres at the Braddock Shopping Center, the Vienna Theatre, the theatre in Fairfax at Fairfax Circle and three more in Virginia, thirteen theatres in Maryland under the Show-Case Theatre title. They have the experience to properly manage theatres. Each theatre will have 192 seats for a total of 568 seats. They plan to operate from 9:00 A.M. until midnight, seven days a week. They do not anticipate having any shows past midnight. They do have plenty of parking spaces as shown on the plats. This has been checked by the Site Plan office.

There was no opposition to this application.

In application No. S-181-73, application by John G. Broumas, Calvin D. Cox, Linda C. Cox (partnership) T/A B. C. Theatres, under Section 30-7.2.10.44 of the Zoning Ordinance to permit 4 movie theatres on property located at U. S. Route #1 & Memorial Street (Beacon Hill Mall Shopping Center) also known as tax map 93-1((1))1A(part) Lee District, County of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 17th day of October, 1973.

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

1. That the owner of the subject property is B. F. Saul Real Estate Investment Trust - 99 year lease. Owners Franklin P. Reed & Mary Lewis Lehman.
2. That the present zoning is C-D.
3. That the area of the lot is 30.7264 acres.
4. That site plan approval is required.
5. That compliance with all County Codes is required.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I Districts as contained in Section 30-7.1.2 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.

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B. C. THEATRES (continued)
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3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. The seating capacity for each of the four (4) theatres shall be a maximum of 192.

7. The hours of operation shall be 9:00 a.m. to 12 midnight, seven (7) days per week.

8. The minimum number of parking spaces shall be 192.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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11:20 - BERNARD C. COX, app. under Section 30-7.2.8.1.2 of Ord. to permit riding stable and boarding of horses, 3801 Skyview Lane, 58-4((1))54, Providence District (RE-1), S-182-73

Mr. Bernard Cox represented himself before the Board.

Notices to property owners were in order. The contiguous owners were Robert O. Basham, 3804 Cantel Lane and Aubrey D. Basham, 3800 Chantal Lane and John Robert Grove, 9108 Petros Court.

Mr. Cox stated that he presently has 35 ponies and 1 horse. He has 8 1/2 acres of land. The ponies are under 12 hands.

Mr. Barnes asked if these ponies are fed or if he depends on grazing.

Mr. Cox stated that they are fed hay and grain and there is some pasture, but not enough.

Mr. Barnes asked how long he had been in business.

Mr. Cox stated that he had been in business for 27 years.

Mr. Barnes stated that he rented a stable one time at the same place / Mr. Cox rented a stable. He stated that Mr. Cox also had some ponies there in the winter time and they were left outside with absolutely no protection and no food. He stated that he fed those ponies food himself because he felt sorry for them. He asked Mr. Cox if he trades as Bernie's Amusements?

Mr. Cox stated that he does.

Mr. Barnes stated that those were a sorry bunch of ponies and he had gone to the trouble of finding out who owned them. He stated that he did not think much of the operation. He stated that this stable was on the Flinthill School property. At that time, it was owned by Mr. Sneider. He stated that he was almost at the point of notifying the SPCA about how these ponies were being treated.

Mr. Cox stated that those were not his ponies. He stated that he never kept ponies at that location.

Mr. Cox stated that he would like to teach children riding. These children are to be brought there in groups. They are usually Scouts or 4-H Club children. He stated that he does not have a contract with any of these organizations at the present time.

Mr. Smith asked if the amusement rides are stored at this location.

Mr. Cox stated that he has stored them there until last April 15. He stated that he does not use them there.

Mr. Smith stated that they could not be stored there either, nor can they be maintained at that location. He asked Mr. Cox if he had ever brought men in to service the equipment at that location.

Mr. Cox stated that he has, yes.

Mr. Smith asked how he would have room on only 8 acres to board horses and also give lessons.

Mr. Cox stated that in the winter time the majority of the ponies are taken out to Lennan, Virginia, out Route 50 past Dulles. He stated that he has a farm out there. In the summertime, these horses are taken to picnics, and things like that.

Mr. Smith asked if he had been giving riding lessons.

Mr. Cox stated that he had not. There are children who come and ride though. These are neighborhood children. They come and take a horse or pony to a show. There are no charges for this.

Mr. Smith asked if the people who prepare the horses or ponies are employed by him.

Mr. Cox stated that they might be. Sometimes they are and sometimes they are not.

Mr. Barnes stated that after reviewing the insurance policy from the Atlas Underwriting Company that it expires on April 11, 1973. He asked if it had been renewed.

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Mr. Cox stated that he had had it renewed and he had a copy with him.

Mr. Kelley stated that he did not see the restroom facilities shown on the plat.

Mr. Cox stated that the plat shows the private garage and there are toilet facilities there, but there is only one.

Mr. Smith stated that he would be required to put in separate facilities.

Mr. Smith asked Mr. Cox if he had requested a team inspection.

Mr. Cox stated that he had not.

Mr. Barnes asked Mr. Cox how long he had been operating out of 3801 Skyline View.

Mr. Cox stated that he had operated out of 3801 Skyline View since 1964. Last year the Zoning Administrator informed him that he was in violation for operating a commercial business from a private residentially zoned residence.

Mr. Smith asked him if he cleared up the violation.

Mr. Cox stated that nothing ever happened to it.

Mr. Smith stated that this Board has no authority to grant a permit to infringe on any section of the ordinance that doesn't come under the Special Use Permit section. Operating a commercial business is not considered in this application. The Board is considering a riding stable and the other violation would have to be cleared up.

Mr. William Astle spoke to the Board representing Mr. Newman, 3811 Skyview Lane, Lot 8; Mr. Woodburn, 3804 Skyview Lane, Lot 6; and Mr. Mallory, 3812 Skyview Lane, Lot 5A. He stated that on the outset, his clients were very much concerned about what has been happening without a Special Use Permit; and even though they come supporting the riding stable, they hasten to add that they want the Board to be aware that things have been going on without a Special Use Permit and these things are related to the amusement operation.

Mr. Smith stated that the Board has no authority to waive anything in any other area except the Special Use Permit section of the Ordinance.

Mr. Astle stated that they are in favor providing Mr. Cox operates his operation in a more compatible manner with the neighborhood. Some of the uses Mr. Cox has made of that property is the storage and repair of commercial vehicles, parking of employees vehicles on the cul-de-sac causing a traffic problem in terms of vehicles constantly going in and out of the premises. He boards the ponies at this location and this is an accessory use to the amusement center. He loads these ponies up and hauls them off via their street and brings them back, sometimes late at night. The amusement vehicles are also moved off the property in the morning and back again late at night which is a very noisy operation.

He submitted a Petition from the Board signed by the neighbors which stated that they would like the BZA to incorporate the following restrictions and conditions in the event said Board grants the Special Use Permit Application for a riding stable. They are:

1. Prohibition of parking or storage of commercial vehicles and/or amusement rides on the subject property.
2. Prohibition of repair or servicing of any vehicles, including but not limited to commercial vehicles and/or amusement rides.
3. Prohibition of all parking of vehicles of any nature on the temporary cul-de-sac on Skyview Lane at the entrance of the subject property.
4. Restriction of transportation of ponies to and from the subject property to a total of five round trips per week on Monday through Friday only between the hours of 8:00 a.m. and 6:00 p.m.

Mr. Astle further stated that he did not want the Board to consider them all-out opposition, but as enlightened opposition.

Mr. Smith asked if there had been an inspection within the last 90 days and if the Staff had checked to see whether or not he has the amusement vehicles stored on the property.

Mr. Covington answered that there had not been an inspection.

Mr. Smith stated that 35 horses on 8 acres of residential land does not meet the intent of the ordinance. He stated that he felt the neighbors have been very fair.

Mr. Barnes agreed.

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Mr. Cox stated that he had leased space to store his amusement vehicles out at Old Virginia City.

Mr. Smith stated that Old Virginia City is residentially zoned land and storage of equipment would not be allowed there either.

Mr. Cox stated that Mr. Lucas who is ^{not} with the County government leases the property there and Mr. Lucas was going to sublease it to him.

There was no other testimony from the audience with respect to this application.

Mr. Barnes moved that this case be deferred for decision only until the Board can go look at the operation.

Mr. Baker seconded the motion.

Mr. Smith stated that the next available date would be November 14, 1973, at 2:00 P.M. Mr. Smith asked Mr. Cox if the Board has permission to come on this property for the purpose of viewing.

Mr. Cox stated that they do have his permission.

Mr. Cox stated if the Board members would call him at 323-0147, he would try to be present.

The motion to defer passed unanimously.

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12:00 - JAMES F. LAWRENCE, app. under Section 30-6.6 of Ord. to permit carport closer to side property line than allowed, 8720 Waterford Road, 111-1((6))(16)25, Mt. Vernon District (R-12.5), V-183-73

Mr. James Lawrence represented himself before the Board.

Notices to property owners were in order. The contiguous owners were Margaret Horrell and Mr. E. W. O'Callaghan.

Mr. Lawrence stated that because of the location of the house on the lot, it makes it necessary for him to request this variance. The house is set diagonally instead of parallel to the road, therefore, making the corner of the concrete slab less than 40' from the property line. He stated that the carport is for the benefit of his own family, it is not for resale purposes. The architectural will be compatible with the existing dwelling.

There was no opposition to this application.

In application No. V-183-73, application by James F. Lawrence, under Section 30-6.6 of the Zoning Ordinance, to permit carport closer to side property line than allowed by Ordinance on property located at 8720 Waterford Rd., also known as tax map 111-1((6))16)25, Mt. Vernon District, County of Fairfax, Virginia, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 17th day of October, 1973, and

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

1. That the owner of the subject property is James F. & Diana F. Lawrence.
2. That the present zoning is R-12.5.
3. That the area of the lot is 14,937 sq. ft.
4. That compliance with all county codes is required.
5. That the request is for a minimum variance - 41 ft.
6. That the subject property is a corner lot.

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

- 1. That the applicant has satisfied the Board that the following conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
 - (a) unusual condition of the location of existing buildings.

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

- 1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
- 2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
- 3. Architecture and materials to be used in proposed carport shall be compatible with existing dwelling.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, residential use permits and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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12:20 - M. S. GHAUSI AND C. S. ROBERTO, app. under Section 30-6.6.5.4 of Ordinance to permit dwelling to remain closer to front property line than allowed by Ordinance, 8545 Old Dominion Drive, 20-1((1))70B, Dranesville District (RE-2), V-197-73

Mrs. Ghausi represented the applicants before the Board. She stated that Mr. Ghausi is also present, as is the builder, Mr. Roberto.

Notices to property owners were in order.

Mrs. Ghausi stated that the surveyor asked them to mark off where they wanted the house. About a month later, the builder invited them to see the proposed footings and there were stakes in place for the corners of the house. They had the impression that these were put there by Mr. Jarrett. However, Mr. Jarrett stated that he had not staked the house. They had not repositioned the stakes. Mr. Roberto stated that he did not either. Mr. Roberto informed them that he had moved the house back 5 or 6 feet as they had requested which would have been 80' and it was not until the wall check was made prior to receipt of payment from the bank that they discovered that there had been an error made. This entire experience has been a shock, she stated. They chose to buy two acres of land so they could locate their house away from the main street, Old Dominion Drive. They had no reason or intent to be closer to traffic.

Mr. Roberto, 3619 Hummer Road, spoke with the Board. He stated that it was exactly as Mrs. Ghausi said and this is how he feels about it. He stated that he recommended Mr. Jarrett as a surveyor and he met with the owners at the lot and he saw the stakes in the ground and assumed Mr. Jarrett put them there. When he came back the stakes were still there. There was a large piece of stone in the house line so they moved the house back about 6' and that was that. They applied for a building permit and the building permit shows the house sitting back 77' from the property line. When the survey was redone, it was 65.2' from the property line.

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Mr. Barnes asked if he had sited the house himself, or just went by the stakes.

Mr. Roberto stated that he had just gone by the stakes.

Mr. Barnes stated that that was a very poor way of doing it. He stated that he could have put a tripod up and checked it very quickly himself. He told Mr. Roberto that it is his responsibility as he is the contractor. The bulldozer could have knocked those stakes out and the operator just stuck them back where he thought they were. He stated that Mr. Roberto has accepted these people's money and he hasn't taken care of them.

Mr. Smith asked Mr. Jarrett to speak on this.

Mr. Jarrett, 8829 Leesburg Pike, spoke before the Board. He stated that when they took the topo, it was overgrown and the house was not staked out where it should have been. The next thing they knew, they asked for a house location. They had to cut a narrow line through the underbrush to get the topo.

Mr. Smith asked Mr. Jarrett if he felt he had staked it properly.

Mr. Jarrett stated that he did not stake it at all. He stated that he had told the owners to stake it where they wanted to put the house and usually they call him after the lot has been cleared so he can come back and restake it where they want the house.

Mr. Barnes stated that Mr. Roberto should have called Mr. Jarrett himself.

Mr. Jarrett stated that this road will never serve more than three homes. It is a private road and due to the terrain of the land, the road will never go any further.

Mr. Runyon asked Mr. Jarrett if he had left stakes with the owners to put where they wanted the house to be.

Mr. Jarrett stated that the owners were to put the stakes where they wanted the house. He stated that he had told them to do that. They didn't put any hubs there.

Mr. Smith asked Mr. Roberto if he had a contractor's license in the County and how long he had been in business doing this type work.

Mr. Roberto stated that he did have a contractor's license in the County and he has been doing this work for 15 to 18 years.

Mr. Roberto stated that there were four stakes there and two hubs and the stakes had flags on them.

Mr. Ghausi, 717 Pebblestone Court, stated that he and his wife staked the house the first time. He was given four stakes and was told to put them roughly where they wanted the house to be. The second time they went out to see the house was when the stakes were already there. They put in the stakes before the topo.

There was no opposition to this application.

Mr. Runyon stated that he felt this was an honest error. This road only serves three houses. Under the cluster concept, they could come to within 30' from the front property line.

In application No. V-197-73, application by M. S. Ghausi and C. S. Roberto under Section 30-6.6.5.4 of the Zoning Ordinance, to permit dwelling to remain closer to front property line than allowed by Ord., on property located at 8545 Old Dominion Dr., Dranesville District, also known as tax map 20-1((1))70B, County of Fairfax, Virginia Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 17th day of October, 1973, and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is Mr. S. Ghausi and C. S. Roberto.
2. That the present zoning is RE-2.
3. That the area of the lot is 88,669 sq. ft.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of Law:
1. That the Board has found that non-compliance was the result of an error in the location of the building subsequent to the issuance of a building permit, and
2. That the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:
1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, residential use permits and the like through the established procedures.

Mr. Baker seconded the motion.
The motion passed unanimously.

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DEFERRED CASES:

2:00 - GULF OIL CO., app. under Section 30-7.2.10.3.1 of Ordinance to permit gasoline station and car wash, 5520 Franconia Road, 81-4((1))70 and pt. 71D, Lee District (C-D), 8-168-73 (Deferred from 9-26-73 for new plats showing waste oil and proposed facilities and statement from Gulf Oil Re Contract Agreement)

Mr. John L. Hanson with Gulf Oil represented them before the Board. He stated that the new plats had been submitted to the staff and also the statement regarding the agreement.

Mr. Kelley asked if the owners agreed to dedicate this land.

Mr. Hanson stated that they did agree.

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In application No. S-168-73, application by Gulf Oil Company, under Section 30-7.2.10.3.1 of the Zoning Ordinance, to permit gasoline station and car wash, on property located at 5520 Franconia Road, Lee District, also known as tax map 81-4((1))70 and part 71D, County of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 26th day of September, 1973, and decision made this 17th day of October, 1973.

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

1. That the owner of the subject property is Tremarco Corp/Burkhardt and Doniphan, Trustees.
2. That the present zoning is C-D.
3. That the area of the lot is 42,791 square feet.
4. That site plan approval is required.
5. That compliance with all County Codes is required.
6. That a service station is operating at this location pursuant to Special Use Permit #16982, granted August 13, 1957.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I Districts as contained in Section 30-7.1.2 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The hours of operation shall be 7:00 a.m. to 11:00 p.m. seven (7) days per week.
7. There shall not be any display, selling, storing, rental and/or leasing of automobiles, trucks, trailers or recreational vehicles on said property.
8. There shall not be a free standing sign for this use.
9. The owner is to dedicate to 45' from the center line of the right-of-way, for the full frontage of the property along Franconia Road for the proposed road widening and median with sidewalk.

Mr. Barnes seconded the motion.

The motion passed 4 to 0.

Mr. Runyon abstained.

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431 - OK by B2A 1-22-74
JCK

AND DR. J. D. COKER, TR.

2:10 - PEOPLES BANK & TRUST COMPANY OF FAIRFAX/ app. under Section 30-6.6 of Ord. to permit temporary bank building closer to front property line than allowed by Ordinance, 1900 Elkins Street, 102-3(1)44D, Mt. Vernon District (C-N) V-169-73 (Deferred from 9-26-73 to allow applicant to ask Mr. Coker, owner of the land, to appear and be made co-applicant)

Mr. Bernard Fagelson, attorney for the applicant, testified for them before the Board. He stated that Dr. Coker is present.

Mr. Smith stated that the Board is also in receipt of correspondence from Dr. Coker asking that he be made co-applicant on this application.

Mr. Barnes so moved. Mr. Kelley seconded the motion and the motion passed unanimously.

Mr. Fagelson stated that Dr. Coker is still desirous of putting an office building complex on this property and Peoples Bank is very desirous to maintain the branch at this location. If Dr. Coker is successful in building the office complex, the bank would be a part of that development.

Mr. Fagelson stated that they would like to submit a Petition of 300 names in the forms of postcards that were mailed out and have come back and a letter from another lady about the good part of having the bank at that location.

Mr. Fagelson stated that the area behind the bank is not under the bank's jurisdiction and they would not be able to go on that property without the permission from Dr. Coker. Dr. Coker has given the bank permission and the bank is willing to go in and clean up all the bottles, cans, bedposts, and other debris, that certainly did not come from a bank. They also will hire neighborhood boys to help keep the area surrounding the bank clean.

A representative from the Potomac Valley Civic Association spoke before the Board stating that he represents 137 members of the Association. Last week their Association met and voted to support the bank. He stated that he is a depositor of the bank and has an interest in this. Other banking facilities are 4 or more miles away.

Mr. Carricker, 8606 Pilgrim Court, spoke in support of the application. He stated that he lives adjacent to the lot on Elkins Street where the bank is location. He stated that he spoke at the previous hearing in opposition, but they have had a meeting with Mr. Powell, the President of the Bank, and he trusts that as a good businessman he is going to work to alleviate these bad conditions that have existed.

Col. Sprague, one of the contiguous property owners, spoke before the Board. He stated that he will change his position and speak in favor of the bank's request for a variance.

Mr. Olson, 8607 Pilgrim Court spoke to ask some questions as to how long the bank would be at this location.

Mr. Smith stated that that question had been answered earlier. The bank plans to move as soon as permanent quarters are available. If the variance is granted, it would have certain conditions on it.

Mr. Shirley spoke before the Board about the items that had been discussed earlier.

Mr. Stolzer, 1706 Elkins Street, spoke before the Board. He stated that they did meet with the bank, but even though they have faith, nothing has been done in the past and they have the impression that nothing will be done.

Mrs. Shirley spoke before the Board. She was concerned that this would set a precedent.

Mr. Smith stated that each case is heard on its own merits and does not set a precedent.

She complained about the condition of the bank.

Mr. Smith told her that the bank is limited to a certain degree as to what they can and can't do to the temporary structure.

She asked for a definition of the waiver they had received from the Site Plan Office.

Mr. Runyon stated that the site plan waiver applies for the temporary use and the Site Plan is for the permanent use. The permanent site plan has expired.

Mr. Fagelson and Dr. Coker spoke before the Board in rebuttal confirming their earlier statement that the bank would be allowed and were willing to go on the property in the rear of their temporary bank and clean it up. Dr. Coker stated that he has cleaned it up in the past, but it does not stay that way.

Y26

Someone from the audience came forward and asked what recourse they had should the bank and Dr. Coker fail to keep their property free from debris and trash.

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Mr. Smith stated that they should contact the Zoning Administrator and if it is a flagrant violation, they would be brought back before this Board and their permit or variance would be revoked.

In application No. V-169-73, application by Peoples Bank and Trust Co. of Fairfax and J. D. Coker, under section 30-6.6 of the Zoning Ordinance, to permit temporary bank building closer to front property line, on property located at 1900 Elkins Street, also known as tax map 102-3(1)44D, County of Fairfax, Virginia, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 26th day of September, 1973, and the 17th of October, 1973.

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

1. That the owner of the subject property is J. D. Coker, W. A. Mann & J. K. Pickard.
2. That the present zoning is C-N.
3. That the area of the lot is 49,405 square feet.

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

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:

- (a) exceptionally shallow lot.

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. The applicant will clean the Coker property immediately and provide an annual cleaning. This includes trash and underbrush.
3. This variance shall run for two years.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, non-residential use permits and the like through the established procedures.

Mr. Baker seconded the motion.

The motion passed 4 to 0.

Mr. Kelley was out of the room.

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2:20 - MORTON S. TRUPP, AND THE PRINCESS CORP. app. under Section 30-16.8.3 of Ordinance to permit erected sign to remain for coin-op laundry under or near pile-on. 7867 Heritage Drive, 70-2((1))2A, and 2C, Annandale District (C-D), S-170-73 (Deferred from September 26, 1973 to allow applicant to work with owner of shopping center and other merchants to see if the other merchants have the same problem and what could be done to remedy it)

Mr. Trupp did not appear.

Mr. Barnes stated that he must not be very interested, or could not get the concurrence of the other parties.

In application No. V-170-73, application by Morton S. Trupp, under section 30-16.8.3 of the Zoning Ordinance, to permit erected sign to remain for coin-op laundry under or near pile-on sign, on property located at 7867 Heritage Drive, also known as tax map 70-2((1))2a, 2c, County of Fairfax, Virginia, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 26th day of September, 1973 and 17th of October, 1973.

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

- 1. That the owner of the subject property is H. Boyer & Carl M. Freeman, Trustees.
- 2. That the present zoning is C-D.
- 3. That the area of the lot is 10.996 acres.

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

- 1. That the applicant has not satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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AFTER AGENDA ITEMS:

TUCKAHOE RECREATION ASSOCIATION

Mr. Kenneth Echols, Post 195 Chantilly, Virginia, Manager of Tuckahoe Recreation Association, appeared before the Board. He appeared with the request that they be allowed to let children come in as guests who were not members of the Association and swim during the winter months. He stated that they do not lease the facilities, that they only allow these children to use the facilities as the request of some of the High Schools. They operate under their guest rules and regulations. Their by-laws have not been changed since 1956. He stated that there are very few places for children to swim in the winter months and they would like to continue to make their facilities available as they have done in the past.

Mr. Smith stated that he agreed, but they would not be allowed to lease their facilities.

Mr. Covington, Zoning Administrator, stated that their office had had a complaint from a member of the Tuckahoe Recreation Association and this is what prompted the investigation.

Mr. Echols stated that he did not know of any complaints in the neighborhood. He stated that he could limit the number of guests to not over 50 or much less than that. They do allow High School swimming teams to practice there. They are charged on the basis of the guest fees of \$1.00 per person during the weekdays, but because it is a High School, they charge a little less than \$1.00 per person. They only want to cover the costs of the extra water, etc.

Mr. Smith cautioned him that this sounded a little commercial, but they were doing a service to the community.

Mr. Echols stated that the Code says that the facility can be used by members and their guests with no gain. There is no gain. Actually, it doesn't even cover the actual cost.

Mr. Smith stated that the records of the Board should show that the Board should take no official action. This has been investigated and they find that the guest laws are being maintained and they are operating under the intent of the Ordinance. They are providing a very much needed community service.

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HOLIDAY INN.

Mr. Bruce Summers, Innkeeper for the Holiday Inn, came before the Board to request that they be allowed to put a small addition on the rear of their building to use as a laundry room. He submitted plans to the Board, but the addition had not been certified.

Mr. Smith stated that they would need to reevaluate this and would need new plats. The Board would check the plats after the Staff has checked them to be sure this was the only change and if the new plats were received prior to their meeting of October 31, 1973, they would be able to make a decision.

Mr. Summers assured the Board that he would have the plats prior to the 31st. He stated that this motel had been in existence for 11 years.

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OUT OF TURN HEARING REQUEST -- JEFFREY SNEIDER, OAKTON VILLAGE

HUNT VALLEY SWIM CLUB -- Both request read that they wished to get all the paperwork done in order that they would be able to begin construction as soon as the weather permitted in order that they could begin operation next season.

The Board granted the out of turn hearings for November 28, 1973.
The Clerk was advised to advise the applicants in the future that the Board would not grant // any out of turn hearing earlier than 40 days from the time the Planning Commission was notified.

This is to be a Board Policy.

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VOLLSTEDT, RONALD, S-172-71, Granted April 12, 1972. Granted 6 month extension from April 12, 1973.

Mr. Smith read a letter requesting another 6 month extension.

The Board discussed this case. Mr. Smith reviewed the case. He stated that the original building was built without a site plan or building permit. Mr. Beaver, the Zoning Inspector, states that they have yet to get site plan approval. Mr. Beaver and Mr. Sooksanquan were on the site today.

Mr. Beaver stated that Mr. Vollstedt is using a portion of the residential lot for the storage of junk motor vehicles.

Mr. Covington stated that he is in the process of taking some action on this.

Mr. Sooksanquan in answer to Mr. Smith's question stated that the site plan has been reviewed but the plan they submitted is not a site plan. The engineer who sent the plan to them states on the plan that it is a building location plan. It is not proper for a site plan. They have advised the engineer to redraw it.

Mr. Smith stated that if they are not diligently trying to get site plan approval, the Board should not further extend this permit. He stated that the Board's By-Laws limit their extensions to one six month period.

Mr. Runyon moved that the request for the extension be denied.

Mr. Baker seconded the motion and the motion passed 4 to 0 with Mr. Kelley out of the room.

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SCHOOL FOR CONTEMPORARY EDUCATION

Mr. Smith read a letter from the applicant requesting a 6 month extension. This will be their first request. They have not been able to begin construction as they have not been able to get reasonable interest rates.

Mr. Smith stated that this is not a proper reason for an extension.

Mr. Barnes stated that since this is their first request, he would move that it be granted for six months and that they be notified that the policy of the Board is that there is only one extension that can be granted for a period no longer than 6 months.

Mr. Runyon seconded the motion and the motion passed unanimously.

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FAIRFAX QUARRIES -- Mr. Smith read a letter regarding the type of fencing to be used and what type they would like to use. The Restoration Board had not yet made a recommendation or report.

Mr. Barnes moved that this be deferred until the Restoration Board has acted and submitted their recommendation and report.

Mr. Kelley seconded the motion and the motion passed unanimously.

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FAIRFAX COUNTRY CLUB -- Mr. Smith checked over the application for a variance to put a fence higher than the Ordinance allows along the front property line of the Fairfax Country Club.

Mr. Barnes stated that the Board approved a Special Use Permit for the swimming pool and tennis courts.

Mr. Smith stated that it would call for an Amendment to the existing Special Use Permit.

Mr. Knowlton stated that that is the reason he brought it back before the Board. Under a Special Use Permit, this would be an addition to the Use. He stated that he was asking the Board's opinion on this.

Mr. Knowlton stated that earlier he had brought before the Board a plan for the use of the patio as dining facilities and the extension of a wall on the south side of the building. The Board at that time said go ahead with those minor additions. Mr. Knowlton stated that he was not aware that the Staff could not find the folder at the time he brought these before the Board.

Mr. Smith stated that he was not aware of it either. He stated that he knew they were under a Special Use Permit. He stated that whether they are or not, they will have to come in.

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Mr. Smith stated that they will have to show all of the improvements on the property.

Messrs. Baker, Barnes and Smith agreed that this was the proper course of action.

Mr. Runyon abstained as he was not familiar with the case.

Mr. Kelley was absent during this discussion.

Mr. Smith stated that this has been the policy for all other non-conforming uses.

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Mr. Knowlton then discussed with the Board a case that would be coming before the Board at the next meeting. This has reference to the waiving of the section of the ordinance that requires a "dustless surface". Mr. Knowlton, in his memo to the Board, stated that the Board of Zoning Appeals has the power to waive this section of the ordinance. This is not part of the site plan Ordinance and therefore the site plan department has no authority to waive it.

Policy

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The meeting adjourned at 6:00 P.M.

By Jane C. Kelsey
Clerk


DANIEL SMITH, CHAIRMAN

APPROVED _____
Date

The Regular Meeting of the Board of Zoning Appeals Was Held On Wednesday, October 24, 1973, in the Board Room of the Massey Building. Present: Daniel Smith, Chairman; Loy P. Kelley, Vice-Chairman; George P. Barnes; Joseph Baker; and Charles Runyon.

The meeting opened with a prayer by Mr. Barnes.

10:00 - SCHEFER SCHOOLS, app. under Section 30-7.2.6.1.3 of Ordinance to permit school, with 39 students, grades 1-9, 8007 Fort Hunt Road, 102-2((12))186-191 and part 192, Mount Vernon District (RE-0.5), S-184-73

Mr. William Fountain, 6431 Citizen Lane, Falls Church, Director of Sheffer Schools, represented the applicant before the Board.

Notices to property owners were in order. The contiguous owners were E. H. Bauer, 8003 Ft. Hunt Road, Alexandria, and Col. Dwight W. Allard, 7454 Bolling Road, Alexandria, Va.

Mr. Fountain stated that Schefer Schools are also located in the Lewinsville Methodist Church. They acquired a Special Use Permit for that location in 1970 or 1971.

This application is to increase the enrollment to 39 students, the ages will be from 9 to 15. It is a school for children who have learning disabilities. They do not accept children who are seriously emotionally disturbed. They are approved by the State of Virginia's Board of Education. All schools accept their credits. They send the children back to the regular schools as soon as possible. Their lease is on a year to year basis.

Rev. Edward Morgan from St. Luke's Episcopal Church, testified before the Board. He spoke in favor of the school application. He stated that this school is performing a valuable community service which cannot be met in the public schools. The school has cooperated with the church in the extreme at all times. The school is only part of a much larger picture whereby their church tries to serve the communities' needs. They have an active church and community center. They have their own day school of 72 pupils, the Mount Vernon Branch of the YWCA, and patrol centers meet there as does the Girl Scouts, 3 groups of Boy Scouts and they also provide space for AAA. This does require acceptance on the part of the neighbors and they do appreciate their acceptance and understanding that has been given their programs. They have tried to be good neighbors to all in the community and they will continue to make every effort to do so.

Mr. Smith stated that they would have to arrange the school parking so it complies with the Specific Requirements of this Ordinance. Even though the parking lot is in existence at the present time, the school will have to inform the parents that they cannot park in the front setback nor within 25 feet of any other property line.

Mr. J. M. Ashcroft, 7952 Bowling Drive, one of the contiguous neighbors, spoke before the Board in opposition to this application. He stated that he wished to complain about where they have erected a playground. It has been annoying to them because of the trespassing of children on his property, trash that the children throw on his property, and the noise that comes from the children playing on the playground.

Mr. Smith asked if these were children from this school.

Mr. Ashcroft stated that some of the children are from outside the school. The church did erect a fence between the church property and his property, but within a few months an opening appeared in the fence where three or four boards had been removed. The fence hole remained opened during last school term and was not repaired until many months later. Meanwhile, it was used to gain access to his property in order to retrieve things such as footballs. It is also used as a shortcut from the playground to Bowling Drive. That playground has been made available not only to this school, but every child that wishes to play there from any place in the area. They also play after dark. It is light there because they have flood lights on the parking area. Those lights were installed last winter. He stated that the church was notified about the hole in the fence. He stated in answer to Mr. Smith's question that he did not notify the Zoning Administrator.

Mr. Smith stated that the Zoning Administrator has the authority to send an inspector out and have these things corrected within a reasonable length of time. If he gets no response, the Board of Zoning Appeals can revoke their Special Use Permit.

Mr. Ashcroft stated that the boundary of the playground is within 20' of his boundary line.

Mr. Smith stated that it should set back 25'.

Mr. Kelley stated that there is no place in the Ordinance that he knew of that says a playground must setback from a property line.

Mr. Covington confirmed this.

Mrs. Eleanor Allard, 7954 Bowling Drive, spoke in opposition to the playground. She is one of the contiguous property owners.

She also submitted a letter from Mrs. Bauer who was unable to attend the hearing.

Mr. Fountain spoke in rebuttal. He stated that to his knowledge, the damage to the fence was not done by his children in his school.

Mr. Smith stated that that didn't make any difference. He told him that the school is responsible for the upkeep of the property to the extent that it affects the school. The fence would affect the school.

Mr. Fountain stated that the fence belongs to the church.

Mr. Smith stated that when he speaks of "you", he is speaking of the school and the church.

Mr. Fountain stated that a teacher remains with the students until they all leave and that is never any later than 4:30 P.M., therefore, the children who play there later do not bother them.

Mr. Smith stated that it should concern them. Anything that creates a nuisance in this area is of concern to the Board. If the school were not under Special Use Permit, it would be under police powers only, but the school is under a Special Use Permit and is responsible to the Board.

Mr. Fountain stated that for the past two years that he has been running the school, he had never had any complaints until Rev. Morgan received a letter from Col. Allard concerning the fact that children were parking their bikes along the fence. He stated that he talked with the church and the children and got them to move the bike racks so it was corrected and he hoped corrected to the Col.'s satisfaction.

Mr. Smith stated that the bike racks were not shown on the plats.

Mr. Fountain stated that the bike racks were moved after the plats were turned in.

Mr. Smith stated that they should not have put the playground in without the Board's approval.

Mr. Fountain stated that he did not realize that. He stated that they use the blacktop area. When it rains, it gets very muddy. They need some room to play a game of touch football. The reason they play touch football is because if they play regular football, the ball would go over the fence sometimes and they didn't want that to happen. He apologized for using the playground without coming back to the Board.

Mr. Smith stated that there were letters in the file supporting the school. He stated that the people who are objecting, however, are the people who are most affected.

Mr. Smith stated that the bike racks should be shown on the plats. He felt the playground should be moved also. He asked if the playground could be moved to the other side of the church building.

Rev. Morgan spoke before the Board. He stated that he was aware of the hole in the fence and he sent a note to the building committee. That was all that was within his power to do short of fixing the fence himself. As far as the playground, the church has operated a day school since 1957 and they have always had a playground, so this is nothing new. It has not always been at this location, but it has been for the past three years since they have been in the new building. It is providing for the use of the church and the church's day school. They allowed Schefer Schools to use this playground out of courtesy. The church is responsible for it. He stated that they have 72 children in the church's day school. This is a regular day school, but it is governed by the church.

Mr. Smith asked if they had a Special Use Permit for this school.

Rev. Morgan stated that they did not. They were not aware that this was necessary since it is operated by the church directly. They did ask and were told that they did not need the same kind of permit as Schefer Schools have. He did not remember who told him that.

Mr. Smith suggested he discuss this with Mr. Covington to clear up this situation. He stated that the Board has granted numerous day schools that are also operated by churches. A Special Use Permit is necessary for any school that is not strictly religious oriented.

Mr. Smith stated that the Board does not grant playgrounds this close to residential property, especially if there has been some problems. He stated that he felt this church was doing a good job. Schefer Schools are excellent schools, but the Board has to consider the impact on the residential character of the neighborhood.

Mr. Runyon moved that this application be deferred until such time as the Board can have new plats showing the playground moved to a new location, or perhaps moved them down a little and substitute screening and fencing in between the playground and the neighbors and also for new plats showing the bike racks. We want them to restudy the impact of the area and plant some kind of green plants to block out some of the noise and confusion that exists here.

Mr. Baker seconded the motion.

Mr. Runyon suggested that they get together with the people in the area and try to work out a plan that will be satisfactory with everyone.

Mr. Fountain stated that they would be willing to divide the recesses and restrict the use of the playground up to the grassy area.

Mr. Smith stated that he was arguing the point now.

Mr. Kelley stated that he felt it should be made clear that the school cannot control what happens at 10:00 or 11:00 P.M. at night.

Mr. Smith stated that 30 days should give them ample time to work this out.

The motion passed unanimously to defer for 30 days, maximum, to work out the problems and to revise the plats.

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10:20 - KEY TO LIFE ASSEMBLY, app. under Section 30-7.2.6.1.11 of Ordinance to permit church, 1012 Balls Hill Road, 21-3(1)51 & 52, Dranesville District, (RE-1, Lot 52; RE-0.5, Lot 51), S-185-73

Rev. Merle Altoft, Pastor of the Church, represented the applicant before the Board.

Notices to property owners were in order. The contiguous owners were French Trammel, 1018 Balls Hill Road and Mrs. Helen Goodman, 1000 Balls Hill Road, McLean.

Rev. Altoft stated that they would like to use the existing building on the property for their church, depending on what the County will require of this building to make it ready for occupancy. He stated that he had not requested a team inspection.

Mr. Smith told him that he should have asked for the inspections as it would have saved time. He asked what the building was constructed of and how many floors were in the building.

Rev. Altoft stated that the building is wood on plywood and they are on septic tank and well. There are two floors.

Mr. Smith stated that they would only be able to use the first floor of the building.

Mr. Covington stated that this building appears to be 24' from the property line.

Mr. Runyon stated that this is an old house and the Highway Department took off about 15' from the front when they provided the new interchange. Therefore, it is nonconforming as to setbacks on the front property line.

Mr. Smith stated that the Board will have to indicate in the Resolution granting this Special Use Permit, if it is granted, that the 24' setback is a nonconforming setback.

Rev. Altoft stated that they plan to use the building for 18 months to 2 years until they can build a new church.

Mr. Smith stated that prior to coming before the Board, the applicant should be aware of any deficiencies that exist in the house. It is absolutely necessary that these inspections be made prior to the application coming before the Board.

Mr. James H. Holmes, 7719 Fisher Drive, Falls Church, Fairfax County, spoke in favor of the application. He stated that he is a member of the church and on their Advisory Board

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and he feels this church will be a great benefit to the McLean area. They are now in the midst of raising money for their new building.

Ms. Barbara Soderquist, Balls Hill Road, stated that they are for the church, but against the house being used for the church. She submitted a Petition from the neighborhood against it. There were 32 signatures on the Petition. The Petition stated that the house being used for the church as they felt this would degrade and devalue their property and would affect them because of the noise it would generate. Parking is also a problem. Now, they are meeting in the Cooper School. They have not lost permission to use that school and there is a lot of parking area there.

Rev. Altoft spoke in rebuttal to the opposition. He stated that if they are granted permission to use the building, they plan to make a lot of repairs. If it is not granted the building will remain vacant for the next two years. They pay \$30.00 per week now for the use of the school. If there are 5 Sundays in the month, it costs them \$400 per month. They can save more toward their new building by using this existing building on their own property. They only have 40 members. \$400 per month means over \$100 per year per member, just for the use of the school building. As their membership increases, of course, this will go down.

Mr. Runyon moved that this case be deferred for plans and for the applicant to ascertain from the proper County authorities as to what the requirements will be on the inspections from the various County departments. This will be for decision only.

Mr. Barnes seconded the motion and the motion passed unanimously.

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10:40 - VALE UNITED METHODIST CHURCH, app. under Section 30-7.2.6.1.11 of the Ordinance to permit church addition, 11528 Vale Road, 36-4((1))19, Centreville District RE-1, S-187-73

VALE UNITED METHODIST CHURCH, app. under Section 30-6.6 of Ordinance to permit waiver of portion of Article 30-3.10.5 (Requirement for a dustless surface) 11528 Vale Road, 36-4((1))19, Centreville District (RE-1), V-188-73

Mr. Richard Cofton, 3103 Fox Mill Road, Oakton, Virginia, represented the applicant before the Board.

Notices to property owners were in order. The contiguous owners were Bruce Magazine, 962 Wayne Avenue and J. L. Massey, 11603 Vale Road.

Mr. Cofton stated that they propose to add an addition to the existing church. It will be two story, the lower portion being somewhat underground. The existing building is only one story.

There was no opposition to the proposed church addition.

Mr. Cofton stated that they were also requesting a waiver from the dustless surface section of the Ordinance because a paved parking lot would be inconsistent with the local architecture and the historical nature of the area. The area surrounding the church is a pastoral setting. The church and the cemetery were built at the turn of the century. There are five large trees on the property that they do not want to destroy. One of these trees is an American Chestnut. If the parking area was paved it would cause a severe runoff problem and would aggravate the already serious problem of water covering the road. He submitted some photographs and sketches showing the existing structures and nearby structures showing that the parking area would be incompatible should they be required to pave it. He stated that it would not only be a hardship on the church but also to the surrounding community.

Mr. Covington stated that this is within the Board of Zoning Appeals' power to waive this section of the Ordinance. It is not a Specific Requirement to this section of the ordinance.

Mr. Baker stated that they have gotten along fine for 75 years without the parking lot being paved.

There was no opposition to this application.

Mr. Covington stated that actually they have a dustless surface with the grass growing in among the gravel. This has become impacted over the years and is very good. He stated that he lives near the St. John's Church in Centreville and no dust comes from their parking lot which is similar to this one. This, therefore, will be a dustless surface, even though it will not meet the definition of dustless surface in the Ordinance.

In application S-187-73, application by Vale United Methodist Church, under Section 30-7.2.6.1.11 of the Zoning Ordinance, to permit Church addition on property located at 11528 Vale Road, Centreville District, also known as tax map 36-4((1))19, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 24th day of October, 1973.

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

1. That the owner of the subject property is Vale United Methodist Church Trustees.
2. That the present zoning is RE-1.
3. That the area of the lot is 1.9671 acres.
4. That the church has been in existence since 1895.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

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

2. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

3. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.

4. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

5. Architectural detail is to conform to that of the existing building.

Mr. Baker seconded the motion.

The motion passed unanimously.

In application No. V-188-73, application by Vale United Methodist Church, under Section 30-6.6 of the Zoning Ordinance, to permit waiver of portion of Article 30-3.10.5 (requirement for a dustless surface), on property located at 11528 Vale Road, Centreville District, also known as tax map 36-4((1))19, County of Fairfax, Virginia, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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 VALE UNITED METHODIST CHURCH (continued)
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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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 24th day of October, 1973; and

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

1. That the owner of the subject property is Vale United Methodist Church Trustees.
2. That the present zoning is RE-1.
3. That the area of the lot is 1.9671 acres.

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

1. That the applicant has satisfied the Board that the physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and buildings involved:

- a. Exceptionally topographic problems of the land.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations;

1. This approval is granted for the location and the specific area indicated in the plats included with this application only, and is not transferable to other land or to other areas on the same land.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, non-residential use permits and the like through the established procedures.

Mr. Baker seconded the motion.

The motion passed unanimously.

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11:20 - ARLINGTON-FAIRFAX LODGE NO. 2188 (Elks), app. under Section 30-7.2.6.1.12 of Ordinance to permit Bingo, 8421 Arlington Blvd., 49-3((1))101A, Providence District (RE-1), S-189-73

Mr. Kennedy represented the applicant. He is the exalted Ruler of the Elks.

Notices to property owners were in order. The contiguous owners are Sidney O. Dewberry, 8411 Arlington Blvd. and Addison Thompson, 8504 Overbrook Road, Fairfax.

Mr. Knowlton explained that this application is under the emergency amendment adopted by the Board of Supervisors and readopted on an emergency basis for six additional days. It is still in effect and was in effect at the time this application was filed.

Mr. Kennedy stated the profits from this Bingo Game would be used for the benefit of the Elks Lodge and to go towards the charitable works of that organization. He stated that this Lodge is in its 10th year. They originally were going to conduct Bingo only for the members of their organization, but they were told that they had to have it for the community.

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 ARLINGTON-FAIRFAX LODGE NO. 2188 (continued)

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He stated that they have a membership of 1500.

Mr. Smith stated that the Board could restrict to to the members of this organization should the parking problem become acute. He stated that he had been to this Lodge in the past, when the parking was all over the street and this was not and could not be permitted. Mr. Smith stated that because of the limited parking, they could only accomodate 700.

The Board and Mr. Covington discussed the word "calendar year" which the Ordinance states the Board of Zoning Appeals may grant the Special Use Permit for. Mr. Covington stated that calendar year means from January to January and the Ordinance also says that the Board can only grant for one calendar year.

Mr. Smith stated that they do need new plats outlining and delineating the parking area.

Mr. Smith stated that because this can only be granted, according to the Ordinance, until January 1974 and they will have to make a new application prior to that time, the Board will accept these plats and make a decision based on them, but they will have to provide new plats at the time they make a new application.

There was no opposition to this application.

In application No. S-189-73, application by Arlington-Fairfax Lodge #2188 (Elks), B.P.O.E. of U.S.A. under Section 30-7.2.6.1.12 of the Zoning Ordinance to permit bingo games, on property located at 8421 Arlington Boulevard, Providence District, also known as tax map 49-3((1))101A, County of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 24th day of October, 1973.

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 5.151 acres.
4. That compliance with all County and State Codes is required.
5. That property is subject to pro rata share for off-site drainage.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any

kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. This permit is granted for the balance of the calendar year 1973, namely through December 31, 1973.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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11:40 - MILDRED W. FRAZER, app. under Section 30-7.2.6.1.3 of Ord. to permit additional 125 students for private school, 4955 Sunset Lane, 71-4((1))12 and 23, Annandale District (RE-O.5), 8-192-73

(Hearing began at 12:20 P.M.)

Mrs. Frazer represented herself before the Board.

Notices to property owners were in order. The contiguous owners were Randall Turner and First Assembly of God.

Mrs. Frazer stated that presently they have a Special Use Permit for 100 children and they have a heavy demand for registration for additional students, therefore, there is another building on the property that is now used for storage that they would like to remodel to house these additional students. They would first redo the first floor and if they have enough demand for an additional classroom, they would then remodel the second floor. The building is cinderblock.

In answer to Mr. Smith's question, Mrs. Frazer stated that they have not had an inspection of all the buildings. The inspectors came out and told her that they could not inspect until she had made up the plans and they had reviewed them. After that, she was to make the necessary changes and then they would come again and inspect.

Mr. Smith stated that the Board should have an up-to-date report on all the buildings that are to be used as classrooms. He stated that at the original hearing they granted a Special Use Permit for the main house, now the plats show that there are classrooms in two buildings on the property. The plats also show playground equipment that were not on the original plats and therefore not granted as part of the use.

Mrs. Frazer stated that she did not realize that she was to come back to use the other building as she did not increase the number of students. She stated that she can have 120 maximum in the garage and one of the buildings that they presently use has room for five more children.

Mr. Smith read a letter of opposition from three of the neighbors. The letter stated that the street in front of this school is very narrow and the traffic is very heavy, particularly with the children being brought to and from the school by their parents in individual cars.

Mr. Barnes asked if she owned Lot 11A also. Mrs. Frazer stated that she does own Lot 11A. That is where she lives. It is not included in this application.

Mr. Runyon stated that on the plat there seems to be a couple of encroachments of the driveway and fence and shed on the property to the south of Mrs. Frazer's property. He asked if she had an easement.

Mrs. Frazer stated that on the right side, there is an old fence and the fence has been the boundary between the two properties for years. It was a barbed wire fence and was

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 FRAZER (continued)

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replaced with a chain link fence. They thought it was the property line. There was nothing but trees and woods behind the fence. The past surveyor that she had did not indicate that it was not the property line. She stated that she could move the shade if she had to. It is used to store the children's toys.

Mr. Runyon asked if she had permission to have the asphalted driveway on the other property.

Mrs. Frazer stated that the property owner told them that they could use the property. It is two acres of vacant land.

In answer to Mr. Kelley's question, Mrs. Frazer stated that they have three busses.

He asked her what color they were and if they conform to the State Code with regard to color and lighting.

Mrs. Frazer stated that the busses are white with green on them and they do have the proper lights.

Mr. Smith stated that the Board does not allow anyone to operate without meeting the State specification and State requirements.

Mr. Kelley stated that Sunset Lane is only 25' wide. He moved that the Board defer this case until the members have viewed the property. He stated that there are several things that should be looked into.

Mr. Baker seconded the motion.

The motion passed unanimously. The case was deferred until November 14, 1973.

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DEFERRED CASES:

12:20 - MCI TELECOMMUNICATIONS, INC., app. under Sec. 30-7.2.2 of Ordinance to permit erection of a tower for micro-wave communications, Winfield Farm, off Route 29, between Camp Washington and Centreville, 55-4((1))Parcel 24, Springfield District, (RE-1), S-173-73 (Deferred from October 10, 1973 with the concurrence of the applicant in order for neighbors to meet with applicant to learn more about the case.)

Mr. Mark Friedlander, 2017 North 16th Street, Arlington, Virginia, represented the applicant before the Board.

Mr. Smith stated that the Board was in receipt of a letter from the Planning Commission stated that the Planning Commission had to hear this case under the provisions of Section 15.1-456 of the Code of Virginia. The Planning Commission has scheduled a hearing on this application for November 29, 1973. He asked Mr. Friedlander if he had received a copy of that letter.

Mr. Friedlander stated that he had been handed a copy of that letter just a few moments prior to the hearing today. He stated that this case had been deferred at the request of Mr. Herrity, the Supervisor from the Springfield District, in order that they might meet with the citizens to explain what this case was all about. They met with the citizens and went to one of their homes and gave them all of the data that they had. The citizens engaged counsel and last night, without notice, they went before the Planning Commission and as a result the counsel now wants to address the BZA on the technical aspects of this deferral.

Mr. Smith stated that he concurred with the Planning Commission's decision in the matter because it is required under the State Code, but why they didn't pick it up before now concerns him. He stated that the Board of Zoning Appeals could not defer the hearing in the case any longer. He stated that he felt the Board should hear the case. However, the Board would not be allowed to make a decision until the Planning Commission has heard it.

Mr. Friedlander stated that he was not convinced that this application comes under that section of the State Code under interstate commerce.

Mr. Smith stated that he might address that question at a later date, if the Planning Commission doesn't concur with the granting of this application. The BZA has no authority to hear the case or grant the case unless the Planning Commission grants it.

Mr. Friedlander stated that the County Attorney evidently concurred in the views expressed by the Zoning Administrator.

Mr. Smith asked why the Zoning Administrator did not address himself to this question prior to this date. The applicant should have been notified at the time of the filing of the application.

Mr. Arthur Moshos, 10560 Main Street, attorney representing the citizens in the area surrounding the subject property spoke to the deferral. He stated that he felt the Planning Commission hearing is required under Section 15.1-456 of the State Code. He stated that if the Planning Commission approves this application, then it would come back to this Board; however, if they deny it, it then goes before the Board of Supervisors and from there to the Circuit Court. Therefore, it may or may not come back to the Board. He stated that chances are remote that it will not come back to this Board. He suggested that the Board continue the hearing rather than hear it when it may not come back here at all.

Mr. Smith stated that the EZA is compelled by the State Code to hear these applications within 60 days from the filing date without the concurrence of the applicant. This application was filed July 31, 1973. Therefore, the Board must proceed. The decision could not be rendered until after the Planning Commission hearing.

Mr. Moshos asked if he could have the people who are present stand and be counted as in opposition to this application.

Twenty-seven people stood indicating that they were in opposition to this use.

Mr. Friedlander had also renotified the property owners. The two contiguous were W. W. Lyons, Box 128 Vienna, Virginia and G. J. Larouso, Summit Drive, Fairfax, Virginia.

Mr. Friedlander stated that this application deals with a tower transmitting from Washington to Atlanta, Georgia. The system consists of a series of towers. This network of towers extend from New York down to Dallas. This link from Washington to Atlanta will tie together a nationwide system. The particular tower at this site will be 200 feet high. The towers are located about 30 miles apart to form a complete continuous micro-wave communication line. This tower also provides a variety of community services. Fairfax County's Police Department has already expressed a desire to hook up to this tower. The towers must be in a straight line of site. The change in the location of one tower would affect the remaining towers. The location of each site must be engineered and submitted to the FCC in interrelated groups. Because of the congestion in the eastern part of the United States, computers are used to locate sites free from interference. After it is located, MCI must reach an agreement with other utilities and it is only after agreement is reached with competitors, AT&T, Western Union, etc., can a site be submitted to the FCC for approval and then they proceed to the proper Board in each local jurisdiction for a proper permit.

Mr. Friedlander stated that this tower is located in the middle of Mr. Winfield's 170 acre farm. Mr. and Mrs. Winfield have joined in this application. He submitted an affirmation in writing from them. He also submitted for the record a computerized chart showing how this particular site was chosen. He also submitted a chart showing the locations of the MCI towers throughout the United States showing that MCI Carrier Networks serve 81 percent of the population and 85 percent of the United States Business Community.

Mr. Friedlander then showed some slides and transparencies showing pictures of the Winfield farm, the PEPCO line, and different viewpoints of the Winfield Farm from Gunpowder Road, the main highway. He stated that this tower has no dangerous power involved. The only maintenance this tower requires is perhaps one trip per week for someone to come and just check on it. Therefore, it will not generate any traffic.

The Board then discussed with Mr. Friedlander the entrance road that is to be used. Mr. Smith asked if this road comes through any subdivision.

Mr. Friedlander stated that the road does not go through any subdivision. It is the road that the Winfield's now use to the property. It comes off of Casson Road. It is a street in Cannon Ridge.

Mr. Smith asked why they did not use Winfield Road.

Mr. Friedlander stated that they felt it would be more disruptive to go down through their driveway as it goes through the back yards of a number of houses that are there. One of the houses is owned by Tom Gaeger, Mr. Winfield owns two of the houses. That road actually touches on seven lots, three of which have houses on them.

Mr. Winfield, 12331 Lee Highway, Fairfax, spoke before the Board. He stated that he owns the houses on both sides of his access road at the highway. Then the access road goes into the lots which are in the Cannon Ridge Subdivision and from that point up to where it comes back into his farm, it touches seven lots. Mr. Crouse's and Mr. Gaeger's homes are quite close to this access road and at the time these two houses were constructed, he stated that he believe they had to get a variance to the setback requirements.

Mr. Smith stated that he could not remember any variance being granted for those two houses.

Mr. Winfield stated that he uses the old access road part of the time and goes down to Casson Road part of the time and then through the subdivision.

Mr. Friedlander stated that the tower is about 1330 feet from any occupied dwelling. There are some houses that are going to be constructed, but they are still over 1000' from the tower. He stated that they put up a balloon 200' in the air to give a prospective to the photographs that they took of the location of the tower and how well it could be seen from different locations around the subdivision. From most of the photographs that were taken the balloon was barely visible and sometimes not visible at all. There were 12 photographs. He submitted a map along with the pictures, showing where they were taken.

Mr. Friedlander also submitted slides showing the tower in relation to other houses at other neighborhoods, the neighborhood surrounding WMOB and WEAM, both of which have houses right up to the tower. This area is open, therefore, the towers are in full visibility. He submitted a report from Mr. Edward B. Chitlik, Real Estate Appraiser, 5001 Seminary Road, Southern Towers, Alexandria, Virginia, dated October 23, 1973.

Mr. Chitlik gave case studies of specific houses in the area of the WMOB tower located at 7330 Tower Street, Falls Church, and also WEAM tower located at Orland Street, Falls Church. The two houses in No. 1 Case study showed no difference in property value even though one house was in proximity and in sight of the tower. Both properties were very similar in structure, neighborhood, lot size and general conditions. Both houses sold for the same price. The other case studies that he did shows the same prices for both the house in sight of the tower and the house that was not in sight of the tower. His concluding analysis of the effects of the construction of a radio tower on Winfield Farms is that it would have no adverse effect on the residential property in the immediate area.

Mr. Friedlander submitted correspondence from the County of Fairfax that was addressed to MCI detailing the equipment that would be installed and used at the facility. He submitted another letter from Mr. Adams, Communications Engineer, Fairfax County, stating that the County is in need of a 450 MHz remote receiver antenna in that area. That site would be used by Police, Fire and Rescues Services of Fairfax County. The County was requesting that if there was a possibility of the County's utilizing this tower, they should contact Mr. Adams and he would give them the technical details.

Mr. Friedlander then submitted a copy of the Rules of the FCC which deals in details with the work of MCI.

Mr. Joseph O'Burn, 1100 22nd Street, N.W., an employee of MCI, stated that MCI has been in operation since it was incorporated in August of 1968. It is a Delaware Corporation. It was incorporated into a nationwide network in 1969. They went into commercial operation upon completion of construction in January, 1971 and subsequently the FCC decided that this was in the public interest to let this type operation proceed, therefore, they began to build a nationwide system.

Mr. Harry Stemple, Spectrum Analysis and Frequency Planning, 9531 White Cedar Court, Vienna, Virginia, spoke before the Board. He stated that his firm is regularly engaged in microwave frequency coordination. He stated that he has been in this analysis field for seven years. He participated in the coordination of the Centreville site and nearly 3,000 other sites throughout the country. This is the only site planned for Fairfax County. The next site is Fauquier County.

Mr. Arthur Mochos, 10560 Main Street, attorney for the opposition, spoke before the Board. He stated that the property values in this area are between \$80,000 and \$100,000. The people who live here chose to live here because of the privacy of the area. The houses are custom built and the location of the area is a great reason for the price of the homes. He stated that Mr. Friedlander stated and the Appraiser's letter says that property values were not affected in the area of the WEAM AND WMOB sites. He stated that those property values range from \$30,000 to \$50,000 and he stated that he feels that people who select houses that cost from \$80,000 to \$100,000 would expect much more and therefore, this would affect these homes when it might not affect a lower priced house.

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Mr. Smith asked if he had any testimony or information to substantiate this.

Mr. Moshos stated that he had four letters from real estate brokers. He stated that he has one of these brokers to testify today.

Mrs. Louise Jenkins, 5006 Gunpowder Road, Cannon Ridge Subdivision, real estate broker, spoke before the Board. She stated that she has been in real estate for five years and sold three million dollars worth of property. She stated that she is not an appraiser, but she does get into appraising in selling houses. She stated that there are presently in Cannon Ridge, four houses listed for sale that are included in Exhibit No. 4 that was submitted by Mr. Moshos. She stated that she has had occasion to show these houses and she had to explain the reason for the large sign that was put up by the County to notify property owners of this hearing. Immediately, these clients lost interest in the houses that were being shown to them. She stated that the letters that are submitted are from other people in the real estate business.

Mr. Smith stated that those letters would be accepted for the file. He read the letters and stated that these letters are from people in the real estate business that say that they object to this tower, but they do not give the Board specific instances to substantiate their opposition or criticism. He stated that this is strictly their opinion and they had no hard facts. He stated that the letters are from Mr. James Burner, Market Homes Realty, Inc.; Fay Picardi, House and Home REC; Mr. Foster, Long and Foster, Real Estate Inc.; Nancy Kidder, Century 21 Real Estate Company; Mrs. Louise Jenkins, 5006 Gunpowder Road, Real Estate Agent; and Mr. W.W. Lons, P.O. Box 278, Builder, Oakton, Virginia stating that completion of Section 3B at the end of Gunpowder Road, Cannon Ridge Subdivision will require approximately 50% of the remaining trees to be removed to complete the houses on these lots.

Mrs. Jenkins stated that the tower will not be as hidden as the applicant says it is when Mr. Lons removes the trees that he states he will have to remove.

Mr. Moshos stated that there exists not far from the proposed site and to the north of Lee Highway several tracts of land suitable for the structure, some of which may not even require a use permit. Some of the features of the alternative areas are an abandoned amusement park, a drive-in theatre, a sanitary land fill, a State convict road camp, Department of Highways motor pool and assorted commercial establishments, none of which would be adversely affected by the applicant's structure. The County, owner of a great part of that land, has shown an interest in a tower for their own communications. The County should be receptive to a proposal giving it free communication service and a rental income in excess of \$3,600.00 per year.

Mr. Smith stated that there are subdivisions surrounding those locations, Continental Hills and Dixie Hills. Mr. Smith stated that the applicant must have enough land surrounding the tower for the fall area. He stated that the County promised the land owners surrounding the land fill and the prison camp that they would not put anything else there. Now there already is much more.

Mr. Moshos stated that the public benefit to the citizens of Fairfax County is virtually non-existent. The service rendered by the applicant would only be used by large business, almost all of which are located outside of Fairfax County. The hardship to the landowners, he stated, would be great during construction. The structure will provide an attractive nuisance to the area youngsters.

He asked what guarantees exist that other receivers and transmitters will not be "piggy-backed" on the applicant's 200' tower. Once the tower is constructed, it is the logical place to locate additional antennae and, with it, possible interference to local radio and television reception. He asked that the Board of Zoning Appeals deny the application.

Mr. William Wright, 12500 Chronical Drive, asked if the Board would ask Mr. Friedlander whether or not other sites have been checked in this area, within one mile radius. He asked the Board to request them to identify what other sites have been considered and the results.

Mr. Friedlander stated that the selection of the site is done by the computer in relation to the other towers that already exist. The computer choses the best site so it will not be involved with interference with competing lines. If you extend the line 125 miles beyond that to the north and move it around like a see-saw, it has to clear on both sides of the line. Because of the congested areas in Washington, there is a great limit on where the site can be located in this area. Physical location where it can be moved must have another 400' hill such as is on Mr. Winfield's property. If you move north, you move away from the areas, where the land decreases in elevation. In addition, to the north you have an interference problem.

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 MCI (continued)

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Mr. Friedlander stated that this will not interfere in any way with any radio or T.V. It is completely controlled by the FCC and such interference is contrary with their rules and regulations. He stated that the Police Department has a similar antenna on their building right next door to this building and they are offering this service because they felt it is a public service. They said they needed it, but if the community doesn't want the Police Department to use this tower should it be constructed, the applicants have no objection to telling the Police Department that they cannot use the tower.

Mr. Kelley stated that he would like to comment on the FCC. He stated that he used to live next door to a person who had a ham operation. For three years he complained to the FCC to try to get them to stop this operation as it was interfering with television and radio, but not one time did they do anything.

Mr. Friedlander stated that if there is interference, the applicants are willing to take down the tower. He stated that he would like Mr. O'Burne to comment on this factor.

Mr. O'Burne stated that this type of transmission is much different from a ham operation. It is transmitted with a great deal more power. The ham operator has a 10 watt transmitter and this transmitter should be in the range of 6 billion cycles.

Mr. Kelley stated that his point was referring to how much the FCC actually did regarding a complaint about interference.

Mr. Smith stated that the applicant has so stated on the record that there will be no interference and if there is interference, they will remove the tower. He stated that if this is granted and should there be interference, the Board would be in a position to revoke the Special Use Permit.

Mr. O'Burne stated that they transmit at 6,000 megacycles. They are in the radar frequency.

Mr. Smith stated that the record would be left open for any additional written testimony that is vital to the decision of the Board up until the day of the decision. He stated that this is for both the opposition and the applicant. The Planning Commission will be hearing the case the night of November 29, 1973, and the Board of Zoning Appeals will take it up again either December 5, 1973 or December 12, 1973, depending on which is the first meeting date in December. It will be the first meeting date in December and the Board hopes it can meet December 5, 1973.

He stated that it would be good to have correspondence from Mr. Adams, the County's Communication Engineer. He stated that the Staff should get correspondence from Mr. Adams on any case of this type that comes up in the future.

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12:30 - MICRO SYSTEMS CO., app. under Sec. 30-7.2.10.5.9 of Ordinance to permit motel, 1834 Howard Avenue, 29-3((4))4A, 4B, Providence District (C-G), S-131-73 (Deferred from 7-25-73 and again 9-19-73 and October 10, 1973)

Mr. Ronald Tydings, 4085 Chain Bridge Road, attorney for the applicant, was present to represent them before the Board.

He stated that he had submitted new plats for the file showing the relocation of the motel as the Board had suggested.

Mr. Runyon stated that he had looked at the plans and feels that they do meet the requirements.

In application No. S-131-73, application by Micro Systems Company, under Section 30-7.2.10.5.9 of the Zoning Ordinance, to permit motel on property located at 1834 Howard Avenue, also known as tax map 29-3((4))4a, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 25th day of July, 1973 and continued through October 24, 1973; and

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

1. That the owner of the subject property is Allan Bratman & David Lawson, Trustees.
2. That the present zoning is C-G.
3. That the area of the lot is 1.3322 acres.
4. That site plan approval is required.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in E or I Districts as contained in Section 30-7.1.2 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.
5. The resolution pertaining to the granting of this Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The applicant will develop the property such that only the parking area will be within the proposed Route 7 and Route 123 interchange area that may be needed in the event that the interchange is constructed.
7. The applicant will not require that full damages be paid for the property in the event that the right-of-way is required; only damages, if any, for the portion of the property actually needed shall be requested.
8. The applicant will, if the right-of-way is needed, secure additional parking through land swaps with Virginia Department of Highways or actual purchase by the applicant.

Mr. Baker seconded the motion.

The motion passed unanimously.

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AFTER AGENDA ITEMS:

FRIED AND FRIED -- Request for extension of Special Use Permit granted for a motel on June 28, 1972 and extended for six months from June 28, 1973. S-79-72

Mr. Smith read a letter from Robert A. Lawrence, attorney with Fried and Fried, Klewans and Lawrence, dated October 2, 1973 which stated:

"The owner of the above-referenced property is hereby requesting a renewal of the Special Use Permit which was originally issued to the owner by the Board on June 28, 1972, and was extended by the Board for a six-month period on May 16, 1973. The owner has been unable to commence construction on the site because of the unavailability of sewer taps for the subject property. Accordingly, request is hereby made for an extension of this Special Use Permit for the maximum period provided for under the Rules of the Board of Zoning Appeals."

Mr. Smith stated that the Board has already extended this Special Use Permit for the maximum time allowed by the Rules of the Board of Zoning Appeals.

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He stated that the applicant has presented no evidence that they have diligently pursued their Permit. The Board's policy is that it is not to extend for more than a six month period.

Mr. Barnes moved that this Permit not be extended.

Mr. Baker seconded the motion.

The motion passed unanimously.

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BARCROFT INSTITUTE -- AMERICAN HEALTH SERVICES, INC. -- Mr. Covington, Zoning Administrator, asked the Board how long Barcroft Institute has to remove the children from the psychiatric wing. He stated that under the Revocation that the Board gave Barcroft Institute, they did not mention a time limit. He stated that he thought there was some discussion about ninety days.

Mr. Smith stated that there is nothing in the minutes nor in the Resolution revoking the permit that gives any time limit. Therefore, the revocation is immediate. He stated that the Zoning Administrator should pursue the revocation and see what turns out in the way of contracts that this facility might have. Therefore, implement the revocation immediately and let Barcroft Institute tell us why they can't do it, if they can't. Give them a violation notice and give them 30 days to clear it up.

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REQUEST FOR A NEW HEARING ON THE CASE OF HEART ASSOCIATION OF NORTHERN VIRGINIA.

Mr. Smith asked if the applicant had been notified of this request for a reconsideration.

The Clerk advised him that the applicant had not been notified because the letter just came in a few moments before from the citizens in the area who wish to have this new hearing.

Mr. Smith stated that the Board will have to satisfy that requirement. A time must be set for the Board to hear the evidence that these people want to present in order that the applicant can be present to state his case.

Mr. Robert Clark, 807 Sharon Drive, directly behind the subject property, spoke to the Board. He stated that his land was not contiguous to the site. He stated that at the time the case was presented to the Planning Commission there was a lot of opposition in the form of citizens who were present at the meeting and also Petitions that were presented to the Commission. They were told by the Commission that these Petitions and a verbatim of the meeting would be transferred to this Board. He stated that this use doesn't even qualify under the Code and there was a discussion to this effect at the Planning Commission hearing. He stated that those Petitions were not in the file that was before this Board at the time of this Board's public hearing.

Mr. Smith stated that his question was discussed at the hearing as to whether or not this use qualified under the Group VI, Community Use, section of the Ordinance and the Zoning Administrator ruled that it did and this was confirmed by the Board.

Mr. Smith stated that this is the first time the Board has had such a request under their procedural matters.

The Board set the date for the consideration on the evidence that the people wished to present for having a new hearing for October 31, 1973 at 3:15 P.M.

The Clerk called the attorney for the applicant to confirm this date with him. His Secretary told the Clerk that she felt this date and time would be satisfactory.

Mr. Runyon reminded Mr. Clark that this will not be a rehearing on October 31, 1973. It will only be a hearing to determine whether or not there is new evidence on which to base a new hearing.

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Mr. Baker moved that the minutes for September 19, 1973, be approved. Mr. Barnes seconded the motion and the motion passed unanimously.

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By Jane C. Kelsey
Clerk


DANIEL SMITH, CHAIRMAN

APPROVED

(DATE)

The Special Meeting of the Board of Zoning Appeals Was Held On Wednesday, October 31, 1973, in the Board Room of the Massey Building. Daniel Smith, Chairman; Loy P. Kelley, Vice-Chairman; George P. Barnes; Joseph Baker and Charles E. Runyon were present.

The meeting opened with a prayer by Mr. Barnes.

10:00 - C & P TELEPHONE CO., app. under Section 30-7.2.2.1.4 of Ordinance to permit addition to existing Lewinsville dial center, 1701 Chain Bridge Road, 30-3((1))46, Dranesville District (R-12.5), S-201-73 OTH

Mr. Randolph W. Church, attorney for the applicant, 4069 Chain Bridge Road, represented the applicant before the Board.

Notices to property owners were in order. The contiguous owners were M. A. Poole, 1693 Chain Bridge Road and Lynn Heath, 6451 Jefferson Place.

Mr. Church stated that this is an existing dial center and they are requesting to be allowed to put an addition on this facility. The existing building was constructed in 1957 directly across the street from the Evans Farm Inn on Old Chain Bridge Road. He went to the map and outlined the area serviced by this facility. He stated that this facility services CIA and the entire Tyson's complex and the Westgate complex along with the many residents of the area. Since 1966 the entire Tyson's complex came into the picture and Westgate has come into the picture also during the time frame. There has been substantial growth coming in particularly in the commercial field. There is a need to expand the existing center which is on two and one-half acres of land to provide for this new growth. He submitted a rendering of the existing facility and the way it will look when they add the addition. He stated that there is a growth of trees on the side of the building.

Mr. Smith stated that the existing building is two story and he asked if the addition was also going to be two story.

Mr. Church stated that it will have a basement and it will not quite match up with the existing building as to height, but it will eventually be that height. They will add another structure at some future time. This is the reason the building is being constructed in this fashion.

Mr. R. K. Traller, Staff Associate in the Building Design and Construction Department of the C & P Telephone Company, Richmond, Virginia, spoke before the Board. In answer to Mr. Smith's question he stated that they will provide parking for 30 cars. They now have 16 parking spaces. They now have 20 employees, but with the new addition they will increase the employees to 25. They have provided 5 spaces over the requirement to cover visitor parking. They do not store telephone trucks at this facility. The only time the trucks are in there is to install the new equipment.

There was no opposition to this application.

In application No. S-201-73, application by Chesapeake and Potomac Telephone Company, under Section 30-7.2.2.1.4 of the Zoning Ordinance, to permit addition to existing Lewinsville dial center, on property located at 1701 Chain Bridge Road, Dranesville District, also known as tax map 30-3((1))46, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 31st day of October, 1973.

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

1. That the owner of the subject property is C & P Telephone Company of Virginia.
2. That the present zoning is R-12.5
3. That the area of the lot is 2.5501 acres.
4. That site plan approval is required.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

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

2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.

3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. Architectural detail shall conform to existing building as per rendering.

7. Thirty (30) parking spaces shall be provided and screened.

Mr. Baker seconded the motion.

The motion passed unanimously.

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10:20 - POOR SISTERS OF ST. JOSEPH, INC., app. under Section 30-7.2.6.1.3 of Zoning Ordinance to permit guest house and extension of day care center, 44 children, 4319 Sano Street, 92-2(1)20, Mason District (R-12.5), S-196-73 OTH

Rev. Msgr. Gabriel Theo. Maioriello, Pastor of the Church in Arlington, 4319 Sano Street - business address, personal address - 3304 North Washington Blvd, Arlington, spoke before the Board on behalf of the applicant.

Notices to property owners were in order. The contiguous owners were Louis Lama, 6226 Burley Drive and Queen of Apostles Church, 4329 Sano Street.

He stated that this application is for 44 children. The present facility has 44 children but they would like to add a play room in order that the children will have an play area inside during the wintertime. They also would like to add a guest house on the property. This school has been operating for four years. The proposed addition to the day care center will be brick and compatible with the existing dwelling. They operate from 7:30 A.M. until 6:00 P.M. They do not furnish transportation. The original permit was granted in 1969. They do not use the stable that is indicated on the plat for anything except storage. That structure was on the property at the time they purchased the property. They purchased the property in 1968.

Mr. Smith stated that the Health Department has indicated that they could have 45 children, therefore, he suggested that the Board consider granting the permit for that number. Mr. Barnes so moved. Mr. Baker seconded the motion and the motion passed unanimously.

There was no opposition to this application.

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In application No. S-196-73, (Out-of-Turn Hearing), application by Poor Sisters of St. Joseph, Inc., under Section 30-7.2.6.1.3 of the Zoning Ordinance, to permit guest house and extension of day care center, on property located at 4319 Sano Street, Mason District, also known as tax map 72-2((1))20, County of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 31st day of October, 1973.

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 4.819 acres.
4. That site plan approval is required.
5. That compliance with County and State Codes is required.
6. That the applicant is operating under Special Use Permit #S-35-69, granted February 18, 1969.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The maximum number of children shall be 45, ages 2 to 5 years.
7. The hours of operation shall be 7:30 a.m. to 6:00 p.m., 5 days per week; Monday through Friday.
8. A minimum of 8 parking spaces shall be provided.
9. The operation shall be subject to compliance with the inspection report, the State Department of Welfare and Institutions, the requirements of Fairfax County Health Department, and obtaining a non-residential use permit.
10. Landscaping, screening and/or fencing shall be as approved by the Director of County Development
11. All buses and/or vehicles used for transporting students shall comply with State and Fairfax County School Board standards in light and color requirements.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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10:40 - CHARLES & CATHERINE McLEOD, app. under Section 30-6.6 of Ord. to permit addition closer to side property line than allowed by Ord., 5505 Joplin Street, 80-1((2))(14)11, Annandale District (R-12.5), V-194-73 OTH

Mr. Charles McLeod, 5505 Joplin Street, represented himself before the Board.

Notices to property owners were in order. The contiguous property owners were Phyllis Van Camp, 5507 Joplin Street and Arthur D. Malovich, 5503 Joplin Street.

Mr. McLeod stated that there is not enough land on the right side and in the rear, the land drops off so that when you look at the house from the front it appears to be a one story house and from the rear it appears to be a two story house. He submitted pictures to show the severe slope. He stated that he purchased the house in 1964. The proposed addition is for the use of his own family and is not for resale purposes. It will be constructed of the same type of material and will be compatible with the existing structure. He stated that this was constructed before the R-12.5 zoning was established and there was only a 10' requirement at the time it was built.

Mr. Smith stated that even though it was constructed under a different zoning category and with a different side yard requirement, the Board has to base its decision on the existing ordinance.

Mr. McLeod stated that there are some houses in there that are only 10' from the property line.

Mr. Covington confirmed this.

Mr. Smith stated that this is a good point to take into consideration, but the Board will have to grant the variance for 5 feet.

Mr. Covington stated that the impact would not be as great when there are existing homes that are already constructed within the 10' requirement.

Mr. Barnes asked who is going to construct this addition.

Mr. McLeod stated that the Hugh Long Company will construct it. He has a permit in the County to do this type of work.

Mr. Barnes suggested that he verify this.

There was no opposition to this application.

Mr. Runyon stated that there is a Petition in the file that shows that all of his neighbors are in support of the application.

The hearing was concluded at 10:52 A.M.

In application No. V-194-73, application by Charles A. and Catherine S. McLeod, under Section 30-6.6 of the Zoning Ordinance, to permit addition closer to side property line than allowed by Ordinance, on property located at 5505 Joplin Street, Annandale District, also known as tax map 80-1((2))(14)11, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 31st day of October, 1973; and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5
3. That the area of the lot is 11,686 square feet.

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

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1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:

- (a) exceptionally narrow lot.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

- 1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
- 2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
- 3. Architectural detail to conform to the existinb building.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, residential use permit and the like through the established procedures.

Mr. Baker seconded the motion.

The motion passed unanimously.

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Mrs. Jean Packard, Chairman, Board of Supervisors, came before the Board of Zoning Appeals to personally extend an invitation to each of them to join the Board of Supervisors in a detailed presentation of the new Zoning Ordinance. She stated that the Committee on the new Zoning Ordinance, ZOBC, has labored hard for the past three years and it will be one complete new document. This is a proposed draft and will be presented to the Board of Supervisors next Monday and will be adopted next May. She stated that the Board will be delivered copies of this Ordinance next Tuesday in order that they might review them prior to the Saturday meeting. This meeting will be held at the Robinson High School November 10, 1973 at 10:00 A.M.

Mr. Smith thanked Mrs. Packard for the invitation and stated that the Board of Zoning Appeals is looking forward to this new ordinance and will try to implement it as fast as possible and to the best of this Board's ability will also try to enforce it once it is adopted.

Mr. Smith then discussed with Mrs. Packard the new recording system which has 15 minute records and the records are very unclear and distorted.

Mrs. Packard stated that all the bugs have not been ironed out of this system as yet. She stated that she would look into why they still have not got the system perfected.

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11:00 - TENNIS ON THE MOVE, LTD., app. under Section 30-7.2.6.1.3 of Ord. to permit tennis school, 1121 Belleview Road, 19-2((1))Parcel 55, Dranesville District (RE-2), S-190-73

Mr. Ralph Louk, 4101 Chain Bridge Road, Fairfax, Virginia, attorney for the applicant, testified before the Board.

Notices to property owners were in order. The contiguous owners were Gertrude Fairfax and Raymond Sharper.

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TENNIS ON THE MOVE (continued)

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Mr. Louk stated that Mr. LaBott is buying the property on a contingency basis.

Mr. Smith asked if the Board had a copy of the contract.

Mr. Louk stated that that was in the file and he would submit a statement extending the contract. He stated that the conveyance of the property will be by A. J. Brown as the only heir of Mary C. Brown.

Mr. Barnes asked if these tennis courts would have lights.

Mr. Louk stated that they would not. He stated that the question was asked of him whether or not the community would be able to use these facilities. He stated that his client has no objection to the people in the immediate community using the courts and has so stated to them. Mr. LaBott is a school teacher for the Arlington County Public Schools teaching tennis. He plans to build his own home at this location. A booklet containing a rendering of the A frame building he plans to build has been submitted to the Board. He will live at this location and give tennis instruction on a daily basis. This is under 30-7.2.6.1.3.4 of the Ordinance, Community Use, School of Special Instruction.

Mr. Smith stated that the .4 had inadvertently been left off when the case was advertised.
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Mr. Baker so moved that the case be/under Section 30-7.2.6.1.3.4 of the Ordinance. Mr. Barnes seconded the motion and the motion passed unanimously. The restrooms will be in the dwelling that will be used also for Mr. LaBott's home.

Mr. Smith asked who the incorporators of this corporation were.

Mr. Louk stated that the incorporators are Mr. LaBott, Helen and Jim Moss, 11064 Safo Way.

Mr. Smith asked Mr. Mitchell if the Zoning Administrator had interpreted this to comply with all the provisions of Section 30-7.2.6.1.3.4 of the Ordinance.

Mr. Mitchell stated that the only Specific Requirement is with regard to the size of the lot. It then refers to the general provisions for the Specific Requirements. They are interpreted in the Site Plan and they come under Site Plan. He stated that he felt Preliminary Engineering's Report will clarify it, that the general provisions of the Ordinance are met in that respect.

Mr. Louk stated that Mr. Elkins is present from the engineering firm of Long and Rinker to answer any question the Board might have relating to engineering problems. Mr. LaBott plans to continue to work for the Arlington County School system and also teach children in the area the game of tennis. These tennis courts will not be lighted, nor is there any plan to enclose these tennis courts. He will charge for these instructions. He is present today to answer any questions the Board might have of him. and to make a short statement to the Board.

Mr. Melvin LaBot, 3731 Westwind Way, McLean, Virginia. He stated that he proposes to sell the house that he is now in and move to 1121 Belleview Road, McLean. He would teach a group of children the game of tennis. There would probably be from 8 to 10 students there at any one time. The hours will be from 7:00 A.M. until 7:00 P.M. The people in the community may use the courts from 7:00 P.M. until 9:00 P.M. if they wish. They welcome the people from the surrounding community to come in and see what he is doing. He stated that there are about ten families in the area. There will be no charge for the use of the courts by the people in the immediate area.

Mr. Smith stated that the bathrooms do not show on the plats and, therefore, before the Board can make a final decision, new plats will have to be submitted showing the separate bathrooms for male and female and new house plans will also have to be submitted showing these facilities. The ones before the Board are not proper plans as they do not show the bathroom facilities.

Mr. Louk stated that it is shown on the plats in statement form.

Mr. Smith stated that he does not remember any situation where the Board has allowed a dwelling to be used for bathroom purposes for this type-of semi-commercial operation. In the past, the Board has required the bathroom facilities to be separate from the residence of the operator.

Mr. Kelley stated that it seemed to him that it would be just as easy to have separate facilities outside the residence.

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TENNIS ON THE MOVE (continued)

Mr. Louk stated that the surrounding property owners would rather see the residential setting rather than a separate building with toilets.

Mr. Kelley stated that he agreed with the people in the neighborhood.

Mr. Smith asked the size of Mr. LaBat's family. Mr. Louk answered that there is only Mr. LaBat.

Mr. DeWolf, 1149 Belleview Road, spoke before the Board. He stated that he lives one block away. He stated that he does not know the applicant, but he does play tennis and feels this is a good use of the land. He stated that he is glad to see that he will not light the tennis courts. He stated that he would like to make a request that the road not be widened and improved as it so often is. They already have problems with people cutting down Belleview Road and they would like to try to prevent through traffic.

Mr. James McBroom, 1145 Belleview Road, spoke before the Board. He stated that he regreted that he must oppose this use, but their road cannot take any more traffic. It is a very narrow road with many steep hills and there is also a sharp turn at the crest of the road. It is already carrying more traffic than it can manage. Many commuters from Reston are using the road in the mornings and evenings. It is now so dangerous that the people are now afraid to walk on this road. This proposed use will cause a great deal of coming and going from the tennis instructions. It also happens to be right at the point where a sharp curve and crest of the hill coincides. This use combined with the new subdivision that is also going in down the road will create a greater hazard to the people who already live in that area.

Mrs. Eleanor White, 1135 Belleview Road, who lives just to the left of the red marker on the map before the Board, spoke in opposition to this application. She stated that she objects for the same reasons that Mr. McBroom stated. She asked what guarantee the people in the area have that says that this school will remain the same and perhaps will not be purchased by someone else and expanded into a huge commercial venture.

Mr. Smith explained to her that any change in use would cause this application to be re-evaluated. There can be no change in use or additional use, nor change in owners without the Special Use Permit being brought back to the Board with a new application and a new public hearing.

She stated that if the Board feels that these safeguards cannot be guaranteed, then they would ask for a deferral of the decision for further study. She also asked that the applicant not be required to asphalt the parking lot.

Mr. Smith stated that the plan calls for the banks to be graded to provide 270' sight distance.

Mr. Louk stated that the applicant has agreed to dedicate a certain amount of land for road widening and the Board can place conditions on the use that would alleviate the courts from ever being enclosed. He stated that the applicant has stated that he will not enclose the Courts.

Mr. Smith stated that he did not agree with the request to waive the paving of the parking lot. People might get in and not be able to get out in bad weather if the parking lot is not paved.

Mr. Kelley stated that he noticed from the comments from Preliminary Engineering that Belleview Road is to be realigned to the west of this site. He asked Mr. Steve Reynolds from Preliminary Engineering to speak to this.

Mr. Reynolds stated that the proposed realignment would only be a logical realignment if you are going to widen the road as is proposed. By the dedication, they obtain a right of way to handle future traffic. The curve would be reduced. This would relieve some of the conditions that now exist. The biggest relief that is being obtained by this permit is the fact that the banks will be graded back to provide adequate site distance on Belleview Road. He stated that this would alleviate all the problems involved with site distance.

Mr. White, 1135 Belleview Road, spoke in opposition to this application. He stated that he believed that Mr. Labat plans to bring many students in from Arlington and if this is the case then this is not a community use. He stated that he lives next door to this property and they would welcome Mr. Labat as a neighbor, but they oppose the commercial use that is to be made of this property. He stated that Article 30-1.8.32.2 of the County Zoning Ordinance pertaining to Special Use Permits lists nine categories of instruction for which a school of special education may receive such a permit. Of these, only vocational would seem to apply, although a case might be made for professional. Tennis

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TENNIS ON THE MOVE (continued)

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on the Move would offer instruction to up to ten persons an hour, six hours a day for eight months, the basic course to take, ten one-hour periods. Conservatively figured, this would produce 600 to 900 trained tennis instructors per year. He stated that Arlington and Fairfax Counties together employ about 45 physical education instructors who teach tennis. This supply-over-demand is in a ratio of about 40 to 1, if the counties have a teacher-turnover of 50% per year. These figures suggest either that there is little need for this school, or that its primary purpose cannot be vocational, (or professional) instruction.

He stated that Article 30-7.2.6.1.3.6, A lists as general requirements "an existing or programmed public street or sufficient right-of-way and cross-section width to accommodate pedestrian and vehicular traffic...". He stated that there is neither existing nor planned accommodation for pedestrian traffic on Belleview Road. He asked if this single fact might void this application. He stated that parking could not be in a worse place. A great deal of grading would be unsightly. They discussed with Mr. LaBat the possibility of moving the entrance and he seemed to favor the idea at the time.

He further stated:

"Article 30-7.1 (on page 4) states that special permit uses may be authorized if the use "will not be detrimental to the character and development of the adjacent land..." As a real estate broker and appraiser with long experience I can solemnly state, and with some authority, that establishing a commercial tennis school, even this tennis school, will reduce the value of all adjacent land; will be detrimental to the quality and the character of the adjacent land as it is today, and particularly as it will be developed in the future; and further, the detrimental effect will be felt not only in the land adjacent to this proposed school, but also in most of the other land on Belleview Road where there are many parcels of over five and ten acres in size."

"(Is it not true that five and ten-acre lots impose the least tax burden on the County?)"

"Article 30-7.1.1 gives the standards that shall apply to all special use permits in any R districts, specifying that special uses shall not be incongruous with the predominant character of the neighborhood, and (on page 5) shall be in harmony with the general purpose and intent of the zoning regulations and shall not affect adversely the use of the neighboring property."

"I can only say, based on twenty years experience in this area, that a tennis school located on Lot 55, Section 19-2 of the Assessment Map will, in fact be:

1. Incongruous with the predominant character.
2. Out of harmony with the general purpose and intent of the zoning regulations, and
3. Adverse in its affect on the use of the neighboring property.

He heard Mr. Labat explain the function of Tennis on the Move three times; as he understood the plans, the school is intended primarily for the benefit of Arlington County residents.

In closing, he said he would be glad to offer his services to Mr. Labat, free of charge, to find another location for the proposed school."

Mr. White stated that they did want to say that there is a site down the road that the Board granted a Special Use Permit for a riding school operated by Mr. and Mrs. Moss. It is a desirable addition to the community. Mr. Moss is an official of this corporation. Mr. Moss is a friend or relative of Mr. LaBatt. This will be the second commercial establishment on this road. The riding stable is called Shady Brook Stables. He stated that Mr. Moss is a fine neighbor and a good friend of his family. He is well respected and loved by every member of the community. The neighborhood is worried in this case, that Mr. LaBatt might decide to sell out and not be able to make good of it financially and if this should happen, what would happen to this business venture.

Mr. Smith reminded him that there could be no change in use or change in owner or operator without first coming back to this Board at a public hearing.

Mr. White stated that they were afraid that this would be a commercial wedge in their community, such as Hazelton Laboratories was some years ago. It kept expanding almost every year until it is now a huge operation. More commercial ventures have gone in around it.

Mr. Gousett, 1206 Tolson Road, spoke in opposition to this application.

Mr. Ralph Louk then spoke in rebuttal to this opposition.

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 TENNIS ON THE MOVE (continued)

Mr. Louk stated that he feels this is permitted under the ordinance and this Board has the power to place whatever restrictions on the use that it desires, within reason. They have stated that there will be no structure, or bubble over this facility. There will be no night lighting of the facility and they have agreed to a 9:00 A.M. to 7:00 P.M. operation. They would operate from possibly April through November 15. They begin teaching students at 7 ½ years of age. There is no maximum age. The people who will be students will come from McLean, Arlington and any Northern Virginia area. There will not be any cars. The children will be bussed in a motor home. They use video tape in teaching these children. When Mr. LaBatt is not available to teach, he will have an Assistant who has been working with him for sometime who will teach the students. He asked Mr. LaBatt to speak before the Board.

Mr. Labat stated that he would have a qualified instructor there at all times. They will be giving group lessons primarily. In answer to Mr. Smith's question regarding charges, Mr. Labat stated that it would cost \$25.00 for eight lessons which he feels is reasonable in this area with the use of video tape.

Mr. Kelley suggested that the Board view this property. He moved that in Application S-190-73, the Board defer this case for a maximum of 30 days for decision only to allow the applicant to submit new plats showing the location of the restroom facilities and possible changes of the parking area, consignment of the contract from Mr. LaBatt to the Corporation and an executed copy of the extension agreement regarding the contract which has now expired. The Board will not take any additional testimony.

Mr. Barnes seconded the motion and the motion passed unanimously.

Mr. Smith that that this case would probably be decided on November 21, 1973 in the afternoon and this would be for decision only as the case had already been heard and all the testimony has been taken.

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11:20 - FAIRFAX CIRCLE BAPTIST CHURCH, app. under Section 30-7.2.6.1.11 of the Ordinance to permit use of house for school for religious classes, 8741 Arlington Blvd., 49-3(1) 12; Providence District (RE-1), S-210-73 OTH
 (Hearing began at approximately 12:30 P.M.)

Mr. Charles E. Holler, 3118 Barbara Lane and Mr. McCracken, 3122 Chichester Lane were the two contiguous property owners that had been notified. All notice requirements had been met.

Mr. DuVall, attorney for the applicant, represented the Church before the Board. Rev. Wallace M. Hais, Pastor of the Church, represented the Church before the Board. also. He stated that they do not intend to make any structural changes in the house. They will make all changes necessary to bring the house up to the codes of Fairfax County.

Mr. DuVal stated that this house will be used to teach young people about the Lord. They do not intend to have a hoe-down there.

Mr. Smith stated that he had been to a lot of churches and he hadn't seen hoe-downs going on.

Mr. DuVal stated that they hope to build a large sanctuary sometime, but temporarily they need this additional space. At present, they have about 10 or 15 students coming to classes here, but they hope their church will grow. This will take care of the expanded Sunday School enrollment. This house is on city water. There is an old well there, but it is not used.

Mr. Kelley stated that the Preliminary Engineering Branch suggests that they construct a sidewalk there.

Mr. DuVal stated that they intend to do that.

Mr. Kelley asked if they realize this requires Site Plan approval.

Mr. DuVal stated that they were aware of that.

The hearing ended at 12:45 P.M.

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 FAIRFAX CIRCLE BAPTIST CHURCH (continued)
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In application No. S-210-73, Out-of-Turn Hearing, application by Fairfax Circle Baptist Church, under Section 30-7.2.6.1.11 of the Zoning Ordinance to permit use of house for school for religious classes, on property located at 8741 Arlington Boulevard, also known as tax map 49-3((1))12, Providence District, County of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 31st day of October, 1973.

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 1.811 acres.
4. That compliance with all County Codes is required.
5. That site plan approval is required.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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12:00 - STARLIT FAIRWAYS, INC., app. under Section 30-7.2.6.1.1 of Ordinance to permit enclosure of existing swimming pool, 9401 Little River Turnpike, 58-3 & 58-4 ((1)) part of 2 & 38B, Annandale District (RE-1), S-213-73 OWH

Mr. Olson, Manager of Starlit, represented the applicant before the Board.

Notices to property owners were in order. The contiguous owners were Arthur L. Walter, 1701 North Rhodes Street, Arlington, Virginia and Calvary Baptist Church, 9301 Little River Turnpike, Fairfax, Virginia.

Mr. Olson stated that they wish to enclose an existing swimming pool, their 50-foot outdoor pool, with a permanent structure that is manufactured by Structures Unlimited. It is aluminum with a fiberglass on the outside. It is similar to the existing enclosure of their other pool, but it is better. It will be white in color.

Mr. Smith then brought up the sign that they now have in the City of Fairfax advertising the facility that is predominantly in Fairfax County and is against the Fairfax County Sign Ordinance. Mr. Smith stated that he felt they should remove the sign. He stated that the Board allowed them one sign, an attractive sign and he felt the Board would like to see this additional unattractive sign removed.

Mr. Olson stated that they would remove the sign.

The hearing was recessed until the applicant could come back with a rendering of the type of building they proposed to place over this pool.

Later in the day they returned with the rendering and also stated that the sign was down and would remain down.

There was no opposition to this application.

In application No. S-213-73, Out-of-Turn Hearing, application by Starlit Fairways, Inc., under Section 30-7.2.6.1.1 of the Zoning Ordinance, to permit enclosure of existing swimming pool, on property located at 9401 Little River Turnpike, also known as tax map 58-3 & 58-4((1))pt. of 2 and 38B, Annandale District, County of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 31st day of October, 1973.

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

- 1. That the owner of the subject property is the applicant.
- 2. That the present zoning is RE-1 and RM-2.
- 3. That the area of the lot is 41.752 acres.
- 4. That site plan approval is required.
- 5. That compliance with all County and State Codes is required.
- 6. That the applicant has been operating a membership recreational facility on said property pursuant to Special Use Permit #8818, granted October 11, 1960, and subsequently amended several times, the latest of which is Special Use Permit #S-201-72, granted January 17, 1973.

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

- 1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

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

2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.

3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. All conditions set forth in Special Use Permits granted previously shall remain in effect.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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12:20 BAILEY'S CROSSROADS VOLUNTEER FIRE DEPARTMENT AND FAIRFAX COUNTY FIRE AND RESCUE SERVICES, app. under Section 30-7.2.6.1.2 of Ordinance to permit fire station, 3601 Madison Lane, 61-4((1))20A, Mason District (C-OL), S-214-73 OTH

Mr. Alexander, Director of Fire and Rescue Services for Fairfax County, represented the applicant before the Board.

Notices to property owners were in order. The contiguous owners were Harry Bedsworth, P.O. Box 867, Springfield, Virginia, and Kay Management, Ga. Avenue, Silver Spring, Maryland.

Mr. Alexander stated that this site was recommended by the County Facility Site Selection Committee, and on October 2, 1973, the Planning Commission approved it under provisions of Section 15.1-456 of the Code of Virginia.

Mr. Smith read the Planning Commission memorandum approving the station at this location.

Mrs. Fasto, of the Planning Committee of the Mason District Council, spoke before the Board in opposition to this application. They proposed that this site not be considered but that all the other sites be reconsidered.

Mr. Smith told her that this Board can only consider the site that is before them. This site went before the Planning Commission under 15.1-456 of the Code of Virginia and was approved as a site for the fire station. This is not under the jurisdiction of this Board.

Mrs. Fasto continued to give reasons why this Board should not consider this site, but should consider some of the others that had been under consideration previously prior to this application's coming before this Board.

Mr. Smith continued to remind her that the selection of a site for a fire station is not with this Board's jurisdiction.

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BAILEY'S CROSSROADS VOLUNTEER FIRE DEPARTMENT AND FAIRFAX COUNTY FIRE AND RESCUE SERVICES

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Another lady who is a contiguous property owner spoke in opposition. She stated that they have traffic problems in that area already and this would compound the problem. She also stated that they have never had storm drainage on Madison Lane. They are proposing to fix the one lot in front of their area and leave the balance of Madison Lane in its present condition.

Mr. Smith stated that they are only required to widen the lot in front of the station itself.

Mr. Runyon suggested that they go together with the rest of the neighbors and form their own sanitary district. The fire station's providing drainage on their lot and the other lot would provide the opening that they could tie into. It could be a joint effort.

Mr. Alexander spoke in rebuttal to the opposition. He stated that they have followed the proper procedures. They have been through the site selection committee and the Planning Commission. They did take into consideration the land use plans in the area. It is through all this planning that they arrived at this point. They do not blow sirens any more. Their fire houses set in the middle of many residential communities and they do not cause problems with their neighbors. They try to be good neighbors. It is these residences that they protect. This is high density zoning at this location.

The hearing ended at 1:40 P.M.

In application No. S-214-73, application by Baileys Crossroads Volunteer Fire Department and Fairfax County Fire and Rescue Services under Section 30-7.2.6.1.2 of the Zoning Ordinance, to permit fire station, on property located at 3601 Madison Lane, Mason District, also known as tax map 61-4 ((1))20A, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 31st day of October, 1973.

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

1. That the owner of the subject property is J. C. and L. R. Hanes and D. M. Hotchkiss.
2. That the present zoning is C-0L.
3. That the area of the lot is 1.355 acres.
4. That site plan approval is required.
5. That the Planning Commission recommended approval at their meeting of October 2, 1973.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I Districts as contained in Section 30-7.1.2 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

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

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2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.

3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. Screening and fencing as per Department of County Development.

Mr. Baker seconded the motion.
The motion passed unanimously.
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DEFERRED CASES:

2:00 - MOBIL OIL CORP AND BOBBY G. JONES, app. under Section 30-7.2.10.2.1 and 30-7.2.10.2.2 of Ordinance to permit change in operator and ownership of service station, 6260 Old Dominion Drive, 31-3(1) Parcel 116, Dranesville District (C-N), S-163-73 (Hearing began at 3:00 P.M.)

Mr. Lou Griffith, 1300 Old Chain Bridge Road, McLean, Virginia, attorney for the applicant, testified on their behalf before the Board.

Notices to property owners were in order.

Mr. Griffith stated that this application is for the change in ownership of a station that has been operated since 1956. It is presently zoned C-N and contains 17,759 square feet. The property was acquired on the 30th of March when Mr. Jones obtained a consignment of lease and option to purchase. It is now operated by himself. This station only has one pump island. The old records indicate that this was General Business at one time and now it is C-N. This station will not be upgraded at the present time.

Mr. Smith stated that the Board would not be able to make a decision on the case as the plats were not correct as they do not show the underground waste oil tanks, parking for the use and the underground tanks.

Mr. Baker moved that the case be deferred until November 21, 1973.

Mr. Kelley seconded the motion and the motion passed unanimously.

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(Hearing began at 3:10 P.M.)

2:30-- DEADLINE FOR CITGO'S OBTAINING NON-RESIDENTIAL USE PERMIT at 8318 Hoos Road, 89-3(1)pt 24 (C-N), Springfield District, S-149-69. To be considered Re-Evaluation Hearing and Revocation Hearing by Agreement with Applicant.

Mr. John McIntyre represented the applicant before the Board. He stated that immediately after leaving the last hearing of the Board he received several different things from the County that completely stopped them in their construction. They are not finished. The stateman came out and said that the way the curb was designed originally was the way it has to go and Mr. Young said "All right, you can have my property for \$1,000.00". Then their engineer, Mr. Smith, had to stake it out and all this paperwork had to be done. The grading was done and the forms were set and the County Inspector said everything looked fine, but with all the delays, they have not been able to complete the work. He asked for one more week although he stated that he felt he could complete it in two more days.

Mr. Barnes moved that he be given until November 14, 1973. Mr. Kelley seconded the motion and the motion passed unanimously.
(Hearing ended at 3:15 P.M.)

2:30 - HEARING ON REVOCATION NOTICE FOR LAKE BARCROFT RECREATION CENTER, INC., property located on east side of Whispering Lane, also known as tax map 61-3((14))A, County of Fairfax, appl. under Sec. 30-7.2.6.1.1 of Zoning Ordinance to permit Community recreation uses for private membership of 400 families Parcel A, Section 3, Lake Barcroft, Mason District, S-142-69

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Mr. Richard R. G. Hobson, 4085 University Drive, Fairfax, Virginia, represented the Lake Barcroft Recreation Center, Inc. Before the Board.

(See verbatim testimony on this case) *Done by Court Reporter*
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3:15 - HEART ASSOCIATION CASE -- Request from citizens for a re-hearing based on new evidence that could not have been presented at the original hearing.

Mr. Robert Clarke, 7807 Rebel Drive, Annandale, Virginia, spoke before the Board. He stated that he would like to direct the Board's attention to his letter of October 23, 1973, that was presented to the Board last week which stated:

"We, the undersigned, representing Northwest Annandale Civic Association in general, and specific citizen opposition in Shamrock Heights, Holmes Run Heights, Crest Meadows, Pleasant Ridge, and Holmes Run Acres subdivisions, as evidenced by petitions request an appeal hearing on case S-179-73, due to misinformation conveyed to us on procedural steps that must be taken when a case is scheduled for public hearing by the Planning Commission prior to the BZA action. Our understanding of the procedures was that a full transcript of the public hearing would be made available to the Board of Zoning Appeals by the Planning Commission. Therefore, our presence at the Board of Zoning Appeals hearing would be only to reiterate prior testimony. We now find that not only was a full transcript not provided, but the brief summary presented by the Planning Commission did not cover critical facts that should have been considered in your deliberations. Questions on some of these facts might have to be resolved in court action due to complexities in interpretation of the county code."
/s/ Robert C. Clark and Charles E. Becker

He stated that the Petitions were not received by this Board at the time of the public hearing. There also was a document from the Annandale District Counsel that reaffirmed their objection to this application.

Mr. Smith asked when this Resolution from the Annandale District Counsel took place.

Mr. Clarke stated that it took place September 26, 1973 and about 20 to 22 people were present. It was a unanimous vote. He stated that it had been sent to the Clerk of the Board of Zoning Appeals.

Mr. Smith stated that it was not received. He asked why someone from the community did not appear at that hearing. He asked if they were aware of the hearing date.

(See the verbatim transcript for the remainder of this testimony) 461 B

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The Board then discussed the fencing requirement for Luck Quarry and Vulcan Quarry.

Mr. Smith read a recommendation from the Restoration Board regarding Luck Quarry which stated:

"The Restoration Board made its annual inspection of Luck Quarry, Centreville, Virginia on October 18, 1973. The Restoration Board found that the Quarry was operating according to the restrictions placed on the operation by the Board of Zoning Appeals with the exception that the Quarry had not erected a fence as required by the Ordinance. The Restoration Board recommended a six foot chain link fence with barb wire arms along the top to be erected along both sides of Routes 29 & 211 for the full frontage of the property and American barb wire to be erected along all other sides of the property. This American wire and barb wire to be six (6) feet in height with the barb wire not to be more than four (4) inches from the top of the American wire. They further recommended gates at the entrances to be kept secured when the Quarry is not in operation. Mr. Rossman noted that there was too much dust coming from the direction of the belt area and asked Mr. Marsh, Superintendent of the Quarry, to control it a little better.

There have not been any changes in the surrounding property development since this permit was issued.

The conditions of the roads were satisfactory."

OCTOBER 31, 1973 -- BOARD OF ZONING APPEALS

THE HEARING ON LAKE BARCROFT RECESSED -- THE BOARD WENT INTO EXECUTIVE SESSION AFTER SOME DISCUSSION, THE BOARD ASKED MR. RICHARD HOBSON, ATTORNEY FOR THE APPLICANT, LAKE BARCROFT RECREATION CENTER, INC., MR. GOODELL, MR. BROWN, FROM BELVEDERE CIVIC ASSOCIATION, AND MARY KATHERINE KUBAT TO COME BACK AND DISCUSS WHAT MIGHT BE DONE TO SETTLE THIS PROBLEM.

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THEY WERE LOOKING AT THE NEW PLATS THAT MR. HOBSON HAD SUBMITTED PRIOR TO THIS HEARING.

MR. SMITH asked MR. HOBSON could they bring the entrance in up at the A-2 parcel. (He indicates on the plats.)

MR. HOBSON stated that he knew that this was MR. BROWN'S proposal and the answer is "No," not to the full extent. He stated that the Highway Department preferred the other entrance for safety reasons. He stated that in order to do that, they would have to have a Court decision on the title problem. They only have a Quit Claim Deed on this land. The reason they could only get a Quit Claim Deed and the reason the Court applied a Quit Claim Deed was because prior thereto there was an easement that said this property was to be used for Beach Parking and could be used for access only.

He stated that what might be possible would be to provide more parking over here (he indicated to the right of A-2) but it would necessitate cutting trees down closer to her house.

MR. SMITH stated that he should disburse the impact. It had been hoped that they would come in with a separate entrance for the recreation area.

MR. HOBSON stated that that would necessitate Court action to remove a cloud on the title. It would take a year to do that.

MR. BROWN asked MR. HOBSON when the last time was that someone used that area for parking.

MRS. KUBAT stated that it is used daily for parking, even though there is no parking area there, the kids park there anyway to use the beach.

MR. BROWN asked again when the last time was that it was used for Beach 2 parking and if this is a creditable issue.

MR. HOBSON stated that it is a creditable issue.

MR. BROWN asked again if this is being used for Beach 2 parking.

MRS. KUBAT answered that, yes, there is a beach. This is where high school kids come to play ball. It is in use everyday after school. Previously, in '69 and '70, she stated that she was opposed to this use because of that parking and she still has the same problem, but she will accept it because the Zoning Board made the decision that there was no overflow parking for the Recreation to be here.

MR. SMITH stated that he didn't remember anything like that in the Special Use Permit granted in '70.

Lake Barcroft

MR. BROWN stated even if this parking area were enlarged, and the entire area was used, it would not address the problem. There is no traffic study to show how many would use the parking. It might be only five percent.

Last Page
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MR. SMITH asked if he could get the entire parking in this area (he indicates near Parcel A-2).

MR. HOBSON stated he felt it is impractical. He stated that is the all one-way solution.

MR. BROWN stated that the reason why it is impractical is that the people in Lake Barcroft refuse to share and bear any of the impact. "Am I wrong?" he asked.

MRS. KUBAT stated that that is not true.

MR. HOBSON stated that they could provide more of the traffic burden up there, but he did not think they could put it all up here.

MR. SMITH asked if they could take all the Cloister traffic away from the Recreation Center traffic.

MR. HOBSON stated that there is a ditch there -- a ravine. All the pool facilities have been built here.

MR. HOBSON said that they could separate the amount of traffic that comes in this way and parks here. "We can, consequently, reduce that," he said. "There is much, much more traffic from the Recreation Center than the 22 lots. The 22 lots is small compared to the Recreation traffic."

MR. BROWN disagreed.

MR. BROWN stated that this is the first that they have heard from the other side. MR. HOBSON came to them and that was the first time anyone from Lake Barcroft had come to them to see what their ideas and feelings were and they welcomed him. They spent two hours discussing the problems.

MRS. KUBAT stated that, based upon the Use Permit as it was given before and other Permits that these people have received, they have gone ahead and built the pool and there is a huge ravine and tons of dirt. She asked where they would put a road.

MR. BROWN said if you talk about dirt, they have turned the whole thing upside down.

MR. SMITH stated that it didn't look like they were getting anywhere and stated that they might as well get on with the decision.

HEART ASSOCIATION of NORTHERN VIRGINIA, INC., S-179-73, Granted October 17, 1973.

Request for a Rehearing Presented to the Board of Zoning Appeals October 31, 1973.

MR. SMITH: This is scheduled for 3:15 and is a request from some citizens for a rehearing on new evidence that could not have been presented at the original hearing of the Heart Association of Northern Virginia, Inc. Who is going to speak for the citizen's group in the matter? Would you step forward and give us your name and address for the record please? 4C1B

(A gentleman stepped forward)

My name is Robert Clark 7867 Rebel Drive, Annandale, Virginia.

What I would like to direct my statement to is the information given you people in my letter that I submitted to you people last week. We were caught in one of these procedural switches out here. I find after listening to the testimony today, that we were not by ourselves. There was not received, that we know of, by the BZA, there was a document from the Annandale District Counsel, that reaffirmed our objection to this.

MR. SMITH: When was this Resolution -- when did this take place?

MR. CLARK : This was September 26, 1973.

MR. SMITH: How many people were present at the time of the Resolution?

MR. CLARK : At the time of the Resolution, about 20 to 22.

MR. SMITH: What was the vote on the Resolution?

MR. CLARK : It was unanimous.

MR. SMITH: To affirm whose position on this?

MR. CLARK: The citizens opposition to this.

MR. SMITH: Could you give us a copy of that?

MR. CLARK: Yes.

MR. SMITH: Why could this not have been presented to us at the original hearing?

The Heart Association

MR. CLARK: It was sent to you people. The communication gap --

MR. SMITH: (interposing) You say to you people -- did you -- would you be more specific.

MR. CLARK: To the Board of Zoning Appeals.

MR. SMITH: To the Clerk to the Board of Zoning Appeals?

MR. CLARK: I don't know that.

MR. SMITH: When was it mailed? It was never received.

Why did you not appear at the time of the hearing? You were aware of the hearing?

MR. CLARK: Yes sir. We also were -- I was on travel. I can make no excuse. I was on travel which I have no control over. It was of a classified nature. This is no excuse, but we were told by the members, the members of the Planning Commission and Staff of the Planning Commission at their hearing that all of the testimony that was given to the Planning Commission would be forwarded to you people, which was not done.

MR. SMITH: Someone would have to be here to present the information. The Planning Commission cannot present the citizens case in the action. Someone has to be here to put this into the record. I will read this to the Board. This is dated September 26, 1973. Resolution adopted by the Annandale District Council.

"WHEREAS the Heart Association of Northern Virginia is seeking a special use permit from the Fairfax County Board of Zoning Appeals to build an office building on Gallows Road across from Holmes Run Acres in the Annandale Magisterial District; and

WHEREAS the Fairfax County Planning Commission is planning to hear this case on 4 X October 1973 in order to advise the Board of Zoning Appeals as to how this will fit in with Fairfax County planning policy; and

WHEREAS this area is planned for low density single-family residences; and
WHEREAS this use will set a precedent for commercial intrusion in the area
and will be in violation of the Annandale Master Plan; NOW THEREFORE
be it resolved that the Annandale District Council calls upon the
Planning Commission of Fairfax County and the Fairfax County
Zoning Board to oppose the Heart Association's plans for this office
building."

Adopted unanimously. Signed by Susan L. Gause, Secretary-Treasurer
and Robert D. Becker, Chairman, Annandale District Council.

MR. SMITH: Where did you get the information that this would
set a precedent? Do you know of any other use permit that has set a
precedent? -- in this county?

MR. CLARK: No I don't. This primarily is --

MR. SMITH: You say here that this will set a precedent for
commercial intrusion in the area and will be in violation of the Annandale
Master Plan. Now, can you give me any case or any indication of --

MR. CLARK: (interposing) Out of plain common sense.

MR. SMITH: I don't know whose common sense it is. I am not
going to argue with you, but there is no use permit that has been granted
by this Board that has set a precedent for commercial development.

MR. CLARK: What I am saying is that there is not any control
over this. If you have an office building in a residential neighborhood
what is to tell the next man who might want to put an office in that he
can't.

MR. SMITH: Each case is based on its merits. It is under a
use permit and has all sorts of conditions set on it. There are screening
requirements, landscaping requirements and other requirements that would
not even be required of residential. I am not arguing the case. I just want

to find out if you know of a case of a precedent setting nature that you refer to here. Because I do not know of any where a use permit granted for this type -- or anything as a matter of fact as having any effect (inaudible) because each case is decided based on the merits of the case.

MR. CLARK: That may be very true, but there is no limitation on the building changing hands.

MR. SMITH: Yes there is Mr. Clark. There can be no use made of this building other than the use granted by this Board, other than single family dwelling use. This Board grants a use permit and it allows a use under a Non-Residential Use Permit and any change in use under a Special Use Permit has to come back to this Board. Any change in ownership and any other change has to come back to this Board. This is a condition of the Special Use Permit.

MR. CLARK: Is this a standard clause?

MR. SMITH: Yes it is.

MR. CLARK: I heard a few minutes ago a case which said that any change in the building (inaudible)

MR. SMITH: That's right. Any change in the use, building, entrance or exit, anything, an addition, landscaping, must come back to this Board. No new use could be made of this building. In other words, the only use that can be made of this building would be the use granted under this Use Permit as set forth in this Use Permit conditions that are attached, or it would have to be used for residential uses. Someone would have to move in and live in it as a single family dwelling.

MR. CLARK: That might be fine looking at it from a legal standpoint but from a practical standpoint it leaves the individual and the neighborhood as far as that building goes if it does change hands -- I don't see how you can say it would sit there vacant or be torn down. I think there would be a waiver made.

MR. SMITH: This, of course, is an opinion that you are entitled to, but do you know of any case such as this in the County.

MR. CLARK: I know of no case but I haven't checked into it.

MR. SMITH: I know of no case where this has ever happened myself. I have probably been around too long. I have been here since 1959 and I know of no case where this has ever happened. We are getting better enforcement now of the use permits than we have ever gotten previously. We have more staff to enforce them. I just wanted to point this out. Go right ahead. I will give you more time.

MR. CLARK: I will take a couple more minutes. We did upon request, have the Petitions returned to us from the Planning Commission. These also were supposed to be forwarded to you people with a full transcript of that proceeding. There are 109 signatures on the Petition, 69 from the area which is directly affected. These are people in opposition..

MR. SMITH: We will accept that. We did have someone from the Holmes Run Civic Association which --

MR. CLARK: (interposing) These members are also from the Holmes Run area.

MR. SMITH: This reads gentlemen:

"We the undersigned citizens of Fairfax County strongly oppose the application of the Heart Association which will permit an office building in the Annandale District which is an area zoned and master planned for single family residential uses. The requested use would not only set a precedent for northwest Annandale, but threatens the integrity of all ^{neighborhoods in the} residential/community. We, therefore, petition the Planning Commission and Board of Zoning Appeals to reject this application."

Again, sir, you are aware of the fact that the ordinance permits this in a residential area.

MR. CLARK: There were discussions on that too.

(inaudible)

MR. SMITH: Well, the Zoning Administrator accepted the application and we asked at the time of the hearing if he was in agreement with the use as being a community use. He stated to the Board that he was.

MR. RUNYON: We affirmed his decision on that.

MR. SMITH: The Board affirmed, in an open public hearing, that decision, with the Zoning Administrator present. It did meet all of the criteria for community uses. This not only served the local community but the larger community, basically the County of Fairfax.

MR. CLARK: Which way will this be able to qualify as a community building, how will this be done?

MR. SMITH: This covers the entire community. We had a letter from the Administrator of Fairfax Hospital stating that this area would be easily assessible to the people from the hospital and urged that the Board grant the Heart Association permission to construct the building. He said that the Heart Association provided and rendered an invaluable service to the hospital.

MR. CLARK: We do not argue that.

MR. SMITH: This is ~~the~~ closest to it. The Heart Association, as I read it, and from the information that we have is that it serves all communities in Fairfax County, not only the Annandale District, but every community in Fairfax County, Arlington County, Alexandria, and Prince William.

MR. CLARK: This is granted. We agree with this. We are not against them fighting heart trouble. We are against an office building, it doesn't make any difference of what type, even if it were for unwed mothers.

MR. SMITH: We would have to consider it in a different light if it were for unwed mothers. It would be in a different category.

We had a tremendous ^{number of} signatures in support of it.

MR. RUNYON: 87 out of 130 wasn't it and that was people right across the street.

MR. SMITH: We had people all around it in favor of it.

MR. CLARK: Might I direct a question in answer to your question?

MR. SMITH: Yes sir, go right ahead.

MR. CLARK: The thing that was not stated was, many of these people did not receive notification, the people who were directly affected. The community that came to vote was only thirty per cent (30%) of Holmes Run Acres that voted.

MR. RUNYON: (inaudible)

MR. CLARK: I have operated with them down there in the planning for years and we have consistently come up with 70 to 75 percent.

MR. SMITH: Why did you only get thirty (30) percent of the vote in this case.

MR. KELLEY: Mr. Chairman.

MR. SMITH: Mr. Kelley.

MR. KELLEY: You are stating how much opposition you had to this and you said you could get 70 percent, and not one person came to the public hearing to oppose this use, not one person was in here to oppose this. We had a public hearing and not one thing, or one person objected to this that I recall. The record will show that no one appeared to oppose this. Another thing I would like to point out at this time -- are you familiar with this property,

the actual house, the old delapidated house -- are you familiar with it?

MR. CLARK: Yes sir. I go by it every day.

MR. KELLEY: I think personally after going down there and viewing it, I would think that any type of structure -- we have decided that it is a community use -- but I would certainly think if I were living next door that it would be a vast improvement.

MR. CLARK: The next door neighbor is against it.

MR. SMITH: The next door neighbor is who?

MR. CLARK: Mr. White.

MR. RUNYON: Mr. Scheider is on the other side and he is in favor of this.

MR. CLARK: Mr. Scheider is receiving a sewer easement line and things like this. I do not blame Mr. Scheider. The family on the other side was not consulted either.

MR. SMITH: They were aware of the public hearing though, were they not?

MR. CLARK: These people are in their 80's. They do not drive.

MR. RUNYON: They got a notice didn't they?

MR. CLARK: I don't know whether they did or not.

MR. RUNYON: Their names were on the letters we received of the notification, Mr. Scheider and Mr. White.

MR. CLARK: It wasn't explained to them properly then. No one went by and explained it to them.

MR. SMITH: The County doesn't have personnel to go by and explain each case to all the neighbors. If someone takes the time to pick up the phone and call the Clerk, she spends about 40 percent of her time trying to answer these questions that relate to the Board's cases.

MR. CLARK: They went by to explain it to Mr. Scheider didn't they. Why didn't they go by and explain it to Mr. White?

MR. SMITH: To my knowledge Mr. Clark, no one from the County went by and explained things to Mr. Scheider.

MR. CLARK: I am not talking about the County, I am talking about the client.

MR. RUNYON: Mr. Scheider called me on Tuesday before the hearing and told me that he was in support of it.

MR. CLARK: (inaudible) We are not against change.

MR. BAKER: Mr. Chairman. It is getting pretty late and we are not getting anywhere.

MR. CLARK: If you will call upstairs -- the reason these people were not here was, if you call upstairs to any of the Staff, they will tell you that it is not necessary, that the total transcript goes to you.

MR. SMITH: Who told you that?

MR. CLARK: These people on -- the Zoning Office.

MR. SMITH: I don't want to prolong this, but do you know who you talked with?

MR. CLARK: The only individual that I spoke to was Mrs. Sands and she did not make the statement the night of the Planning Commission hearing, the Chairman did. When the Petitions were given to them, to the Secretary Mrs. Sands, we were told that all these records will be given -- forwarded to the BZA.

MR. SMITH: The Planning Commission Chairman told you that?

MR. CLARK: Yes he did.

MR. SMITH: He misinformed ~~you~~ then.

MR. CLARK: Yes, you certainly were. I find the communications within this County are deplorable. One Board doesn't know what the other one is doing.

MR. SMITH: We try to.

MR. CLARK: Well granted, I know you try.

MR. RUNYON: We got a transcript of that hearing, but the point is that we cannot be swayed too much by their decision, we also have to act on the evidence that is presented to us. We have to hear all the facts, both in opposition and in favor and hear the testimony of the applicant. We got a verbatim statement that Mrs. Becker made when she made the motion. There were no facts of law there that talked about

the requirements of the Ordinance for this use. They talked about that this would have an impact on the Planning District.

MR. CLARK: You did not get complete evidence. If you had a complete transcript -- did you have the testimony that was pointed out to Mr. Knowlton by, I forgot the lady's name -- (inaudible)

MR. SMITH: Mr. Knowlton didn't agree with this though. In other words, he is the Zoning Administrator. He has to interpret the Zoning Ordinance and then, of course, if we don't agree with his interpretation then we certainly tell him as we do in cases where we do not agree with him. But, we did agree with him and agreed that it did meet the Section of the Ordinance and the criteria under which it was filed. In fact, as Mr. Runyon stated, we discussed this with Mr. Knowlton at the time of the hearing and he reiterated his position in the matter.

MR. CLARK: If -- Do I understand, or do I misinterpret it, if the citizens are opposed to it, if they have a definite legal point that they can come under, then it doesn't make a bit of use for them to come up here, is that --

MR. SMITH: Well, let's --

MR. BAKER: The citizens weren't here and there wasn't any opposition to this. It was before the Planning Commission but not before us.

MR. CLARK: This is what they were told, that it

wasn't necessary for them to come down here, that all it would be was that it would be rehashed --

MR. BAKER: Mr. Chairman. We told him we would give him 10 minutes and we have given him well over one-half hour. There are a lot of other people waiting.

MR. SMITH: I think that I read this earlier, but I will read it again, "...the request for approval will not only establish a dangerous precedent for northwest Annandale, but threaten all residential neighborhoods in the community..." I think there is room certainly for disagreement here.

Now, you have a gentleman that wants to speak and we will give him five minutes. I know that the Board has gone overtime here.

Will you state your name and address?

MR. BECKER: Charles Becker, 3802 Hummer Road, President of the Northwest Annandale Civic Association, some of the homes are within 500 yards of this site in question.

MR. SMITH: But it doesn't encompass the site?

MR. BECKER: No, neither does Holmes Run Acres.

MR. SMITH: What civic association does encompass the site?

MR. BECKER: There is no civic association that does -- it is an area (inaudible)

I would like to speak here to the evidence that was brought out at the Planning Commission hearing, but was not

included in the summary transcript. The applicant has been much less than candid to the citizens on two questions. That is, the total number of square feet involved in the building which they are planning to build and the specific use which it is to be put.

MR. SMITH: Wait a minute now Mr. Becker, at the public hearing they were very specific in the plans.-- Did you see a copy of the plats?

MR. BECKER: I saw a copy of the plats. The plats indicated something in a range from 4500 to 7500 square feet. They talked about have seven people. I am in the business and I know the gross square footage use and that is 160 square feet per person. Seven people would be a little over 1000 square feet.

MR. SMITH: They addressed themselves not only to the office space, but a meeting room for 20 people and storage space to take care of equipment that would be loaned to heart patients on a non-fee basis. I don't remember the square footage involved. / MR. BECKER: They are talking about 150 square feet per person and this is a gross square footage rule of thumb **used** in determining the size of a building.

MR. SMITH: We should have the file down here. Mr. Stevens do you remember the total square footage of the building?

MR. STEVENS: (From the audience -- off mike) I believe it was a total gross square footage of 6600 square feet which includes the storage area. The Heart Association

has seven employees and the interior floor plan is in the file.

MR. SMITH: I think they were very candid about this. They want to and they are planning for the future. This is the total building that will ever be constructed here without good cause and I do not see how they can -- This is what we were told. This is what they want. "This is all we will ever want," we were told. These are the uses that will be made of this building now and in the future. This is what they told us.

MR. BECKER: I would think though that the uses do not add up to the total number of square feet.

MR. SMITH: Well, what other uses do you think they could make of it other than those uses that they have indicated?

MR. BECKER: I don't know.

MR. SMITH: Maybe it is about time for Mr. Stevens to come up and speak to this then. to the uses you have here.

MR. STEVENS: Mr. Chairman, you heard that this was to be the headquarters of the Heart Association of Northern Virginia/^{offices} for the Executive Director and clerical staff, storage of materials to be used in the various seminars and the educational meetings they conduct. Whether or not Mr. Becker agrees with the financial feasibility from an architectural viewpoint, that is, in fact, what the design of the building is. If they go over the total of twelve people, they are in violation of the Use Permit and it could be revoked.

MR. SMITH: We are aware of that.

MR. STEVENS: I don't know what he expects to be going on in that building. We are not running a gambling den or anything of that sort.

MR. SMITH: Are the only uses those uses that you indicated that the Use Permit was granted on and was conditioned on.

MR. STEVENS: That's right.

MR. SMITH: Mr. Becker, do you have any more questions?

MR. BECKER: None.

MR. SMITH: Mr. Clark do you have anyone else to speak?

MR. CLARK: No.

MR. SMITH: Gentlemen, you have heard the request for the reconsideration on the basis of the evidence presented.

MR. STEVENS: Mr. Chairman, on the request for the reconsideration, whether or not it could have been presented at the public hearing. It seems to me that it was more than adequately stated in Mrs. Becker's statement on the question before the Planning Commission prior to the Planning Commission's vote. You haven't heard anything different here today than you heard when you heard Mr. Smith read the statement at the date of the hearing. It seems to me that there is nothing new raised here today that was not told at the time of the hearing.

MR. SMITH: Does the Board have any questions?

You have heard the Petitioner and you have received the Petitions and the questions that have been raised by Mr. Clark in connection with the application. Is it, or is it not the opinion of the Board that evidence that was now presented to the Board could not have been presented at the original hearing.

I would like to say again to Mr. Clark that I did read the statement of Mrs. Becker's into the record. I did not read the complete transcript of the summary of the hearing, but we did make it a part of the record and we all did read it.

MR. RUNYON: You passed it around and I read it and everybody else read it.

MR. RUNYON: Mr. Chairman, I made the original motion and I was aware of the facts that these gentlemen have brought here today. I considered this thoroughly and I am quite familiar with that area. If the Board and the Planning Commission do not want this to impact the area, and I don't think it will, then I say, let them stand on their own two feet and say, "No, we won't grant this to the Heart Association, or any other community use." We operate under the laws that they send to us. The opposition presented their case and the applicant presented their case and it was well made. I make the motion that we affirm our action in this case, to grant the application of the Heart Association.

MR. SMITH: It is not a matter of affirming it. The action we want to take now is on the Petition from Mr. Clark and Mr. Becker for a reconsideration and the decision in the matter has to be based on whether or not there has been new evidence presented.

last Page
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MR. RUNYON: There was no new evidence presented. I will make that my motion.

MR. BAKER: I second that motion.

MR. SMITH: The motion is to deny the request of Mr. Becker and Mr. Clark for a reconsideration. It would be a great waste of time because they do meet the requirements of the law and the evidence that they gave today doesn't show that they do not meet the law.

MR. SMITH: I think it should be stated that it was good that we did have this discussion today. I think it brings up even more that we have no legal reason to deny this application.

All we are doing is denying the request of Mr. Clark and Mr. Becker, their Petition for a reconsideration of the Heart Association of Northern Virginia. All those in favor say Aye.

ALL MEMBERS: Aye.

MR. SMITH: The motion carries unanimously to deny the request of Mr. Becker and Mr. Clark for a reconsideration of the Heart Association of Northern Virginia.

(Conclusion of discussion on case)

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 LUCK QUARRY (continued)

After some discussion regarding this the Board by unanimous decision approved the recommendation of the Restoration Board.

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VIRGINIA-GRAHAM QUARRY (VULCAN)

Mr. Smith read the recommendation of the Restoration Board which stated:

"The Restoration Board made its annual inspection of Vulcan Quarry, Occoquan, Virginia on October 18, 1973. The Restoration Board found that the Quarry was operating according to the restrictions placed on the operation by the Board of Zoning Appeals with the exception that the Quarry had not erected a fence. The Restoration Board recommended that a chain link fence be erected along Route 123 with barb wire arms at the top and American wire and barb wire fence on the other three sides. That this fence be six (6) feet in height and have secure gates.

There have not been any changes in the area since the issuance of this permit.

The condition of the roads were satisfactory. There is relocation of Route 123 and the construction of a new bridge over Occoquan River."

Mr. Covington stated that along that area there is a problem with meeting the 50' setback requirement from the edge of the quarry. They would have to take down a good number of trees.

The Board discussed all these points. It was the decision of the Board to endorse the recommendations of the Restoration Board, but allow the Zoning Administrator the leeway to place the fence in the most appropriate place to preserve the trees and safeguard the public, as long as it meets the intent of the recommendations from the Restoration Board.

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COL. CUMINGS -- The Board granted a variance in order for Col. Cumings to construct a pool closer to the rear property line than allowed sometime ago. After that Col. Cumings erected a bubble over that pool. The bubble extended beyond the pool putting it in violation. The Zoning Inspector issued Col. Cumings a violation notice. Col. Cumings then applied to the BZA for a variance for that bubble to remain closer to the property line than allowed by the Ordinance. At the hearing, the Board discussed all the pros and cons and there was testimony in opposition from the contiguous neighbor and the Board denied the request for a variance.

Mr. Knowlton now discussed with the Board whether or not the Board would allow Col. Cumings to erect the bubble (it was taken down for the winter and because of the denial of the application for a variance) as long as it met the setback requirements. He asked if when the Board denied the variance for the bubble if they were denying Col. Cumings the use of any structure over the pool.

Mr. Covington stated that if the Board is going to make any changes, there should be a public hearing as the neighbor was in the office a few days ago complaining about that bubble. He stated that he assured the neighbor that it would have to be at least one year before the applicant could reapply.

Mr. Smith stated that he could not put a cover on that pool under the existing decision of the Board without coming back for a new hearing. If he wants to come back in with a permanent structure that would be harmonious with the surrounding neighborhood, the Board will hear his case.

Mr. Kelley stated that he felt the neighbors have a right to complain and they should put in something that will be in harmony with the neighborhood.

Mr. Mitchell, Planner for Zoning Administration, stated that he felt if the man could do this by right and did not need a variance, there is no way the Board could deal with it.

Mr. Smith stated that the Board granted the variance for the pool only.

Mr. Kelley stated that if the Board had known that Col. Cumings was planning to put that bubble on there, they would not have granted the variance for the pool.

The Board continued to discuss this issue as it related to this pool and also the Ordinance and its interpretation of the Ordinance as it pertained to this issue.

It was the Board's decision not to allow this bubble and that no change could be made on the application without a new application. If he does file a new application, then the Board suggests that the cover be more in harmony with the neighborhood.

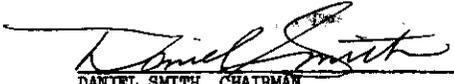
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The Board decided to have their meeting in December the first, second and third Wednesday, because their regular fourth Wednesday would fall the day after Christmas. Therefore the first meeting would be the 5th of December, 1973.

The hearing adjourned at 6:30 P.M.

By Jane C. Kelsey
Clerk



DANIEL SMITH, CHAIRMAN

APPROVED December 19, 1973
(Date)

The Regular Meeting of the Board of Zoning Appeals Was Held On Wednesday, November 14, 1973, in the Board Room of the Massey Building. Present: Daniel Smith, Chairman; Loy P. Kelley, Vice-Chairman; Joseph Baker; George Barnes and Charles Runyon.

The meeting was opened with a prayer by Mr. Barnes.

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10:00 - SAVAGE-FOGARTY CO., INC. & FRANCONIA COMMONS HOMEOWNERS ASSOC., app. under Section 30-7.2.6.1.1 of Ord. to permit swimming pool, 323 family members, Franconia Commons off of Beulah Road; proposed Flat Rock Road, 91-1((10)) part of Parcel 57, Lee District (RTG-10), S-191-73

Mr. Grayson Hanes, 10409 Main Street, Fairfax, attorney for the applicant, represented them before the Board.

Notices to property owners were in order. The contiguous owners were Mr. Thomas E. Patterson, 6614 Deer Gap Court and Mr. Hobart E. Whitner, 6630 Deer Gap Court, Alexandria.

Mr. Hanes submitted a rendering of the type of architecture and materials that would be used for the bathhouse. He stated that the architect has put trees on the rendering, but there are no trees there and they have no intention of planting the trees that are shown on the rendering.

Mr. Smith stated that in the future he hoped that these renderings would only show what they plan to do. If they have no intention of putting in the trees, they should leave them off.

Mr. Kelley stated that he certainly appreciated Mr. Hanes' pointing this out.

Mr. Hanes stated that the land is now owned by Savage-Fogarty Co., Inc. and they are trying to comply with their covenants and the promises made to property owners to put in this pool. The property will be conveyed to the homeowners association. He asked that Franconia Commons Homeowners Association be added to the application so they do not have to come back when this is transferred. It is a non-profit corporation. He stated that they would supply the Charter and By-Laws as soon as the corporation is created.

Mr. Baker moved that the homeowners association be included as a co-applicant.

Mr. Kelley seconded the motion and the motion passed unanimously.

Mr. Smith stated that the name of the officers should also be submitted to the Zoning Administrator.

Mr. Hanes stated that they originally had asked for 315 members, however, it was discovered that they have 323 units planned, therefore, they would like to amend the application to include 323 members.

Mr. Baker so moved. Mr. Runyon seconded the motion and the motion passed unanimously.

Mr. Hanes stated that they have located the pool in a position that they felt would be a central location so that all the people could walk to the pool.

Mr. Barnes questioned whether or not they would have enough parking spaces.

Mr. Hanes stated that they only plan to have 4 employees and since it is a central location, they expect the people to walk to the pool.

Mr. Smith stated that since they do not have enough parking spaces, they will not be allowed to have swim meets.

Mr. Hanes stated that if anything develops in the future, they will come back and talk about that question, but at the present time because of the problem of parking, they will limit the pool to the needs of the community and will not have metes and things of that type that would require more parking.

Mr. Hanes stated that the chain link fence that was originally planned for the pool has been changed to a wrought iron fence. They have met with the Health Department officials and this has been approved.

Mr. Barnes stated that he wondered if the spaces in between the wrought iron was ^{large} enough for children to get through.

Mr. Hanes stated that they were not.

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SAVAGE-FOGARTY CO., INC. & FRANCONIA COMMONS HOMEOWNERS ASSOC. (continued)
and the townhouses

Mr. Hanes stated that this pool area are being built on what was an old gravel pit that has been reclaimed. It is relatively level so that no one will be looking down into the pool. It will all be on the same grade.

Mr. Baker asked how many of the houses are over 800' away from this pool.

Mr. Hanes then drew a line on a subdivision plat indicating the 800' distance. The Board continued to discuss the parking problem. Mr. Runyon stated that these townhouse projects have had pretty good success with their walk-to pool. He stated that there is some open space across the road where they have indicated they will have baseball fields and tennis courts.

Mr. Hanes stated that that will be developed at a later time.

Mr. Smith reminded him that they will need a Special Use Permit. He stated that part of that land would have to be used for parking if they find they are having a problem.

In application No. S-191-73, application by Savage-Fogarty Company, Inc. and Franconia Commons Homeowners Association, under Section 30-7.2.6.1.1 of the Zoning Ordinance, to permit swimming pool, 323 family members, Franconia Commons off Beulah Road, on property located at proposed Flat Road, Lee District, also known as tax map 91-1(10)pt. parcel A, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 14th day of November, 1973.

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

1. That the owner of the subject property is Savage-Fogarty Companies, Inc.
2. That the present zoning is RTC-10.
3. That the area of the lot is 1.7418 acres.
4. That site plan approval is required.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. The maximum number of family memberships shall be 323, which shall be residents of Franconia Commons.

7. Parking provided for 18 cars; no swimming meets shall be held; also 75 bicycle spaces shall be provided. This is to be a "walk-to" pool. If and when additional parking might be required, it shall be provided adjacent to the pool in Section 3 recreation area after approval by the Board of Zoning Appeals.

8. Hours of operation are 9:00 a.m. to 9:00 p.m. Any after hours parties shall require special permission from the Zoning Administrator and such parties shall be limited to six (6) per year.

9. The site shall be completely fenced with a fence as per the plans.

10. All loud speakers, noise and lights shall be directed to the pool area and confined to the site.

11. Pool shall conform to the requirements of the Health Department for surface area and other requirements.

Mr. Baker seconded the motion.

The motion passed unanimously.

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10:40 - JOSEPH MILLER, DOROTHY K. MARKAM, ET AL., AND SHOW-CASE ENTERPRISES, INC., app. under Section 30-16.8.3 of Ord. and 30-6.6 of Ord. to permit addition to existing sign, 7846 Richmond Highway, 101-2((6))513, Lee District (C-G), V-195-73

Mr. Smith stated that he wanted to clear up a question that he has regarding the Section that this case was filed under. It was filed under Section 30-16.8.3 and he stated that he felt it should also have been filed under Section 30-6.6 of the Ordinance as that is the Section that gives the Board the power to grant a variance.

The Board then amended the application to include both sections.

Mr. Joseph Miller, 8401 Connecticut Avenue, Chevy Chase, Maryland. He stated that he has a 99 year lease with the owners of the property.

Mr. Smith looked at the appl. and stated that the application would also have to be amended to include the owners of the property as only the owners can have a hardship under the Ordinance. The 99 year lease, of course, constitutes ownership as far as the Ordinance is concerned. The file should include a copy of the lease, however.

Notices to property owners were in order. The contiguous owners were Hybla Valley Company, 1140 Conn. Avenue, Washington and American Trailer Company, 3400 Jefferson Davis Highway, Alexandria and Hybla Valley Plaza Association, 3900 Wisconsin Avenue, Washington, D. C.

Mr. Baker moved to amend the application to include the owners of record of the property.

Mr. Runyon seconded the motion and the motion passed unanimously.

Mr. Miller stated that the theatre owner was present and they would like to explain the hardship. Mr. Bromas leases space in the shopping center for the theatre. The shopping center sits at right angles to the highway. It is the last store in the rear and it is hard to see from the road. They are having a lot of problems of people not knowing there is a theatre in the area; and, therefore, they would like to have some sign up front so that people driving by will be aware that there is a theatre there.

Mr. J. Bromas, Chevy Chase, Maryland, 5505 Grove Street, spoke before the Board. He stated that he is President of Show-Case Theatres, Inc. They are operating under a 25 year lease with two options to renew.

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 MILLER ET AL (continued)

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Mr. Harvey Mitchell stated that the Center takes the name from the Twin Cinema.

The Board looked at the sketch of the sign that is there now and the space where the proposed sign is to go.

Mr. Smith stated that actually the theatre is the aggrieved party.

Mr. Bromas stated that they are located in the rear of the shopping center and it is difficult for people to know that the theatre is there and what is playing. He stated that most all theatres show what movie is playing. They want to list the name of the movie below the shopping center sign.

Mr. Mitchell stated that, with the addition of the sign identifying the movie that is playing, they still are using less sign space than the amount that is allowed. They are allowed 175 square feet and they will be using only 164 square feet.

Mr. Bromas stated that the sign is at the entrance of the shopping center. He stated that he was sure Mr. Miller would not have built the theatre in this location had he known the problems it was going to cause.

Mr. Runyon stated that he felt it met all the requirements of the Ordinance. He has pointed out that the theatre is not visible from the street and it is an entrance to the shopping center.

The Board deferred this case under November 21, 1973, until the applicant could obtain a copy of the leases involved and a Certificate of Good Standing on Show-Case Theatres, Inc.

There was no opposition to this application.

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11:00 - CARL E. WOODS, SR., app. under Section 30-6.6 of Ordinance to permit garage closer to side lot line than allowed by Ordinance, 10317 Mountington Court, 27-2((4))18, Centreville District, (RE-1Cluster), V-198-73.

Notices to property owners were in order. The only contiguous property owner is Wills and Van Metre, 7429 Vernon Square Drive, Suite 204, Alexandria, Virginia.

Mr. Woods stated that a sanitary sewer easement runs behind his house that prevents him from using the rear yard to build a garage and also the steepness of the lot prohibits him from the use of his lot. He shows pictures showing the topographic problem. He stated that he had lived in this house since May and plans to continue to live here, therefore, this is for his family's use and not for resale purposes. This is in the new subdivision on Hunter Mill Road.

Mr. Covington stated that he must have a minimum of 12' for sideyard and 40' total in order to construct the garage according to the Ordinance. He meets the side yard minimum but does not meet the total. He is 4.6' short of that.

Mr. Sulliff who lives around the corner from Mr. Woods and is the Chairman of the Zoning Committee of the Tamarac Subdivision which is the subdivision this house is located in spoke in favor of this application. He stated that he felt this would be an asset to the neighborhood.

There was no opposition to this application.

In application No. V-198-73, application by Carl E. Woods, Sr., under Section 30-6.6 of the Zoning Ordinance, to permit garage closer to side lot line than allowed by Ordinance, on property located at 10317 Mounting Court, Centreville District, also known as tax map 27-2((4))18, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 14th day of November, 1973, and

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

1. That the owner of the subject property is Carl E. Woods, Sr.
2. That the present zoning is RE-1 Cluster.
3. That the area of the lot is 21,012 square feet.
4. That there is an existing carport that is to be enclosed.
5. That the variance is for 4.6 feet from the total required, not for the side yard minimum of 12 feet.

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

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:

- (a) exceptional topographic problems of the land,
- (b) unusual condition of the location of existing buildings, with respect to the sanitary sewer easement in the rear yard.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, residential use permits and the like through the established procedures.

Mr. Baker seconded the motion.

The motion passed unanimously.

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11:40 - RE-EVALUATION HEARING - CENTREVILLE HOSPITAL CENTER, Braddock Road, 54-4((1))parcel 94 and part of parcel 96, Centreville District, (RE-1), S-228-71, originally granted 11-16-71.

Mr. Smith stated that the Board had received communication from the Hospital and Health Commission requesting the status of this Special Use Permit. The Board, at that time, stated its position in the matter, that the hospital did have an existing Permit, but in view of the fact that there has been no noticeable progress in the construction over a period of a year or so, the Board felt it was a good idea to get the group together and see what is happening. Along these lines, he asked Mr. Barnes Lawson, attorney for the applicant, to come forward and speak on this.

Mr. Barnes Lawson, stated that he was here at the request of the Board. He stated that on behalf on the Centreville Hospital Center he wanted to express his appreciation for the courtesy and patience this Board has given him. He stated that he knew the Board had been asked questions on this Permit and they would try to answer them and show any inquiring persons what they are doing. He stated that as he understood it, this Board had had a request from a new Advisory Board, a health care advisory board. He stated that the

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Zoning Administrator and the County Attorney both feel that they do have a vested interest in this property and that they do have a valid Special Use Permit.

Mr. Smith stated that the reason the Board is having this Re-evaluation Hearing is, even though the Board of Supervisors granted them a foundation permit for the building and there was some concrete poured, no noticeable progress has taken place as far as construction is concerned. The Board wants to be brought up-to-date on what is happening now. He asked Mr. Lawson if they had plans for construction in the near future, and if so, when.

Mr. Lawson stated that they do, finally, have an approved site plan. They have had their building permit in to the County since April, 1973, and they also have had plans at the State Department of Health. The State Department of Health sent us a letter stating that they were still in the process of reviewing our plans. He stated that they have also paid for the sewer taps for this project. They have been before the County Board regarding some industrial authority money with reference to financing. Therefore, they have diligently pursued this Permit. He stated that his architect is present; citizens from the Centreville area, the financing people are present to answer any questions the Board might have of them. They hope to begin construction no later than six months from now. He stated that he wanted the Board to know and the people who are asking the questions to know their status. They have spent \$600,000 so far on this project.

The land has been purchased, this was not under a contingency clause. There are people present today who have a lot of money in this project.

They have a building contract with Mr. Glover, whose representative is present today. He has a chronology of the relationship the hospital has had with him.

Mr. Berberian, President of the Centreville Hospital Center, Inc., spoke before the Board, thanking it for everything they had done for the hospital. He spoke of the cost increase from the time this permit was granted until the present time.

Mr. Smith asked if there was anyone else in the room who wished to speak on this issue.

There was no one in the room who came forward to speak.

Mr. Smith read a letter in favor of the hospital from Mr. Lester Leonard and Mrs. Martha Pennino, Supervisor from the Centreville District.

There were about 10 people in the room in support of the application. There was no one in the room against the application.

Mr. Smith stated that the Board has testimony indicating that the applicant has diligently pursued the Permit and are now in a position to commence to construct within six months. They are making every effort to begin construction and complete the needed facility.

Mr. Kelley moved that the Board find that the Centreville Hospital Center has diligently pursued the construction and completion of the needed facility in the Centreville area and that the Hospital and Health Commission Advisory Board be so informed and that they also have a copy of the testimony of this hearing.

Mr. Barnes seconded the motion.

The motion passed 4 to 0.

Mr. Baker was out of the room.

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12:00 - CENTREVILLE BAPTIST CHURCH, application under Section 30-7.2.6.1.11 of the Zoning Ordinance, to permit church; Virginia Route 652, Stone Road, 54-1((2))6, 7, 8, Centreville District, (RE-1), S-215-73, Out-of-Turn Hearing.

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 CENTREVILLE BAPTIST CHURCH (continued)
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Reverend Wagner, Pastor of the Church, spoke before the Board. He stated that he had asked the building chairman and the chairman of deacons to present the case before the Board.

Notices to property owners were in order. The contiguous owners were Young and Menchew.

Mr. William Sherman, 14545 Lock Drive, Centreville, Virginia, spoke before the Board. He stated that they have been meeting in the London Towne Elementary School since January, 1969, but the School Board tells them that they must move by the last of the month, therefore, they are planning to move a temporary type structure on the property to use for their church until they can build a permanent structure. They, at first, wanted to move the building that is presently located at the Parkwood Baptist Church, at 8726 Braddock Road, to their property on Stone Road, but it was going to be much more expensive than putting their own temporary structure on the site. They had problems with the land as it would not perk, but they have worked with the Health Department and the Health Department has now approved their proposed Incinoleet toilets for use in the proposed church on an interim basis until sanitary sewer becomes available and permits permanent construction of their church facilities.

The membership in the church is currently 180 with a total congregation of 270. Seating capacity of the auditorium is 155 with equal number of places provided in the educational spaces. There are approximately 1,000 southern Baptists in the Centreville area now. They feel their church is needed to minister to them. The location of the site is well suited. It is on a main arterial road. It is in an undeveloped area at present.

Mr. Smith questioned the gravel parking lot. He stated that this is the second request for a gravel parking lot for a church. He stated that since this is a temporary building, he assumed there would be no objection, but he felt it should be reconsidered at the time they put in their permanent building.

Mr. Sherman stated that they have an agreement with the Transcontinental Pipe Line Company to put this gravel parking lot on their easement.

Mr. Kelley asked if they had received a copy of Preliminary Engineering Branch's comments about road widening. He stated that the report says that Stone Road, Route 662, is proposed to be a 90' right-of-way. They suggested that the applicant dedicate to 45' from the centerline of the existing right-of-way for the full frontage of the property for future road widening. They also suggested that all sidewalks have a concrete surface rather than the proposed gravel surface.

Mr. Sherman stated that they talked with Mrs. Pennino about this and she suggested that they could handle this by requesting a waiver since a number of adjoining areas have not been completed as to storm sewer, etc. and this is a temporary building. It would be one little area in the middle of an entirely wooded area. They would be glad to provide this at such time as the rest of the area is developed. They will take care of the sidewalks.

There was no opposition to this application.

In application No. S-215-73, Out-of-Turn Hearing, application by Centreville Baptist Church, under Section 30-7.2.6.1.11 of the Zoning Ordinance, to permit church on property located at Virginia Route 662, Stone Road, Centreville District, also known as tax map 54-1((2))6, 7, 8, County of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 14th day of November, 1973.

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

1. That the owner of the subject property is Trustees of Centreville Baptist Church.
2. That the present zoning is RE-1.

- 3. That the area of the lot is 6.8927 acres.
- 4. That site plan approval is required.
- 5. That compliance with all County Codes is required.
- 6. That the seating capacity for the auditorium is 155.

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

- 1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
- 2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
- 3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
- 4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.
- 5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
- 6. The minimum number of parking spaces shall be 31.
- 7. All sidewalks are to have a concrete surface.
- 8. Landscaping, screening and/or fencing shall be as approved by the Director of County Development.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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DEFERRED CASES:

12:20 - OXFORD PROPERTIES, INC., app. under Section 30-7.2.9.1.7 of Ord. to permit real estate office, 12101 Leesburg Pike, 6((1))Parcel 11, Dranesville District, (RE-1) S-177-73 (Deferred from October 17, 1973)

Mr. Baker left the meeting.

Mr. Smith read a memo from the Planning Commission stating that they recommended denial on the basis of the Staff Report and (1) It is not an acceptable use in an RE-1 area where rural and low density residential is recommended by the comprehensive plan; and (2) This application is not in keeping with the historic district plan for the area. It was further noted that the Commission received a communication (which they attached) from the attorney for the applicant stating his objection to the Commission's hearing this application. A representative of the applicant did, however, present the application to the Commission. There were no citizens speakers nor were there any petitions presented.

Mr. Smith then read the last two paragraphs of the Staff Report which stated:

"The property is located wholly within the Dranesville Tavern Historic District, a zoning overlay district which was adopted as Zoning Amendment #206 by the Board of Supervisors on March 5, 1973. Part of the stated purpose and intent of that Ordinance is "...to assure that new structures and uses within the district will be in keeping with the character to be preserved and enhanced." That character is rural and low density residential, and

the staff feels that this proposed new use, being commercial, is contrary to the purpose and intent as stated.

"A general provision of the cited Ordinance states that the development policies and list of recommendations presented in the staff report entitled "Dranesville Tavern Historic District" shall be used as a guide for development of all lands within this district. The first recommendation of that staff report states, "The density of residential uses should not exceed one dwelling unit per acre and uses should be limited to those permitted by right in the RE-1 zoning category." This application is clearly counter to the second part of that recommendation.

"STAFF RECOMMENDATION: That S-177-73 be denied."

Mr. Smith then read the recommendation from the Architectural Review Board dated November 13, 1973, which stated:

"The applicant appeared before the Architectural Review Board on November 8, 1973.

"A motion was made, seconded and passed unanimously that:

The Architectural Review Board recommends approval by the Board of Supervisors for the site development, and landscape plans and the sign as submitted to the ARB on November 8, 1973.

"At previous meetings held on September 13, 1973, and October 4, 1973, the Architectural Review Board moved: (1) To recommend the real estate office use as being compatible with Dranesville Tavern Historic District; and (2) To recommend approval of the proposed architectural finish of the subject dwelling in color, texture and materials as submitted.

"The Architectural Review Board shall forward the above recommendation to the Board of Supervisors for consideration when necessary building permits, etc., are applied for, should the Board of Zoning Appeals grant the Special Use Permit in this case."

Mr. Smith stated that the attorney for the applicant and a representative from the Architectural Review Board is present today.

Mr. Richard Dixon, 4101 Chain Bridge Road, Fairfax, Virginia, attorney for the applicant, testified before the Board. He stated that this hearing was continued the last time before they could make their presentation. The notices were submitted at the last hearing and a Certificate of Good Standing is in the file. He stated that they submitted to Mrs. Kelsey, Clerk to the Board, the Site Plan and Topography Plan, Landscaping Plan and Sign Diagram. The landscaping plan is colored in. They also submitted pictures of the structure and now they have a blown-up back view of the structure that they would like to submit for the record.

Mr. Smith asked if they plan to refurbish the existing dwelling.

Mr. Dixon stated that "Yes, it will be restored."

Mr. Barnes stated that it sure needs it.

Mr. Dixon stated that they will have at this location a full time manager and a full time secretary. There might be as many as 5 to 7 real estate agents in and out of that property. They felt with that number of employees and the people who might come into the office, they needed this size parking lot and they feel it is more than adequate.

Mr. Smith asked Mr. Dixon to speak to the adopted amendment to the ordinance that there should be no commercial use in it. He stated that he was referring to the staff report to the Board of Supervisors when this district was adopted.

Mr. Dixon stated that that statement is incorrect. He stated that under the Historic district plan, it was provided that commercial uses as might be allowed by the Board of Zoning Appeals are permitted. If the Board of Zoning Appeals permitted a commercial use within a residential district under Special Use Permit, that the Architectural Review Board had the power to make a further determination as to whether that use would "destroy or encroach upon the historic character of the district". The ARB has made what appears to be an affirmative decision under the statute before the Board of Zoning Appeals has had an opportunity to grant this. He stated that he submits that the position of the Board of Zoning Appeals would be to consider whether it would grant in this application absent the historic district. It is for the ARB to determine whether the use would destroy or encroach on the historic district character. He stated that they appeared before the ARB on three separate occasions. They gave them everything that they requested and they were most cooperative in working with them to try to develop the property in such a way

(The applicant's attorney is the president of the company)

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that they could come up with the decision that it would not encroach or destroy the character of the historic district. He stated that all of a sudden, out of the blue, they get a notice from the Planning Commission to hear this case. The Planning Commission is allowed 30 days and it has been more than 60 days. He stated that he wrote them back and told them that they were not going to appear as they had not complied with the Code in hearing this case within 30 days from the date of filing. He stated that he did not know why they put themselves into what he considered a fairly routine kind of application. They never anticipated that the Planning Commission was going to be involved. He stated that the Staff Report on which they rely, they, meaning the Planning Commission, does not relate to the Ordinance as it was adopted. At the time of the Planning Commission hearing, the final plans, landscape, sign, etc., had not yet been submitted to the ARB because of his taking the legal position that the Planning Commission had no right to hear this case.

Mr. Smith asked Mr. Dixon if he thought that if those documents had been submitted to the Planning Commission they might not have taken a different position. He stated that he knew it was over the 30 day period specified by the Ordinance, but in view of the heavy workload of the Planning Commission, the BZA does allow them additional time in order to hear these applications and make recommendations and he stated that he is also aware that the Code states that the Board of Zoning Appeals must hear the case within 60 days from the time of filing. The Board has to be reasonable in the time that they allow. At the time of the previous hearing, the proper plats were not in the file and were not submitted to the Board. He stated that the thing that bothers him is that the general provision of the cited Ordinance states that the development policies and list of recommendations presented in the staff report entitled "Dransville Tavern Historic District" shall be used as a guide for development of all lands within this district. The first recommendation of the staff report states, "The density of residential uses should not exceed one dwelling unit per acre and uses should be limited to those permitted by right in the RE-1 zoning category." He stated that his application clearly relates to the second part of that recommendation. It is true that these real estate offices are allowed under certain conditions in RE zoned land by Special Use Permit, but the staff has recommended and the Board of Supervisors has adopted the guideline that it should be only those uses allowed by right and not by Special Use Permit.

(Verbatim)

MR. DIXON: I say that's incorrect.

MR. SMITH: You may speak to that point then.

MR. DIXON: The staff may well have recommended that to the Board of Supervisors, but that is not the ordinance that was adopted for the Dransville Historic District. In fact, that very question came up at the very first meeting before the Architectural Review Board and that--

MR. SMITH: (interposing) (inaudible) If we're going to argue this point-- Now, let's get Mr. Knowlton. Is Mr. Knowlton available? Let's get Mr. Knowlton in here because I think we should-- we are basing-- I am basing my statements on what I have read in the document and the staff report that we have before us here.

MR. MITCHELL: I think that the recommendations in the staff report that was referred to are repeated almost verbatim in the Ordinance itself under Use Limitations. Essentially, what you just read out of the recommendations in the staff report was the first use limitation in the Ordinance itself. "Residential uses should be permitted not to exceed one dwelling unit per acre and limited only to uses permitted by right in RE-1 zoning category."

MR. SMITH: Alright, this is the point we're speaking to, Mr. Dixon. And you disagree with this, however, according to the information we have, this was the adopted policy at the time of the adoption of the overlay of 206, I believe it was for the historic Dransville District and that's part of the adopted policy. Is this correct, Mr. Knowlton?

MR. KNOWLTON: That's correct, Mr. Chairman.

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MR. SMITH: Well, this is the point now that Mr. Dixon is arguing that this was not an adopted policy and at the time... So do you want to speak to that now Mr. Dixon?

MR. DIXON: The Dranesville plan that was adopted by the Board of Supervisors said that residential uses should not be permitted--should be permitted not to exceed one dwelling unit per acre etcetera. And, then it goes on to say commercial uses shall be limited to such uses on the historic property which are appropriate to its function as determined by the Board of Supervisors with the recommendation by the Architectural Review Board and then it goes on to say commercial zoning shall be prohibited. Now, this very question came up the first night we appeared before the Architectural Review Board and that was did they have the authority under the Ordinance in order to allow this type of use, a use that would be in a RE-1 district under Special Use Permit. And, they got an opinion from the County Attorney that that use was, that they did have that authority. And, of course, as you know from the recommendation, they have found it's use is compatible. Now, Mr. Stokesberry's here from the Architectural Review Board. I think he will confirm that is in fact the---

MR. SMITH: (interposing) Do you have a copy of that opinion from the County Attorney? In this now, are we referring again to the Dranesville Historical District? Do we-- did you ask for the opinion on this particular historic district, Dranesville Historic District?

MR. STOKESBERRY: Yes, sir. Mr. Knowlton has a copy of the memo.

MR. SMITH: (interposing) Would you state your name and address, please, for the record?

MR. STOKESBERRY: Yes, my name is James Stokesberry, Office of Comprehensive Planning and staff member for the Architectural Review Board.

MR. SMITH: You've asked for legal opinion as to the standards for reviewing a Group IX Special Use application for a real estate office in Dranesville District--Dranesville Tavern Historic District. The proposed use will be located in underlying RE-1 zoning. It would not be on the historic property although it would be within the historic district. The proposed Special Use Permit will be located in historic property, Section VI (2) of Appendix H-7 of the Zoning Ordinance, Dranesville Tavern Historic District, would require the recommendation of the Architectural Review Board and the Board of Supervisors' approval. However, inasmuch as the real estate office would not be located on the historic property, the Special Use Permit could be granted by the BZA without the necessity of a recommendation by the Architectural Review Board or approval by the Board of Supervisors, assuming compliance with Sections 30-2A.6 and 30-7.1 of the Zoning Ordinance. Well, if these were true, then why did you go to the Architectural Review Board to begin with?

MR. STOKESBERRY: Mr. Chairman, my understanding, as a result of this memo and subsequent meetings, is the Architectural Review Board reviewed the applicant's plans for changing the appearance of the property should he be granted this use; and their approval is based upon, I feel, the visual quality of such improvements. In other words, it is my understanding that the determination of the use would be left to this Board, that the Architectural Review Board considered architectural details and details of altering the the site and what its appearance might be.

MR. SMITH: Again, we go back to the adopted policy which it says there should be no uses that were not approved--that were not permitted by right in RE districts. And, this bothers me, there's no question about this being the adopted policy of the-- in this particular historical district. I--Did he, Mr. Donnelly have this information available to him at the time he made the this decision?

MR. STOKESBERRY: (interposing) Yes, he did have the historic district report, the adopted historic district report. I conferred with him after he wrote that memo and my understanding is he is speaking only of the use not the appearance of the use as such. The appearance of the use would bring the Architectural Review Board into the procedure because the Board of Supervisors must ultimately approve any building permits required to--for the applicant to carry out the use.

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MR. SMITH: But, again, we go back to the wording in the adopted policy that there should be no uses not permitted by right in a RE zone.

MR. STOKESBERRY: Mr. Chairman, if I may comment briefly further, all the discussion leading up to Mr. Donnelly's memo did not speak to that point or really consider it.

MR. SMITH: Well if he didn't consider this point, then I think that he didn't have-- he didn't give a complete evaluation of his opinion. In other words, the opinion is really not covering the subject.

MR. STOKESBERRY: I'm forced to agree, yes. What he did consider was in the Ordinance, Roman numeral V, Special Permit Uses and the qualifications under Roman numeral VI and from the wording of his memo Roman numeral VI, number two about commercial uses being limited to uses on the property itself. These are the two points he considered but he did not consider the point which has been brought up about use by right. I offer that for clarification.

MR. SMITH: He did not consider it at the time he rendered the opinion.

MR. STOKESBERRY: That's correct.

MR. SMITH: Thank you very much. Does the Board have questions? Alright, go right on ahead, Mr. Dixon, We've got this cleared up now.

MR. DIXON: The memo from the County Attorney certainly indicates fairly explicitly that, in his consideration of the main point, and that is whether or not the Board of Zoning Appeals was required to have a recommendation of the Architectural Review Board, that they did not. He also explicitly states that this Board does have the right to grant a Special Use Permit in the Dranesville Historic District. Now, I don't know how he could have not considered that particular procedure and rendered his opinion because, if that is in fact the adopted policy of the Board and there is no procedure; that ends it. The application, the applicant should have been advised of that policy at the time of filing the application but the applicant was furnished the same Dranesville plan which Mr. Stokesberry has with him this morning and that particular Dranesville Plan clearly says that commercial uses may be permitted by Special Use Permit. Now, I don't know where and I have yet to see, the source for the staff report statement that the Board of Supervisors have adopted a policy that does not permit Special Use Permit consideration. In other words, my position is--

MR. SMITH: (interposing) I didn't say they had adopted a policy. I said in this particular district, historical district, I think I read, I hope verbatim the wording, that recommended that there should be no uses other than those permitted by right in RE-1 zoning and that was the adopted policy, I assume, at the time the historical district was adopted.

MR. DIXON: I don't doubt that it may well have been the staff recommendation. That sounds consistent with the staff recommendations but the point I'm making is is, in fact, the policy of the Board--the County Attorney's position should never have approached the question as to whether or not this Board considers the matter before the Architectural Review Board because the opinion should have been that the application can't be filed or had it been filed it should be dismissed--that there is no such animal as a Special Use Permit real estate office in a RE-1, in the RE-1 Dranesville Historic District. And, that's not what the County Attorney's opinion says. Now, all I'm asking is the source of the staff's comment that that is, in fact, the adopted policy of the Board. It's not the policy that we were furnished on the booklet which is labeled Dranesville Historic District which purports to be--

MR. SMITH: (interposing) That's one of the policies adopted in that particular Historic District as Mr. Mitchell read earlier I believe one of the first recommendations.

MR. DIXON: May I approach the chair, Mr. Chairman? The document that we've been proceeding on is the document that clearly indicates, under paragraph 2, the commercial uses that can be permitted.

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MR. SMITH: This is not in the historic property. This application is not in the historical property.

MR. DIXON: That is correct.

MR. SMITH: And, of course, number 2 addressed itself to the Historical Property commercial uses shall be limited to such uses on the Historic Property which are appropriate to its function as determined by the Board of Supervisors which I gather from this, that this was formerly an old tavern or something and the commercial uses that were associated with the historical uses could be--would be permitted, or could be permitted by the Board of Supervisors.

MR. DIXON: Mr. Chairman, I find that interpretation just--

MR. SMITH: (interposing) And, again it goes back in the Land Use policies of it, "...commercial uses shall be limited to such uses on the historic property which are appropriate to its function." This determination was made by the Board of Supervisors. There is nothing in here to--I agree there is nothing to indicate that you do not have a right to make an application to this Board; as a matter of fact, this Board has instructed the Zoning Administrator to accept applications where there are questions of interpretations of some kind of zoning. But these are the points I think we are addressing ourselves to as to whether--and certainly this is a tremendous change in residential uses. You have ten parking spaces indicated; you have a free standing sign. Am I correct on the free standing sign? You have a free standing sign which we don't even allow, on anything,--which certainly commercializes the area.

MR. DIXON: We recognize of course that this Board has the authority to determine the size and shape of the sign but the interpretation of that--

MR. SMITH: (interposing) Matter of fact, I don't think we have the authority to grant a sign under this use category anyway, free standing sign, under the Ordinance.

MR. DIXON: Well it's 30-7.1.5 is the section I'm perceiving.

MR. COVINGTON: He can have 12 sq. ft.

MR. DIXON: That's the section I'm perceiving, 12 sq. ft. and there's no restriction in that section that there cannot be a free standing sign. But, Mr. Chairman, I find the interpretation of that adopted policy of the Board that you can put a commercial use in the Dranesville Tavern Historical District and the whole thing has to be surrounded by RE-1 uses and that is somehow deemed to be a compatible historic District just sounds to me incredible. When we talk about compatible uses, the only way we could have a use in this historic district right now that's compatible would be to have an abandoned shack out there. Because that Dranesville Tavern is an abandoned shack. I don't really want to get into arguing the merits of why in the world the Board ever adopted this District but to say that we can have a commercial use on a historic property but in order to be compatible with that all the surrounding properties have to be RE-1 uses, I just find that completely inconsistent.

MR. SMITH: I think that for this reason, Mr. Dixon, that the tavern was once in use as a tavern and it would have historic function as a tavern and that's what I assume and I am sure they had reference to here. A commercial use shall be limited to such use on historic property which are appropriate to its function. In other words, we go back again to the old mill down off Rt. 7 there. That was a commercial enterprise at one time. Certainly its function was grinding meal and selling cornmeal or taking toll for the meal or grain that was lying there so I'm sure that this is what they had in mind. In other words, if there's a function, a use, that this historic property could be put to similar to that that dates back to the history and time of the historic significance that it would be done. Certainly this is, this would be my interpretation. I assume that's what they had in mind, but certainly to place a sign of that size in that historic district certainly is not in keeping with the residential character of the area. Well, I won't argue with you, I think we've covered the point now you may go right ahead with your statement or any other statements that you care to make.

MR. DIXON: Well, I would like to just make some other points with regards to this. As I understand the circumstances under which the Historic District was created and the function of the Architectural Review Board, it would be for us to come before this Board to seek a Special Use Permit for real estate office and I believe that the impact

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on the surrounding area and the use that would be made of this office and the intensity of use would not create any adverse impact on the area surrounding the property. There is, down at the next intersection is a commercial use and there is a non-conforming commercial use at this end, at the lower end of the map. There is an old house on parcel 10 which is next to parcel 11, parcel 11 is the subject property, which has been condemned; it is being now occupied, but it has been condemned. And, there are two other residential homes in the immediate vicinity and by that I mean within the -- a radius of 200 yards, -- because the area is rural and has not been developed at all. As the Board can see, there is an application for an R-12.5 subdivision rezoning now pending. The use that the -- at the present time, there is no use being made of the house, it has been abandoned, it is not habitable. The restoration that would take place would, of course, would render it habitable. We would not change the appearance of the house at all. We would put a parking lot in the rear. But, as you can see from the landscape plan which has been submitted which has both the existing landscaping and the proposed landscaping that the parking lot would be hidden from the sight of any of the surrounding properties even should the surrounding properties be developed, which they are not at the present time. I don't think we can lose sight of the fact also that we do front on a four-lane, divided primary state highway, high speed highway, and that the front of our property is only two feet from the right-of-way, the state right-of-way. It actually sits about thirty-five or forty feet from the roadway line but the state easement goes almost up to the porch. The only impact that we honestly would conceive might occur to the area would be the free standing sign. That is, any traffic moving up and down the road would be able to see the free standing sign. The reason for that is obvious, it's a real estate office and we want to be able to, in some way, designate where we're located. However, because of the nature of the surrounding area, because we would be the only home within two hundred yards on that highway which would be habitable and which would appear to be habitable and which would be kept up, we don't need a free standing sign; we can put a small sign on the front of the property, because we can be designated by the structure itself. People coming out, persons coming out to the real estate office can find it very easily because there's nowhere else to go in that area. Directly across from the property is a division in the median strip of the highway. There, we have perfect access on the east and west bound traffic to the property. The existing driveway goes around one side of the house; we'll put a driveway coming around the other end of the house so that traffic can move freely with no congestion. The other point that I would make to this Board is that, under a Special Use Permit, you're not giving us a zoning and you're not giving us an unlimited right to use that property as a real estate office. We get no vested use; it's a Special Use Permit that's permitted by you and we'll accept the condition that it will only be permitted for a period of several years or five years or six years or whatever it may be. And, at such time as that Historic District is, in fact, developed, which I seriously doubt will ever occur, but let's say it is developed, most land eventually is, maybe not in our life time, but as such time as that land is developed and this can be a condition of your approval, in such a way that that real estate office becomes compatible with the development of the Historic District, that Special Use Permit can then be terminated and it can be granted on a two year to two year basis with that stipulation. But, to say today that this use is incompatible with the surrounding area just is to ignore completely what is there because it's not incompatible with the surrounding area, unless we want to say that the surrounding area is just old snacks and trees, and a real estate office is incompatible with that, but I think what we mean is incompatible in the sense that it creates some type of intensity of use or it creates some type of impact of the area which is detrimental. I don't think anybody can argue that the restoration of this building and another use that would be put to it as a real estate office can be detrimental to that property. It can only, not only enhance that property but enhance surrounding properties, and enhance those values of the surrounding properties.

MR. SMITH: I'd like to speak to that--there's no doubt about the refurbishing and rehabilitation of this house being an asset to the community but I would say and disagree with you that this use is compatible with the adopted policies of the comprehensive plan for this historical district. In other words, the policies do not dictate that these uses be there. Certainly, I would not grant a Use Permit for a sign, a free standing sign, for a real estate office in a residential area under any conditions. I think this-- just is not proper. In other words, you're commercializing the area by setting up an office building in it. Twelve parking spaces--ten parking spaces certainly is a commercialization of the area which is not in keeping with, again, the adopted policy of the Board of Supervisors for the area. I certainly hope, I heartily agree with you that any change in the existing dwelling in the way of refurbishing it and rebuilding it certainly would be an asset but this certainly seems to me that it could be done as a dwelling also. It could be demolished and a new dwelling built.

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MR. DIXON: We would certainly prefer a sign as would all commercial establishments but we'll accept that as a condition that we cannot have a free standing sign. And, that the sign, whatever sign we put on the front of the building, cannot be such that the Board feels that it detracts from the residential aspect of the building. I would also say, Mr. Smith, that the--we've eventually got to face this problem as to whether or not, with the County Attorney's office. I would assume, as to whether or not they're right or the staff's right, and that is that you don't even have the authority to grant this permit. But, I would submit that if it were not for the historic district--

MR. SMITH: (interposing) Let me say this, I did not say we did not have the right to grant it. I said that the adopted policy dictates that we should certainly give consideration to that adopted policy, which says that there should be those uses only permitted by right in RE district, now, I did not say we did not have the right to--

MR. DIXON: I'm sorry.

MR. SMITH: We are bound by the Ordinance to consider the adopted and comprehensive plan and the adopted policies of the Board of Supervisors and that policy dictates that we should give consideration to not permitting uses other than those allowed by right in RE districts, for that particular area.

MR. DIXON: If I might, that--I'll accept that and I don't think that's inconsistent really with my position and that is that, absent this historic district, I don't think there would be any question that this would be a routine application, subject only to your requirements for parking and signs and landscaping. It's the Historic District that has created the problem. Now, the Board of Supervisors had in the statute placed upon the Architectural Review Board the responsibility for considering whether or not a Special Use Permit granted by the Board of Zoning Appeals will destroy or encroach upon the historic character of the historic district. So, I will submit to you, I'm not asking that you completely ignore what appears to be a stated policy of the Board of Supervisors, but I am, I do submit to you that I don't think that your function, your legal function under statute, substantially changes because of this historic district that that additional consideration has now been placed in the Architectural Review Board, and of course, as you know, they have found that its use is not incompatible.

MR. SMITH: I disagree with your interpretation of that but we won't argue the point.

MR. DIXON: Alright. I have no further comments.

MR. SMITH: Is there anyone else to speak in favor of the application now under consideration I would say this to you, Mr. Dixon, that to my knowledge, the Board has not approved this office, an office building of this size, real estate or anything else in residential areas. Now, you say it's a routine application. We haven't had these and we've not approved them in the past so it is not a routine application where it would just automatically be approved. And to my knowledge, I know of no application where we have granted a free standing sign, to my knowledge.

MR. DIXON: I wonder if I might, Mr. Chairman, on that point, I'd like to introduce Mr. Thurman, who is president of Oxford properties. He's been a broker in No. Virginia for about 18 years and he has three other offices which are also located in homes and restored those as offices. This is not a--

MR. SMITH: (interposing) Are they all in Fairfax County?

MR. DIXON: No, they're not.

MR. SMITH: We'll listen to anything except that he has to offer it in reference to anything that's happening in Fairfax County because we're operating under Fairfax County Ordinance with an adopted policy by the Board of Supervisors and I'm sure, I'm aware of the one he has in Falls Church and maybe another one or two but I don't know of any in Fairfax County.

MR. DIXON: The only thing I would like to do, if I might, Mr. Chairman, is show you some pictures of what we've done.

MR. SMITH: We'll give him five minutes on it because we've gone way over time.

MR. DIXON: We'll have just enough time to show you pictures, I won't have anything further more to say.

MR. SMITH: It seems to me that they're operating altogether out of residential properties.

MR. DIXON: This is the property developed in Manassas. And, this is the property that

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is in Falls Church. (He submits the pictures).

MR. SMITH: I'm familiar with that one; I've passed it quite frequently. It wasn't developed; he just moved in and put a driveway in it. That house has been there just like that for years.

MR. DIXON: And, here is the one in Leesburg.

MR. SMITH: Yes, that's a historical house in Leesburg. But, you're operating under different ordinances and different adopted policies.

MR. DIXON: (inaudible) I just wanted to show you, Mr. Chairman, that this idea of moving into a residential area or residential facade and trying to maintain that appearance is not so unusual.

MR. SMITH: There is no question on the applicant's ability and his motivation and past performances. We're speaking strictly to the adopted policy of the Board of Supervisors in this particular area and basing this also on the policy of this Board allowing extensive uses by Use Permit in residential uses.

MR. DIXON: I appreciate your time.

MR. SMITH: Thank you very much. Is there anyone else to speak in favor of the application now under consideration? Is there anyone to speak in opposition to the application now under consideration? If not, this completes the public hearing. What's the pleasure of the Board in relation to the request for the real estate office in the existing residence?

MR. KELLEY: Mr. Chairman.

MR. SMITH: Mr. Kelley.

MR. KELLEY: There's quite a bit of material here. And, there's several questions unanswered, I think. We have three or four pages of typewritten material which I haven't completely read, and I think there are some other questions between the staff and the County Attorney that we should have answered. Therefore, in application S-177-73 by Oxford Properties to permit a real estate office, I move that this be deferred until November 21 for decision only.

Mr. Barnes seconded the motion.

The motion passed 4 to 0. Mr. Baker was absent.

MR. SMITH: Do you want clarification from the County Attorney on this?

MR. KELLEY: Yes, sir.

MR. SMITH: I do not think he took the adopted policy into consideration. Do you want any additional information from the applicant?

MR. KELLEY: No, sir.

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2:00 - BERNARD C. COX, app. under Section 30-7.2.8.1.2 of Ord. to permit riding stable and boarding of horses, 3801 Skyview Lane, 58-4((1))54, Providence District (RE-1), S-182-73 (Deferred from October 17, 1973)

Mr. Smith stated that this was deferred for decision only to allow the Board members to take a look at the location and get clarification of the separation of parking of automobiles and also study the question of storing commercial vehicles in a residential area.

Mr. Smith stated that the storing of commercial vehicles in a residential area would have to be discontinued.

Mr. Douglas A. Clark, attorney for the applicant, 301 Maple Avenue, West, Vienna, represented the applicant before the Board.

Mr. Covington, Zoning Administrator, stated that he and Mr. Kelley inspected the premises yesterday afternoon and the only thing they found were several junk trucks behind the building and a piece of equipment that seemed to be a high-ride type affair, and other than that, the place was in good shape. Mr. Cox told them that he intended to move these items within two weeks.

Mr. Smith stated that they would have to be moved within 30 days. He asked if he still had employees reporting in for work there and leaving their cars on the residential streets.

Mr. Cox stated that it is off-season now and there would not be any employees to speak of until next spring.

Mr. Smith stated that those employees would not be allowed to come and park there and leave their cars on public space and go to work in another area. If employees are going to be on the property, they must have off-street parking.

Mr. Kelley stated that there is plenty of room for parking on Mr. Cox's property.

Mr. Cox asked what should he do should an employee come to visit him.

Mr. Smith stated that he should inform the employee to park on the property, not the street. He stated that he should not be allowed to allow parking by employees other than the employees who were going to work on the property, not the ones that are connected with the rides.

Mr. Runyon asked him to define what he is planning to do here.

Mr. Cox stated that this would be a riding school. They would bring in a few groups of children and they will have riding by the hour. They will not have the public come in to ride. The hours they hope to operate are from 9:00 A.M. until 5:00 P.M. At the present time, they never have this for more than 2 days per week; and, at the present time, they do not have any intention of boarding horses.

The Board then discussed with him the number of horses he planned to have and the amount of acreage for these horses. He stated that he wished to have 35 animals, ponies, and one horse. He stated that he only has 28 at the present time.

Mr. Smith felt this was not enough acreage unless he had supplemental feedings.

Mr. Cox stated that he did have supplemental feedings for the animals.

Mr. Cox stated that on weekends they take the ponies to various places to lease them for pony rides, etc. He trucks these ponies out. He puts about 5 ponies in each truck.

Mr. Smith stated that at that rate, they might have 10 trips per day in and out of this location just to haul the ponies.

Mr. Smith suggested that if the Board does grant this Special Use Permit, that it be limited to see how well this operation works out and to see if he can meet the conditions set by the Board.

In application No. S-182-73, application by Bernard C. Cox, under Section 30-7.2.8.1.2 of the Zoning Ordinance, to permit riding stable & boarding of horses, on property located at 3801 Skyview Lane, Providence District, also known as tax map 58-4((1))54, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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 BERNARD C. COX (continued)
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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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 17th day of October, 1973 and deferred to the 14th day of November, 1973.

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

1. That the owner of the subject property is Bernard C. Cox.
2. That the present zoning is RE-1.
3. That the area of the lot is 8.6269 acres.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plans submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county and state. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. Hours of operation shall be from 9:00 a.m. to 5:00 p.m., Monday through Friday.
7. Parking shall be required on-site for all visitors and employees.
8. Facilities shall be used only for horseback riding and no other uses are permitted.
9. No storage of or repair of vehicles or rides is permitted.
10. The maximum number of horses is to be 30.
11. Permit to run for 3 years with the Zoning Administrator being empowered to grant 3, 1-year extensions.

Mr. Barnes seconded the motion.

The motion passed 4 to 0.

Mr. Baker was absent.

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2:20 - MILDRED W. FRAZER, app. under Section 30-7.2.6.1.3 of Ord. to permit additional 125 students for private school, 4955 Sunset Lane, 71-4((1))12 & 23, Annandale District (RE-0.5), 8-192-73 (Deferred from October 24, 1973 for new plats and for viewing)

New plats had been submitted to the Board. The Board discussed these new plats. The number of children requested and the number specified in the Health Department memorandum. She had requested 225, but the Health Department memo stated 220. Mr. ask Runyon asked her if she transports any children to and from the school.

She stated that they use little vans to transport the children.

Mr. Smith stated that all vehicles used in this operation will have to be painted to comply with the new State Regulations.

Mrs. Frazer stated that those busses serve a number of purposes other than just the school use. One of the busses is their personal vehicle. These really are not busses, but vans.

Mr. Smith stated that this is a requirement of all the private schools.

In application No. S-192-73, application by Mildred W. Frazer, under Section 30-7.2.6.1.3 of the Zoning Ordinance, to permit additional 120 students for private school, on property located at 4955 Sunset Lane, Annandale District, also known as tax map 71-4((1))12 & 23, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 24th day of October, 1973 and continued to the 14th of November, 1973.

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

- 1. That the owner of the subject property is Mildred W. Frazer.
- 2. That the present zoning is RE-0.5.
- 3. That the area of the lot is 2.8495 acres.
- 4. That site plan approval is required.
- 5. That the applicant is presently operating under Special Use Permit S-85-65, granted May 11, 1965.

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

- 1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
- 2. This permit shall expire one year from this date unless operation has started or unless renewed by action of this Board prior to date of expiration.
- 3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
- 4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.
- 5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property 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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MILDRED W. FRAZER (continued)

6. Hours of operation shall be from 7:00 a.m. until 6:00 p.m., 5 days per week.

7. Ages are to be 2 years to 12 years of age with a maximum number of 220 students.

8. All buses and other vehicles used for transporting children shall comply with State and County standards in color and light requirements. Time span on painting buses is 90 days from this date.

9. The operation shall be subject to compliance with the inspection reports, the requirements of the County Health Department and the State Department of Welfare and Institutions.

10. All other conditions set forth in the original Special Use Permit shall remain in force.

11. The permit is granted for 3 years with the Zoning Administrator being empowered to extend this permit for 3, one-year periods.

Mr. Barnes seconded the motion.

The motion passed 4 to 0.

Mr. Baker was not present.

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2:30 - SCHEFER SCHOOLS, app. under Section 30-7.2.6.1.3 of Ordinance to permit school, with 39 students, grades 1-9, 8007 Fort Hunt Road, 102-2((12))186-191 and part 192, Mount Vernon District (REO.5), S-184-73

Mr. Smith read a letter from the Staff which stated:

"At the public hearing on the subject application on October 24, 1973 the Board deferred the case for a maximum of 30 days with the suggestion that the applicant revise the plats to relocate the playground area which was objectionable to some of the neighbors. The Board also suggested that the Pastor of St. Luke's Episcopal Church, in which Schefer School operates, might have to apply for a Special Use Permit for the day school operated by the Church.

On November 1, staff representatives visited the property in question and discussed the situation with the applicant, the Pastor, and other representatives of the church.

As a result of that inspection and conference, we have concluded that there is no appropriate place to relocate the playground which was installed by the Church to serve children of the Church and of the immediate neighborhood, and which is used under supervision by Schefer School and the Church's day school.

The playground is effectively screened from view by the neighbors, and the principal basis for their objections would seem to be noise associated with evening use of the basketball backboard. Such use is not related to either the Schefer School or the Church's day school. The Pastor has offered to ameliorate the situation by putting up a sign to discourage or prohibit use of the playground after dark, and we feel this would be a better approach to the problem than the alternative of removing the play equipment.

We would like to tell the applicant, with the Board's concurrence, that he does not have to relocate or remove the playground. If the Board is not agreeable to this, we urge the Board to visit the property and tell the applicant where to relocate it.

If, after further investigation, it is determined that the Church's day school is required to have a Special Use Permit, the Pastor will be so informed."

Mr. Smith asked what the Zoning Administrator's decision is as to the school that the church is operating.

Mr. Covington stated that as long as it is church oriented and they are teaching bible classes and operated by the church for the church they can do it by right.

Mr. Smith stated that he hoped the Zoning Administrator would use this broad discretion in all cases. Mr. Runyon stated that he had looked at the area and feels that this is one of the best screening jobs that he has ever seen. They have two fences and a lot of trees.

In application No. S-184-73, application by Schefer Schools, Incorporated, under Section 30-7.2.6.1.3 of the Zoning Ordinance, to permit school, with 39 students, grades one (1) through nine (9), on property located at 8007 Ft. Hunt Road, Mt. Vernon District, also known as tax map 102-2 ((12))189-191 & part 192, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 24th day of October and continued to November 14, 1973.

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

- 1. That the owner of the subject property is St. Luke's Protestant Episcopal Church.
- 2. That the present zoning is RE-0.5.
- 3. That the area of the lot is 2.479 acres.
- 4. That the applicant has been operating under Special Use Permit S-73-71, granted June 1, 1971.

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

- 1. That the applicant has presented testimony indicating compliance with the Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
- 2. This permit shall expire one year from this date unless operation has started or unless renewed by action of this Board prior to date of expiration.
- 3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
- 4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.
- 5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
- 6. Hours of operation shall be from 8:00 a.m. to 5:00 p.m., 5 days per week.
- 7. Ages shall include 7 through 15 years.
- 8. Maximum number of children to be 39.
- 9. The operation shall be in compliance with all State and County Codes.
- 10. All limitations and conditions of the existing Special Use Permit shall remain in force.
- 11. This permit is granted for a period of 3 years with the Zoning Administrator being empowered to extend this permit for three one-year periods.
- 12. All buses or vehicles used to transport students shall conform to the State and County codes for color and lighting.

Mr. Baker seconded the motion.

The motion passed unanimously.

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AFTER AGENDA ITEMS:

LOYAL ORDER OF THE MOOSE - CENTERVILLE LODGE #2168 - S-162-72 - Granted November 15, 1972.

Mr. Smith read a letter from the applicant requesting an extension to their Special Use Permit as they had had difficulty getting started with their construction.

Mr. Baker moved that the request be granted for a 6 month extension from November 15, 1973. This is the only extension that the Board can grant.

Mr. Barnes seconded the motion. The motion passed unanimously.

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The Board then discussed the problem with telephone calls coming to the Board members home. Mr. Smith stated that people have a tendency to call the Board members simply because their name is on the Agenda. Basically they want to know how to file an application or the status of an application, which of course, the Board members should not have to answer. The Staff has all this information and is really more qualified to answer questions regarding these applications. He stated that actually he did not like to discuss a specific case with an applicant prior to a hearing. He stated that he would be glad to direct a memorandum to Mr. Pammel, Director of Zoning Administration, to ask him if he would see that the calls coming in for Board members are handled by the Staff in a tactful manner. He stated that he had drafted a letter for the Board's consideration in this matter.

The letter stated:

"The Board of Zoning Appeals would appreciate it very much if you would transmit a message to the employees of Zoning Administration who receive citizen inquiries to transfer all Board of Zoning Appeals calls where they specifically ask for a Board member to one of the members of your staff who works directly with the Board of Zoning Appeals, such as the Zoning Administrator, Mrs. Kelsey, Mrs. Bailey or Mrs. McCleerey, someone who can tactfully inform the citizen that the members of the Board of Zoning Appeals are not County employees, as such, and are only paid for the one day that they hold the meeting. The Board members expect the County staff to be able to answer any questions that the citizen might have with reference to any Board of Zoning Appeals case."

As you know, the Board of Zoning Appeals members do not have an individual secretary for each member as does the Board of Supervisors; nor, does the Board of Zoning Appeals get a flat yearly salary such as the Planning Commission and Board of Supervisors.

I will appreciate your attention to this matter."

Mr. Baker stated he felt this was well put and he was 100 percent in agreement with it. He moved that the Board accept this letter and send it to Mr. Pammel.

Mr. Kelley seconded the motion and the motion passed unanimously.

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Mr. Baker moved that the Board approve the minutes of September 26, 1973.

Mr. Barnes seconded the motion. The motion passed unanimously.

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By Jane C. Kelsey
Clerk



DANIEL SMITH, CHAIRMAN

APPROVED: December 19, 1973

DATE

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The Regular Meeting of the Board of Zoning Appeals Was Held On Wednesday, November 21, 1973, in the Board Room of the Massey Building. Present: Daniel Smith, Chairman; Loy P. Kelley, Vice-Chairman; George Barnes; Charles Runyon, and Joseph Baker.

The meeting was opened with a prayer by Mr. Barnes.

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10:00 - HOPE MONTESSORI SCHOOL, LTD., app. under Section 30-7.2.6.1.3 of Ordinance to permit increased enrollment to 82 pupils, 4614 Ravensworth Road, 71-1((1))57A & 62, Annandale District (R-10), 2.975 acres, S-200-73

Mr. Harry Middleton, attorney for the applicant, testified before the Board. He stated that he had prepared the notices except for inserting the time and date and put the file aside until he received the official notification from the County. Unfortunately, they did not remember to pull the file and send out the notices until last week when the deadline for notifying property owners had expired. Therefore, he asked the Board to defer this case until he could renotify the property owners.

Mr. Smith stated that January 9, 1974, would be the earliest, the Board could schedule this case.

Mr. Baker moved that this case be deferred until January 9, 1974.

Mr. Kelley seconded the motion and the motion passed unanimously.

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10:20 - FRANCONIA ASSOCIATES, application under Section 30-6.5 of Ordinance to permit sign, (appeal from Zoning Administrator's decision to deny sign application), Franconia Road (Springfield Mall), 90-2((13))1-6, Lee District (C-D), V-202-73

Mr. Lee Fifer, attorney for the applicant, testified before the Board.

Notices to property owners were in order. The contiguous owners were Benjamin Rogers, 6735 Beulah Street, Alexandria, Virginia and Phillips Petroleum Company, c/o Morris Ambler, 1750 Brentwood Blvd., St. Louis, Mo.

Mr. Fifer stated that the decision of the Zoning Administrator was made under Section 30-1.8.33.4 of the Ordinance. He stated that they would like the sign to read Penny's, Garfinkel's, Korvet's, and Montgomery Ward. They submitted the application to the Zoning Administrator pursuant to Section 30-16.2.3.6 of the Code of Fairfax County. The Zoning Administrator has denied this application because Section 30-1.8.33.4 expressly prohibits the identification of individual enterprises for shopping center. The sign application rejected was submitted pursuant to the Basement and Operating Agreement between the majors of the Springfield Mall Regional Shopping Center, an agreement characteristic of regional malls, which provided that the name of each was to appear on the pylon identification sign. Such a sign does identify the regional mall and provides important information to shoppers. The size and number of tenants at a regional mall necessitates such an identification, whereas in a normal shopping center in which distances between roadways and buildings are much less, such identification may not be needed. It is reasonable that regional malls be treated differently for such matters as signs, as it recognized by Section 30-16.8.4 of the Code of Fairfax County which authorizes additional sign area, height or a different arrangement of sign area distribution for regional shopping malls.

Mr. Smith stated that these stores all have markings on the individual buildings. He stated that Springfield Mall is the shopping center and it would be defeating the entire sign ordinance if you go back to this type of advertisement. There are at least 100 stores in this mall. If they allow a sign to be placed along a major highway to advertise a few stores, then they have to allow it for the entire 100 stores in that mall.

Mr. Kelley stated that there have been signs permitted where there is a narrow lot and people can't see the stores, but he could not see any reason the Board should allow signs for four major stores, when the other stores are actually the ones that are interior.

Mr. Smith stated that this rezoning for this mall went before the Board of Supervisors as Springfield Mall Shopping Center. He stated that the major stores should have concerned themselves with the Fairfax County ordinance when they presented this rezoning to the Board of Supervisors.

Mr. Smith asked Mr. Knowlton to address some remarks to this problem and why he had denied the application for the sign

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Franconia Associates (continued)

Mr. Knowlton stated that this is covered in the Sign Ordinance as the Central Business District of Springfield and the ordinance specifically speaks to the requirement in a Central Business District as "...Freestanding signs shall be limited to an aggregate area of one hundred square feet. No more than one freestanding sign shall be permitted for a shopping center identification. No freestanding sign shall be permitted for individual enterprises, whether or not that enterprise is in a shopping center; except, that an individual enterprise with a direct access to a highway in the state primary system and which has a frontage of two hundred feet or more shall be permitted one freestanding enterprise sign." (This was taken from Section 30-16.2.3.6 of the Ordinance).

Mr. Knowlton stated that Franconia Mall was before the Board of Supervisors under Section 30-16.8.4 of the Ordinance which gives the Board of Supervisors the right to authorize additional sign area. That was a request from Penneys, Lansburgs and Garfinkel's to increase the size on the building sign for all four of these stores, including Korvett's, which has now taken the place of Lansburgs, all have outside frontage which is visible from a public street and would be able to advertise on the building.

Mr. Smith asked Mr. Knowlton if he had denied them this right.

Mr. Knowlton stated that he had not.

There was no one else in the room to speak on this case either for or against.

Mr. Baker stated that all these four major stores have signs now on the front of their individual buildings.

In application No. V-202-73, application by Franconia Associates, under Section 30-6.5 of the Zoning Ordinance, to permit sign, on property located at Franconia Rd. (Springfield Mall), Lee District, also known as tax map 90-2((13)) 1-6, County of Fairfax, Virginia, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 21st day of November, 1973, and

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

1. That the owner of the subject property is Franconia Associates, et al.
2. That the present zoning is C-D.
3. That the area of the lot is 79.013 acres.

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

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

NOW; THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr. Baker seconded motion.

The motion passed unanimously.

Mr. Smith stated that it should be pointed out that the Zoning Administrator has properly interpreted the Ordinance in this case.

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10:40 - FALLS CHURCH CHILDREN'S HOUSE OF MONTESSORI, INC., app. under Section 30-7.2.6.1.3 of Ordinance and Section 30-7.2.6.1.3.2 of Ord. to permit school of general education and day care center for not to exceed 100 students at any one time, 3335 Annandale Road, 60-1((14))Parcel A, Mason District (R-10), 37,742 square feet, S-204-73 (Renewal of Special Use Permit)

Mr. Donald Stevens, Post Office Box 517, Fairfax, Virginia, 10409 Main Street, represented the application before the Board.

Notices to property owners were in order. The contiguous owners were George A. Kidwell, Jr. 3406 Casilear Road and Mr. and Mrs. Johnny Chabo, III, 3343 Casilear Road, Falls Church, Virginia.

Mr. Stevens stated that this is just a renewal of a Special Use Permit that was previously granted by this Board. They plan to continue to have the same type operation with no more than 100 students, 25 or 30 of which will be day care students. They do not provide any transportation. There is correspondence in the file from the neighbors in the area who approve of the school and like to have it for a neighbor. This school is located on Annandale Road which is arterial in fact and on the plans. They have been operating for three years and have had no problems and no complaints. They have made some improvements to the property, as they proposed to do when they came in for their original Special Use Permit.

Mr. Smith stated that, for the record, the Board is in receipt of correspondence from George Kidwell, one of the contiguous property owners, which states that the school is a fine school and run by fine people. The children never bother him and are a nice bunch of kids. A letter was also received from John Visser indicating his approval of the school.

Mr. Stevens stated that a few months ago he spoke with the Board regarding an extension of this Special Use Permit. He stated that he was not present when this was first granted, but the applicant says there was no discussion as to why there was a limitation set on this Special Use Permit. The applicant does not object to the Staff taking a look at this facility every year, nor do they object to being present before the Board each year while the Zoning Administrator makes his report prior to extending the Special Use Permit; however, they do not see the need for having to file a completely new application every three years. It seems unreasonable to ask them to do this, he stated. The nature of their personal investment, the staffing of the school, etc. requires a greater sense of security than a three year period would give them. They have already demonstrated that they are good neighbors in the community. The cost of the fee is only about one-third of the amount of the costs involving in filing this type of case. The revised plats are quite expensive, the cost of hiring an attorney should they wish to do so is also an additional expense.

Mr. Runyon stated that he questioned this requirement himself.

Mr. Smith stated that he felt it was a good idea on new operators.

Mr. Stevens stated that he hoped the Board would take these applicants off probation as they have proven themselves to the County and community.

In application No. S-204-73, application by Falls Church Children's House of Montessori, Inc. under Section 30-7.2.6.1.3 & 30-7.2.6.1.3.2 of the Zoning Ordinance, to permit school of general education and day care not to exceed 100 students at any one time, on property located at 3335 Annandale Road, Mason District, also known as tax map 60±1((14))Parcel A, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 21st day of November 1973.

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

1. That the owner of the subject property is Bruce A. & Jacqueline K. Harding.
2. That the present zoning is R-10.
3. That the area of the lot is 36,871 sq. ft.

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FALLS CHURCH CHILDREN'S HOUSE OF MONTESSORI, INC. (continued)

4. That the applicant is presently operating under Special Use Permit granted October 27, 1970 for a 3-year period.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

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

2. This permit shall expire one year from this date unless operation has started or unless renewed by action of this Board prior to date of expiration.

3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMITS AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. Number of students is 100, ages 2 1/2 to 7 years.

7. Hours of operation shall be 7 AM to 6 PM, 5 days per week.

8. The operation shall be subject to compliance with all state and county codes pertaining to operation of day care and general education.

Mr. Baker seconded the motion

The motion passed unanimously.

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11:00 - MARTIN-LEPPERT SITES POST 9274 V.F.W. of U.S., application under Section 30-7.2.6.1 .12 of the Ordinance to permit Bingo on Monday nights from 7:00 P.M. to 12:00 Midnight 7118 Shreve Road, 40-3(1)114, Providence District (R-10) 29,162 square feet, S-205-73

Mr. Hester, Route 1, Leesburg, Virginia, represented the applicant before the Board. He stated that he is Commander and President of Post 9274.

Notices to property owners were in order. The contiguous owners were E. N. Hooper, 7115 Leesburg Pike, Falls Church, Virginia and Boyd Case, 2345 Chestnut Street, Falls Church.

Mr. Hester stated that they have an existing Special Use Permit for Post 9274 which was granted in 1958. The membership of the Post, at the present time, is 403 and they have always had adequate parking spaces.

Mr. Kelley stated that the plats only show 40 parking spaces and he did not see how this number would be adequate.

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MARTIN-LEPPERT SIPES POST 9274 V.F.W. OF US. (continued)

so

Mr. Hester stated that they have a working arrangement with Mr. Hooper that they can use the parking lot next door. This adjoining property is commercially zoned, he stated, as this is an office building. The agreement is verbal.

Mr. Hester stated, in answer to Mr. Smith's question, that they could seat 123 for bingo. He stated that the proceeds from these bingo games will go to the relief and rehabilitation work that they do with different organizations. They do meet the requirements and provisions of the State Code for bingo games.

Mr. Kelley stated that the Board can only grant these permits on a yearly basis from one calendar year until the next. He suggested that the Board defer this case until January 9, 1973, in order for the applicant to submit the parking agreement and, at that time, they can grant for a full year.

Mr. Smith stated that, by that time, the emergency ordinance will have expired.

Mr. Hester stated that they do not plan to begin operation until after the first of the year anyway.

Mr. Kelley moved that this case be deferred until January 9, 1973, for decision only and for the parking agreement.

Mr. Runyon seconded the motion and the motion passed unanimously.

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11:40 - GERALD J. BRAHENY T/A SKYLINE MOTORS, application under Section 30-7.2.10.5.4 of Ordinance to permit used car sales, 5700 Leesburg Pike, 61-2((1))part of 81, Mason District, (C-G), 15,142 square feet, S-206-73

Mr. Edgar Prichard, 4085 University Drive, Fairfax, attorney for the applicant, represented the applicant before the Board.

Notices to property owners were in order. The contiguous owners are the Bailey's Crossroads Fire Department and Harry E. Alword, 5635 Leesburg Pike, Falls Church, Virginia. Mr. O'Shaunassey was also notified, but he is the owner of this property also in addition to the contiguous property.

Mr. Prichard stated that the applicant is now under a month to month lease. A considerable portion of this land is being taken by the State and they have begun proceedings. However, since Mr. O'Shaunassey also owns the property to the rear, he has agreed to allow Mr. Braheny to move the business back in order that he might stay in business and not be forced out because of the taking by the State Highway Department. At this point, he does not have a lease to that effect, but he has indicated that he will work with Mr. Braheny to accomplish this. Mr. Braheny would loose his entrance on Route 7 as that would be a limited access. This area is zoned C-G and the area in the rear is also zoned C-G.

Mr. Smith stated that the only thing the Board could consider today is the land under lease and the land that is covered by the plats that were submitted with the file. It would be necessary to come back with a new application at the time there were changes in the property.

The Board then considered deferring this case until after the taking of the land, the change in the lease and revised plats could be accomplished.

Mr. Braheny stated, however, that he was now under violation for having his cars there and he would like to have the Board grant this Special Use Permit for this location and he could then come back again with the proper changes.

There was no opposition to this application.

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 GERALD J. BRAHENY T/A SKYLINE MOTORS (continued)

In application No. S-206-73, application by Gerald J. Braheny T/A Skyline Motors under Section 30-7.210.5.4 of the Zoning Ordinance, to permit used car sales on property located at 5700 Leesburg Pike, Mason District, also known as tax map 81-2((1))part of 81, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 21st day of November, 1973.

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

1. That the owner of the subject property is C. B. O'Shaughnessy.
2. That the present zoning is C-6.
3. That the area of the lot is 15,142 sq. ft.
4. That Site Plan approval is required.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plans submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMITS AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

Mr. Baker seconded the motion.

The motion passed unanimously.

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12:00 -

DAVID E. PULLMAN, application, under Section 30-6.6 of Ordinance to permit building of an addition closer to property line than allowed by Ordinance, 6351 Linway Terrace, 31-3(1)38, Dranesville District (RM-1), 7177 square feet, V-221-73

Mr. Pullman represented himself before the Board.

Notices to property owners were in order. The contiguous owners were T. G. Weston, on the east side of subject property, and Mr. Harrington, 1533 Rightson Drive,

Mr. Pullman stated that he had owned this property for almost three years and he plans to continue to live there. This is for the use of his own family and not for resale purposes. They presently have two bedrooms and they really need this additional space. The reason they need this variance is because they are sandwiched between two streets, Linway Terrace and Old Dominion Drive. The location of the lot is such that one side of the lot is 100' at the widest part and narrows down to 58' at the narrowest point. The house is located at the narrow part of the lot and is situated at the very corner of the lot. The corner of the house also is not perpendicular to the lot.

Mr. Smith asked Mr. Mitchell if the front yard was considered Linway Terrace.

Mr. Mitchell stated that the front and rear of the house faces Linway Terrace and Old Dominion Drive giving this house two fronts. Old Dominion Drive was originally the railroad and now it has been converted into a highway, causing this house to have a front yard in the rear yard. This property will eventually be taken by the highway department for improvement on Old Dominion Drive, or it will be made larger by the realignment of Old Dominion.

Mr. Smith stated that that brings up another question as to whether or not the Board can allow him to construct this addition considering that this is a nonconforming situation. The Board would be extending this nonconformance by 2½ feet. The case certainly has merits. This is an unusual situation and he certainly has a topography problem with the shape of the lot and the location of the house on the lot.

Mr. Pullman stated that he was just trying to fill in a corner of the house that is now cut into.

Mr. Pullman submitted more pictures to the Board showing the house and property. He stated that the corner of the proposed addition will come within 8 feet of the property line and from that point to the bottom of the bank of Old Dominion Drive is 5 feet. From the bottom of the bank, it is 17½ feet up to the guardrail of the roadway and from the guardrail up to the edge of the road is another 2½ feet. He stated that he plans to use this additional space for a bedroom for one of the children.

Mr. Smith asked if he could make it smaller.

Mr. Pullman stated that it would be so tiny, it would be useless and in addition, the planned addition would conform to the existing roofline.

Mr. Barnes stated to Mr. Pullman that he noticed in the file that he had written a letter to Mr. Covington stating that the plats that he originally submitted were correct. Those plats showed the addition to be within 10' of the property line. When the new plats were finally submitted, they showed the addition to be 8' of the property line. That shows how wrong one can be that draws on the plats when they are not an engineer, or surveyor.

Mr. Pullman stated that when he started, he thought that the corner of the lot was perpendicular to the house, which he later found was not the case.

In application No. V-221-73, application by David E. Pullman, under Section 30-6.6 of the Zoning Ordinance, to permit building of an addition closer to property line than allowed by Ordinance, on property located at 6351 Linway Terrace, also know as tax map 31-3(1)38, County of Fairfax, Virginia. Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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 DAVID E. PULLMAN (continued)

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 21st day of November, 1973, and

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

1. That the owner of the subject property is David E. & Sharlyn R. Pullman.
2. That the present zoning is RE-1.
3. That the area of the lot is 7,177 sq. ft.
4. That compliance with all county codes is required.
5. That the existing house was evidently constructed prior to 1941 and is non-conforming as to the 50' setback requirement of the Ordinance. The proposed addition would increase that non-conformance by 2.1 feet.

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

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
 - (a) exceptionally irregular shape of the lot,
 - (b) exceptionally narrow lot,
 - (c) unusual location of existing buildings,

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. The architecture and materials to be used in the proposed addition shall be compatible with the existing dwelling.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, residential use permits and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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DEFERRED CASES:

2:00 - KEY TO LIFE ASSEMBLY, application under Section 30-7.2.6.1.11 of Ordinance to permit church related services, 1012 Balls Hill Road, 21-3((1))51 & 52, Dranesville District, (RE-1 - lot 52; RE-0.5 - lot 51), 8-185-73 (Deferred from 10-24-73 for inspection report. For decision only)

Hearing began at 2:30 P.M.

Rev. Altoft, 1030 Dead Run Drive, McLean, represented the applicant before the Board.

Mr. Smith stated that he wanted to ask only a couple of questions for clarification. He asked if they planned to use the existing dwelling on the property, and if they would be able to make all the necessary repairs that the Team Inspectors have indicated would be necessary to make before the building could be used.

Rev. Altoft stated that they do plan to use the existing dwelling and they would be able to make the necessary changes and improvements to this dwelling. They plan to construct a

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 KEY TO LIFE ASSEMBLY (continued)

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new building and the use of the existing dwelling will be for no longer than two years.

Mr. Smith stated that he felt at the time of the original hearing that the only objection was to the use of the existing house for a church. He stated that the Board had received a letter of objection from Mr. Soderquist and the letter stated that he was the closest neighbor to the church.

Rev. Altoft stated that there are two neighbors who are closer. The Goodman residence joins the church property and is directly left of the church property and there is a vacant lot owned by Mr. Tramont who sold them the church property on the right.

Mr. Soderquist came forward to point out his lot on the map to the Board. There was in fact a lot and a 50' easement between the church property and his property.

The Board then discussed with the applicant the possibility of continuing to use the schools.

Rev. Altoft stated that, since the original hearing, they have received a letter from Mr. Wilson and Mr. Davis with the School Board stating that, due to the fuel shortage, the temperature in the school would be cut down to 63 degrees on weekends and they may be forced to stop all 41 churches that meet in the County schools now. Because of this, it is even more imperative that they find another place to have their services.

In application No. S-185-73, application by Key to Life Assembly under Section 30-7.2.6.1.1, of the Zoning Ordinance, to permit church related services in existing dwelling on property located at 1012 Ball Hill Road, Dranesville District, also know as tax map 21-3((1))51 & 52, County of Fairfax 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 24th day of October, 1973.

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-1 and RE-0.5.
3. That the area of the lot is 3.274 acres.
4. That site plan approval is required.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property 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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 KEY TO LIFE ASSEMBLY (continued)

6. The hours of operation shall be 9:00 A.M. to 10 P.M.
7. The maximum number of people allowed at any one time shall be 50.
8. A minimum of 13 parking spaces shall be provided.
9. This permit is granted for a period not to exceed 2 years.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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2:10 - MOBIL OIL CORP. & BOBBY G. JONES, application under Section 30-7.2.10.2.1 and 30-7.2.10.2.2 of Ordinance to permit service station change in ownership, 6260 Old Dominion Drive, 31-3((1))Parcel 116, Dranesville District (C-N), S-163-73 (Deferred from 10-31-73 for new plats showing underground waste oil tank and parking. For decision only)

Hearing began at 3:00 P.M.

Mr. Lewis Griffith, 1300 Old Chain Bridge Road, attorney for the applicant, appeared before the Board. He stated that new plats had been submitted to the Staff.

Mr. Runyon stated that he had checked the plats and they were sufficient. Since this is just a change in ownership, he saw no problem.

Mr. Smith stated that he would have liked to see this station remodeled. It certainly could use it, but in view of the gasoline situation it would probably be some time in the future before that would happen.

In application No. S-163-73, application by Mobil Oil Corp. and Bobby Jones under Section 30-7.2.10.2.1 & 30-7.2.10.2.2 of the Zoning Ordinance, to permit service station on property located at 6260 Old Dominion Drive, also known as tax map 31-3((1))Parcel 116 County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 19th day of September, 1973 and deferred to November 21, 1973.

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

- 1. That the owner of the subject property is Bobby G. & Marie M. Jones.
- 2. That the present zoning is C-N.
- 3. That the area of the lot is 17,760 sq. ft.
- 4. Site plan approval is required.

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

- 1. The the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I districts as contained in Section 30-7.1.2 in the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
- 2. This permit shall expire one year from this date unless operation has started or unless renewed by action of this Board prior to date of expiration.
- 3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
- 4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.
- 5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
- 6. There shall not be any storing, rental, sales or leasing of automobiles, trucks, trailers, or recreational equipment on the premises.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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2:20 - TENNIS ON THE MOVE, LTD., application under Section 30-7.2.6.1.3 of Ordinance to permit tennis school, 1121 Belleview Road, 19-2((1))Parcel 55, Dranesville District (RE-2), S-190-73 (Deferred from 10-31-73 for Board viewing and new plans. For decision only)

Mr. Smith stated that the Board had received the new plats and the Board members had all viewed the property. The additional letters that have been received and read by the Board members will be entered into the record in the file. All the letters received were in opposition to this use and one of the letters pointed out certain facts in the ordinance which they disagree with, that being that this is not a community use. The copy of the sales contract will also be entered into the record.

Mr. Runyon asked if the applicant's attorney, Mr. Louk, was furnished with a copy of these letters.

Mr. Smith stated that the letters were in the file and the file is open to the public to view if anyone is interested.

Mr. Smith stated that the Board had not planned to reopen the hearing, but they would present a copy of these letters to the applicant's attorney. Most of these letters have been in the file for several days, but two or three of them were just delivered yesterday.

Mr. Runyon stated that he was trying to understand what the applicant is trying to establish here. Since he has applied for a school of special education, there are certain requirements that he must meet.

Mr. Smith stated that the biggest problem is whether the two hours that he allows the community to use this facility in the evening is enough to allow it to be classified as a community use. There will be no control of this facility by the community. In addition, one of the incorporators is operating under a Special Use Permit down the road which seems to be a very successful operation and appreciated by the community. The fact that this is a commercial use weighs heavily in his thinking, he stated. It is a school, but it is still a commercial use and it is not to benefit the local community as set forth in the community use definition in the ordinance. It is an excellent use of the property, but to bring all these participants in by bus from another area in a camper type vehicle for periods of an hour or more is a problem and creates an impact on the residential community. It is a very unusual application.

Mr. Runyon stated that it is like any other school that would be in a residential neighborhood.

Mr. Smith stated that it is not serving the local community as a local nursery school would.

Mr. Runyon stated that a lot of schools bus their pupils in from another area. He stated that he lives in Great Falls and he would be able to get lessons here for his family.

Mr. Smith stated that the main use from the testimony from the original hearing was that the children who took lessons would be bussed in. It is an outdoor use which creates more impact than if his school was indoors. These children will not be staying all day with someone dropping them off in the morning and picking them up at noon; these children will be bussed in and out every hour or so and this creates a much greater impact than a regular school.

Mr. Baker stated that he was also having trouble making up his mind on this thing.

Mr. Smith then discussed the ordinance as it relates to schools of special instruction and community uses. He stated that he did not feel this application meets the standards set forth in the general requirements of Section 30-7.1 and 30-7.1.1 of the Zoning Ordinance pertaining to Special Use Permit in residential zones.

Mr. Smith stated that all the information is before the Board in order to make a decision, but if the Board would like to defer this case until next week, they could do so.

Mr. Kelley stated that he did not like to continue deferring these cases, particularly since they have all the information that they need to make a decision. He stated that they should let the application stand on its own merits.

In application No. S-190-73, application by Tennis on the Move, LTD. under Section 30-7.2.6.1.3.4, of the Zoning Ordinance, to permit tennis school, on property located at 1121 Belleview Rd., Dranesville District, also know as tax map 19-2((1))Parcel 55, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 31st day of October, 1973 and deferred to November 21, 1973.

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

1. That the owner of the subject property is Alvin J. Brown, heir to Estate Mary C. Brown.
2. The the present zoning is RE-2.
3. That the area of the lot is 3.944 acres.
4. That site plan approval is required.

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

1. That the applicant has not presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr. Baker seconded the motion.

The motion passed unanimously.

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DEFERRED CASES: (continued)

JOSEPH MILLER, DOROTHY K. MARKAM, ET AL & SHOW-CASE ENTERPRISES, INC., app. under Section 30-16.8.3 and 30-6.6 of the Ordinance to permit addition to existing sign, 7846 Richmond Highway, 101-2((6))513, Lee District (C-G), V-195-73 (Deferred from 11-14-73 for decision only and to allow applicant to submit Certificate of Good Standing from the State Corporation Commission and a copy of the lease)

Mr. Smith stated that all of the necessary information is in now and satisfactory.

In application No. V-195-73, application by Joseph Miller and Dorothy K. Markham, et al and Showcase Enterprises, inc. under Section 30-6.6 of the Zoning Ordinance, to permit addition to existing sign, on property located at 7846 Richmond Highway, Lee District, also know as tax map 101-2 ((6))513, County of Fairfax, Virginia, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 14th day of November, 1973, and

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

1. That the owner of the subject property is Dorothy K. Markham et al and Thomas J. Fannon with a 99 year lease to the applicant.
2. That the present zoning is C-G.
3. That the area of the lot is 131,842 sq. ft.
4. The property subject to Pro Rata Share for off-site drainage.
5. That compliance with all county codes is required.

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

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:

- (a) exceptionally narrow lot,
- (b) configuration of the lot and location of existing buildings are unusual.

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, non-residential use permit and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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OXFORD PROPERTIES, INC., app. under Section 30-7.2.9.1.7 of Ord. to permit real estate office, 12101 Leesburg Pike, 6(1) Parcel 11, Dranesville District, (RE-1), S-177-73 (Deferred from October 17, 1973, for additional information and deferred again from November 14, 1973 for decision only)

Mr. Richard Dixon was present representing the applicant.

Mr. Smith stated that the Board has received additional correspondence in the matter from Mr. Dixon, the attorney for the applicant with a copy of an amendment to Chapter 30 of the Zoning Ordinance, which was Amendment #206. The letter and the correspondence will be made part of the record.

Mr. Dixon stated that he would like to ask the Board to let him go through the next step and that is to go to the Board of Supervisors and then this Board would make its decision after the Board of Supervisors has decided and the Board of Supervisors' decision would not bind this Board as to the Special Use Permit. This would eliminate the problem of this Board's question as to what the Board of Supervisor's policy is.

Mr. Smith stated that the Board could not do that. He stated that he did not think this application is compatible with the residential character of the area. He stated that he did not want to get the Board of Zoning in a position where they are in conflict with the Board of Supervisors, whatever their action might be. This is an adopted ordinance and there is certain adopted policies covering this historical district.

Mr. Baker agreed that when you come into a residential zone and put a parking lot for ten cars for an office building, it would not be compatible with the residential character of the area.

In application No. S-177-73, application by Oxford Properties, Inc. under Section 30-7.2.9.1.7 of the Zoning Ord., to permit real estate office on property located at 12101 Leesburg Pike, 6(1) Parcel 11, Dranesville Dist., County of Fairfax, Mr. Kelley moved that the BZA adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 17th day of October, 1973.

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 35,930 square feet.
4. That the property lies within Dranesville Tavern Historic District.
5. That the Fairfax County Planning Commission on October 30, 1973, under provisions of Section 30-6.13 of the Code of Fairfax County unanimously recommended to the BZA that the subject application be denied in accordance with the Staff report presented to the Commission.
6. (See below) *

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

1. That the applicant has not presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1 and 30-7.1.1 of the Zoning Ordinance and the adopted policy for the Historic District which includes subject property.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby denied.

*6. That in the opinion of the Board of Zoning Appeals, the application is contrary to the purpose and intent stated in the Dranesville Tavern Historic District Ordinance.

Mr. Barnes seconded the motion.

The motion passed 4 to 0. Mr. Runyon abstained as his engineering firm had worked on the plats.

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QUESTION ON VOB, LTD., A MARYLAND CORPORATION -- Deferred for 6 months on May 23, 1973, in order for County to clear up the zoning problem. This case is coming up in Court November 28, 1973, and the Judge will, more than likely, take it under advisement. Therefore, a decision will probably not be made until December. The Staff recommends the Board's deferring this case until January and schedule it along with the Regular cases for advertisement, posting, etc.

The Board's decision was to reschedule this case on the Regular Agenda for January 16, 1973.

Mr. Baker made the motion. Mr. Runyon seconded the motion and the motion passed unanimously

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HOLIDAY INN, 6100 Richmond Highway, File No. 5923 granted September 26, 1961

The Board was in receipt of new plats showing the laundry facility.

Mr. Bruce Summers, 6100 Richmond Highway, Innkeeper, appeared before the Board. He stated that the Board also has a plan of that addition. This is a one story addition constructed of block and faced with brick. This will be used for a laundry facility for the Inn. It will be compatible in style to the existing structure. As the Board can see from the plats, this is the only change that will be made. They have 108 rooms there. There is still three acres of land there.

Mr. Baker moved that the Board amend the application to include the proposed laundry facilities and accept the new plats showing that addition.

Mr. Kelley seconded the motion.

The motion passed unanimously.

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Mr. Knowlton, Zoning Administrator, then discussed with the Board the new ordinance regarding the height and requirement of fences that must be around all swimming pools.

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Mr. Smith stated that the Clerk had heard on the speaker during the Board of Supervisors meeting of November 19, 1973, they changed their Holiday meeting date from Monday until Wednesday of that week instead of Tuesday. This will necessitate a change in the BZA's meeting date. The first Holiday that comes up will be January 21, 1974. The BZA could either change only the meeting dates where a Holiday falls on a Monday causing the BZA to change to Tuesday, or change all the meeting dates to Tuesday.

Mr. Kelley stated that now this has happened twice before. He asked why they could not continue to meet on Tuesday.

Mr. Smith stated that the Planning Commission meets on Tuesday nights and sometimes the Board of Supervisors is still in session at 8:00 in the evening. That necessitates the Planning Commission moving at the last minute.

Mr. Smith stated that this would also necessitate a change in the meetings of the Building and Appeals Board, as they meet the first Wednesday of each month.

The Board decided to change only January 23, 1973, to January 22, 1973 and discuss the other dates when the Board has definite Holiday dates.

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By Jane C. Kelsey
Clerk


DANIEL SMITH, CHAIRMAN

APPROVED January 16, 1974
(DATE)

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The Regular Meeting of the Board of Zoning Appeals Was Held On Wednesday, November 28, 1973, in the Board Room of the Massey Building. Present: Daniel Smith, Chairman; Loy P. Kelley, Vice-Chairman; George Barnes; and Charles Runyon. Mr. Joseph Baker was absent.

The meeting was opened with a prayer by Mr. Barnes.

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10:00 - JOHN L. HART, JR., application under Section 30-6.6 of Ordinance to permit 5 foot side yard variance for a 2 car garage, 7306 Beverly Street, 71-1(8)63A, Annandale District (RE-1), V-207-73

Notices to property owners were in order. The contiguous owners were David L. Haney, 7308 Beverly Street and John G. Fox, Jr. who owns the lot next door, 63B.

Mr. Hart stated that Mr. Fox was the original owner of his lot and built the house that he lives in. He stated that he needs this variance because the ground is on a slope and there are several trees in the back that he does not want to remove. Even with the 5' variance there is still 40 feet between his house and the house next door.

Mr. Runyon stated that it is a narrow lot for a one-half acre lot. It is one acre zoning.

Mr. Covington then brought up the fact that he actually should not have come to the Board as he could go within 15' under the 15 percent exception. He stated that if this lot was subdivided prior to 1947, the owner would have been allowed one cut. It all depends on whether or not the lot was recorded prior to the adoption of this subsection.

The applicant stated that he thought the house was constructed in 1961. There were several owners before him. He stated that he had lived there a little over a year. He stated that he does plan to continue to live there and this is for the use of his family and not for resale purposes.

Mr. Covington then asked that the hearing be recessed for a few minutes to see if he could determine whether or not the house was constructed and the lot divided prior to the new ordinance.

Later Mr. Covington stated that he had checked and found that the lot was subdivided in 1956 which was prior to the adoption of the Pomroy Ordinance, therefore, he could be granted administratively a 15 percent exception.

Mr. Kelley moved that this case be dismissed in view of the fact that this variance can be granted administratively.

Mr. Runyon seconded the motion and the motion passed unanimously.

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10:20 - MONTESSORI SCHOOL OF McLEAN, application under Section 30-7.2.6.1.3 of the Ordinance to permit operation of a pre-school and grade school of 75 children maximum, 1711 Kirby Road, 31-3(1)119, Dranesville District (R-17), S-208-73.

Mr. James Righter, 6021 Woodland Terrace, McLean, Virginia represented the applicant before the Board. Miss Joan Marie Parasine, 8223 Bucknell Drive, Vienna, Virginia 22180. was also present representing the applicant.

Notices to property owners were in order. The contiguous owners were Elsie Carper, Lot 120, 1709 Kirby Road and McIntyre, Lot 121, 1653 Kirby Road and Texaco, Inc. 1707 Kirby Road.

Mr. Righter stated that they are under lease with the Methodist Church. The lease will run for a two year period, or until August 1975. This is not a corporation. Mrs. Parasine is the sole owner of the school.

Mrs. Parasine stated that she does plan to incorporate at some future time.

Mr. Smith stated that that would require a new application, as any change in owner requires a new application. Any change requires a new application.

She stated that they plan to have a maximum number of 75 children. Their ages will be from 3 to 12. This is an ungraded system. This school will be run on a regular school year basis. They do not transport any children.

Mr. Runyon asked how this school would fit in with the Special Use Permit School for Music and Art that the Board recently granted.

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Mr. Righter stated that the Church constructed a large educational building and now the Church children have all grown up and they would like to use this building for community uses. If they did not have the music school called the Academy of Musical Arts there now, the building would be empty. There are enough rooms for the music school to have separate rooms from this school of education. However, the music school operates primarily after school and in the early evening hours and would not conflict with this school.

Mr. Runyon stated that this Church buffers the residential area from the more intense commercial area on Old Dominion Drive.

Mr. Smith stated that he felt this is excellent use of the church property. He reminded the applicant that there could be no parking in any front setback nor within 25' of the property lines, but from the parking shown on the plats, it looks as though they have plenty of parking within the proper limits.

Mr. Kelley stated that he felt the exact play area should be shown on the plats.

The applicant stated that they had had numerous difficulties with the engineer, Mr. Pacuilli.

Mr. Smith stated that he was surprised that the Staff accepted the plat.

Mr. Runyon stated that a lot of times, the engineers try to save people money and they cut some corners.

Mr. Righter stated that they were charged over \$100 for these plats.

The Board then brought up the problem of the traffic when this schools lets out and when the other school begins.

The applicant stated that all their children would be gone by 3:00 P.M. before the other children started coming in. The other school doesn't begin until 3:30 or 4:00 P.M. when the children get home from school.

Mr. Smith stated that he was concerned that Mr. Pacuilli didn't do a better job. He stated that it seemed to him that for the same price he could have done a little better job. He asked Mr. Covington why he had accepted these plats.

Mr. Covington stated that you check the plats and turn them back, they come back in and you recheck them and send them back and finally you get to a point that you just give up in despair.

Mr. Smith stated that it is unfortunate, but Mr. Pacuilli is well aware of the requirements of this Board. The Board has quite a bit of difficulty with everything that he does for some reason.

Mr. Kelley stated that in view of the circumstances, he would make the suggestion that the gentleman take the plats and allow him to place the recreation area on them and designate the parking area that will be used for this school.

The plats were taken back by the applicants and redrawn to comply with the Board's requirements. They were resubmitted to the Board, rechecked and accepted.

Mr. Runyon then moved to grant with the following motion:

In application No. S-208-73, application by Montessori School of McLean, under Section 30-7.2.6.1.3, of the Zoning Ordinance, to permit operation of a pre-school and grade school of 75 children maximum, on property located at 1711 Kirby Road, Dranesville District, also know as tax map 31-3((1))119, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 28th day of November, 1973.

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

- 1. That the owner of the subject property is Chesterbrook Methodist Church.
- 2. That the present zoning is R-17.
- 3. That the area of the lot is 3.962 acres.

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

- 1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
- 2. This permit shall expire one year from this date unless operation has started or unless renewed by action of this Board prior to date of expiration.
- 3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
- 4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.
- 5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
- 6. Hours of operation are 9 A.M. to 3 P.M., 5 days per week.
- 7. Ages from 3 years to 12 years with a maximum of 75 children.
- 8. Operation shall be in conformance with requirements of the Health Department, State Department of Welfare and Institutions, and all other state and county codes.
- 9. Parking and recreation areas to be as noted on the plats and intialed by the applicant.

Mr. Barners seconded the motion.

The motion passed unanimously.

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10:40 - VINE STREET ASSOCIATES, ROBERT W. DUDLEY & ALFRED J. HONEYCUT, application under Section 30-6.6 of Ordinance to permit variance of 75 foot setback requirement from Route 495 to 50.55 feet, 5621 Vine Street, 81-2((4)), Lee District (IL), V-209-73

Mr. Rinaldi, with Frank Coles and Associates, represented Mr. Dudley, and Mr. Honeycut T/A Vine Street Associates.

Mr. Rinaldi stated that they are not a corporation; this is a joint venture.

Mr. Smith stated that the land book shows the record owners as Robert W. Dudley and Alfred J. Honeycut and he felt the application should be amended to include them.

Mr. Barnes so moved. Mr. Kelley seconded the motion and the motion passed unanimously.

Notices to property owners were in order. The contiguous owners were Mr. William E. Boyd, 4630 Strathblaine Street, Lot 34 and #. F. Cannon and C. E. Becker, P. O. Box 160, Lot 33.

Mr. Rinaldi stated that their application requests a variance of the minimum setback line from the Capital Beltway, I-95. The variance is requested because they would like to put an addition to the existing structure and go within 50.5' from the right of way line of the Capital Beltway. The lot is 100' wide and 182' long. It is an extremely narrow lot and since there is a street on one side, it imposes a double setback requirement. This leaves only 57' of property that can be used by the owner. 121' of the 182' lot is in a restricted area because of setbacks. The lot is long and narrow. The topography gently slopes until you get to the rear of the lot where there is an extreme slope down to the right of way to the Beltway. The lot has a number of large trees and dense foliage. He submitted pictures to the Board.

He stated that the existing building is constructed of brick and is used as home base for United Mason Company. They are machinery contractors. They lease from Vine Street Associates. The proposed structure would be used for the storage of equipment. At the present time, there are a number of pieces of equipment that they store in the yard. It is both unsightly and causes a great deal of maintenance problems. They seek to build a brick structure to connect with the present building. There is already a frame shed and concrete platform attached to the existing building. The frame shed will be dismantled.

Mr. Smith questioned whether or not they would be allowed to store equipment within the 75' area. Mr. Mitchel read Mr. Smith the ordinance which stated that he could not use this setback area for the storing of equipment. Mr. Covington, who came in later, confirmed this also.

Mr. Smith stated that the applicant was aware of this existing situation at the time of the original development. He stated that the main justification here seems to be the lack of space. They do not have the lot size to accommodate the additional building. No matter what the topography is, he cannot meet the setback requirement. The area of the lot that has the topography problem is in an area to the very rear of the lot anyway and would not affect the construction on the lot.

Mr. Kelley stated that he is in agreement with Mr. Smith. Eventually, this might be an eight lane beltway that backs up to this lot.

Mr. Rinaldi stated that when the owners purchased the lot they were aware of the setback. However, the business has expanded to such a point that they either have to move to another location or add an additional structure.

Mr. Kelley stated that they are asking for one-third of the setback requirement. He stated that the only other occasion that he could recall that they had granted a variance to a setback requirement backing up to a Beltway such as this was at the high-rise office building in Springfield, but this was only for a ramp.

Mr. Rinaldi stated in answer to Mr. Runyon's question, that he did not know exactly when the owners purchased the land, but it was over five years ago.

Mr. Runyon stated that the Beltway actually took part of this lot. This is an old Oakwood Subdivision. Part of all of these lots were taken by the right of way of the Beltway.

Mr. Smith stated that it took place prior to the existing owners though.

There was no opposition to this application.

Mr. Rinaldi stated that this addition will cause no additional connections to sewer facilities or water facilities and will require no additional parking. It will be used for storage of equipment only.

Mr. Smith asked the height of the building.

Mr. Rinaldi stated that he thought it was 12 feet high.

Mr. Barnes stated that he would like to know the development pattern in the area and he moved that the Board ask the Staff, Preliminary Engineering and Zoning, to report on whether or not there have been any other variances granted in this area and the status of the development of the area and this will be deferred for decision only until next meeting.

Mr. Smith stated that the Staff might not be able to get the information back by the next meeting and suggested the meeting of December 12, 1973.

Mr. Runyon seconded the motion. Mr. Runyon also asked the applicant to look at this a little more. He stated that it is hard to justify this and if they would study their plans, perhaps they could come back with a new configuration that would not need a variance. They are removing the storage shed and perhaps they could move the proposed building back some. He again stated that it would be difficult for the Board to grant a variance on this property under the hardship portion of the Ordinance. He stated that he is sympathetic because of the double frontage, but that was there when the property was purchased by the owner and it doesn't deprive them the reasonable use of the land. He stated that he really didn't know of anything the Staff could give the Board except a blanket variance all along those lots that back up to the Beltway. He stated that really the additional lane that is going on the Beltway could not affect this lot that much, as one lane is going inside on the median strip.

The case was deferred until December 12, 1973 in the afternoon.

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11:00 - SAMUEL E. BECHTEL, application under Section 30-7.2.8.1.1 of Ordinance to permit renewal of kennel with 30 dogs, 6201 Poburn Road, 77-4((1))9, Springfield District (RE-1), S-211-73

SAMUEL E. BECHTEL, application under Section 30-6.6.5.4 of Ordinance to permit kennel run to remain 65 feet from side property line, 6201 Poburn Road, 77-4((1))9, Springfield District, (RE-1), V-212-73

Hearing began at 11:45 A.M.

Mr. Samuel Bechtel represented himself before the Board.

Notices to property owners were in order. The contiguous owners were Homer Associates, 2939 Van Ness Street, N.W., Washington and Mr. Woods, 4112 Fern Street.

Mr. Bechtel stated that the original Special Use Permit was granted in September, 1967 for a maximum number of 30 dogs on seven acres of land. The acreage is still the same. At the moment they do not have 30 dogs as this is off-season. They do not keep dogs in the wintertime as it is too cold to keep them outside. He stated that one of the conditions of the Special Use Permit was that the runs be constructed 100 feet from all property lines. Unfortunately, the woods are very dense in that area and he miscalculated and the runs were constructed within 65 feet. This was purely unintentional on his part. He stated that it took him five years to get these runs constructed.

Mr. Smith stated that he did not see how the Board can grant the renewal with those runs within 65 feet of the property line when that was one of the specific conditions in granting the original Special Use Permit. He asked how long it would take to remove the runs.

Mr. Bechtel stated that he could do it immediately.

Mr. Smith asked how many were in violation and Mr. Bechtel answered that about 5 were in violation.

Mr. Kelley stated that he had viewed the property and this is the cleanest kennel that he had ever seen. However, he felt that the Board has no alternative but to ask him to remove them before granting this Special Use Permit extension.

In application No. S-211-73, application by Samuel E. Bechtel, under Section 30-7.2.8.1.1 of the Zoning Ordinance, to permit renewal of special use permit for kennel with 30 dogs, on property located at 6201 Poburn Road, also known as tax map 77-4((1))9, Springfield District, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 28th day of November, 1973.

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

1. That the owner of the subject property is Samuel E. & Emma E. Bechtel.
2. That the present zoning is RE-1.
3. That the area of the lot is 7.000 acres.
4. That site plan approval is required.
5. That compliance with all County Codes is required.
6. That applicant has been operating a kennel for a maximum of 30 dogs on his property, located on the east side of Poburn Road approximately 750 feet north of its junction with Pohick Road in Springfield District, pursuant to special use permit (S-693-67) granted September 26, 1967. The term of the last permitted extension of the permit has expired, and this application seeks renewal of the permit.

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 NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation ~~TO~~ OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The maximum number of dogs shall be 30.
7. This use permit is granted for a period of 3 years with the Zoning Administrator being empowered to extend for three (3) one-year periods.
8. Owner to dedicate to 25 feet from centerline of Poburn Road for the full frontage of the property for future road widening.
9. Existing dog runs and/or related structures that violate setback ordinance to be removed within 30 days.

Mr. Barnes seconded the motion.

The motion passed 4 to 0.

Mr. Baker was absent.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

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 SAMUEL E. BECHTEL (continued)
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In application No. V-212-73, application by Samuel E. Bechtel, under Section 30-6.6.5.4 of the Zoning Ordinance, to permit kennel run to remain 65 feet from side property line, on property located at 6201 Poburn Road, also known as tax map 77-4((1))9, Springfield District, County of Fairfax, Virginia, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 28th day of November, 1973, and

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

1. That the owner of the subject property is Samuel E. & Emma E. Bechtel.
2. That the present zoning is RE-1.
3. That the area of the lot is 7.00 acres.
4. That the request is for a 35' variance to the ordinance.
5. Although the original permit specified that the dog runs would not be closer than 100 feet from all property lines, it was discovered in a recent survey that a dog run had been mistakenly located 65 feet from a property line.

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

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

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr. Barnes seconded the motion.

The motion passed 4 to 0.

Mr. Baker was absent.

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11:40 - CROWN CENTRAL PETROLEUM CORP., application under Section 30-7.2.10.2.1 of the Ord. to permit refurbishing and refinishing of existing automobile laundry and gasoline dispensing station, 6000 Leesburg Pike, 61-2((1))7, Mason District (C-N), 8-199-73

Mr. Charles L. Shumate, 10523 Main Street, Fairfax, Virginia, represented the applicant before the Board.

Mr. Runyon stated that his firm prepared the plats in this case, so he would have to abstain from the decision. He stated that he would remain in case there are questions. This station is similar to the Crown station in Fairfax City that the Chairman has commented on many times.

Notices to property owners were in order. The contiguous owners were the Catholic Church, c/o John Russell, P.O. Box 26, Richmond, Virginia and Julius Hollowell, 3331 Magnolia Drive, Baileys Crossroads, Virginia.

Mr. Shumate stated that he had submitted copies of letters from Energy Oil Company, the land holding company to Crown Central Petroleum Corporation, to show that it is an affiliated corporation. This application is to allow the refurbishing and refinishing of the existing gasoline station and coin operated car wash. It will be constructed in conformance with the rendering that has been submitted. He stated that it is his understanding from talking with the Staff and after having the Staff check on this, that this is a non-conforming station. It has been at this location in excess of 21 years. Crown acquired this station about 1964. Prior to that it was operated by Peoples Gas. They are not enlarging the use, just upgrading it.

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CROWN CENTRAL PETROLEUM CORP. (continued)

The coin operated car wash is not used more than 15 times on any day. There is a canopy over that car wash at the present time. There are five dual dispensing stations. They do not change any oil, therefore, there is no waste oil holding tank. He stated that there is no problem with the water from the car wash. Mr. Leewood is present today. This station offers quality gasoline at the least price possible. They do have a vacuum island that does exist and they will continue to have that.

Mr. Smith asked Mr. Covington if he would allow the vacuum pumps within 25' of the property line.

Mr. Covington stated that he did not see anything wrong with it. The ordinance does not refer to vacuum islands specifically, it refers to gasoline pumps. He stated that it is his interpretation that this could be treated as a gasoline dispensing unit, therefore, it does meet the setback requirement of 25'.

Mr. Smith stated that there is a 50' setback requirement from a commercial establishment to residential land abutting the commercial land. This station only setbacks 25 feet.

Mr. Shumate stated that this is an existing building and all they are doing is putting on a new face.

Mr. Smith stated that they are asking the Board to allow this non-conforming building location as it now exists.

Mr. Shumate stated that that was correct as they are not expanding or putting on any type of addition.

Mr. Smith stated that they could not allow any expansion. He asked Mr. Covington if it was his interpretation that they could allow the renovation without a variance because it now exists.

Mr. Covington stated that if the Board denies this renovation, the building will stay there like it is.

Mr. Covington stated that there had been a complaint with regard to the disposal of water that runs from the car wash. Mr. Hollowell is present and perhaps he can explain the problem.

Mr. Covington also stated that he had had a complaint that the property was not properly posted. The complainant said that the sign had been down for a number of days. The sign was put up properly, but when he went out to check, the sign was down and there was a new Bank of America card sign there, which is illegal.

Mr. Smith stated that if the County put the sign up, there was no way they could know if the sign was down unless someone called.

Mr. Covington stated that they did replace the sign as soon as someone called, but that was just yesterday.

Mr. Smith stated that Mr. Hollowell was notified.

Mr. Donald Smith from Zoning Administration who is in charge of seeing that the signs are properly posted spoke before the Board. He stated that the sign was posted properly. On these asphalt surfaces there is no place to drive in the stake for the sign, therefore, they placed the sign with regard to the hearing on a post that was already there. They were informed that the sign was torn down and he sent someone back out there to replace it. They do not know if the sign was taken down by someone or if it was knocked loose and fell down. This was the first time they were notified about the sign and they did replace it yesterday.

Mr. Smith, Chairman, asked if the operator of the station was present today.

Mr. Raymond J. Leewood, came forward and gave his address as 6015 Leesburg Pike and stated that he is the present operator of the station. He stated that as far as he knew the sign was still up. If it was down, it must have been blown down by the rain and wind storm that they had recently. There is a Bank of America card sign that has been up for some time. It is a very small sign and the larger sign could have been placed on top of it.

Mr. Smith stated that that Bank of America card sign would not be allowed.

Mr. John W. Road, 3321 Magnolia Avenue, spoke before the Board in opposition to this application. He stated that he was also speaking for the Pastor of the St. Ann Church who was unable to be present today. Their main complaint was with regard to the fence that

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runs along the rear of the gas station property. There is a gap in that fence of about 100 feet where the embankment runs down the church property and it is like a dump. There are old tires and trash there. They would like to request the Board to have an inspection made of this property and they would also like to have the fence extended to cover the complete rear of this property. This station operates 24 hours per day and there are a lot of hotrodders that come in there and rev up their motors. In addition, the canopy that covers the car wash is only pieces of corrugated plastic which has blown off in the past with a slight wind storm which could be dangerous. They also do get surface water from this station. It seems that this cannot be avoided with the spray of water that hits the cars and then runs off down Leesburg Pike and Magnolia Avenue.

Mr. Smith stated that under this Special Use Permit, if it is granted, this would not be permitted.

Mr. Johnson from the firm of Runyon Engineering spoke before the Board regarding the engineering that is to be done on the site to prevent this run-off from occurring.

Mr. Smith stated that he felt this new curb that they plan to put in will keep all the water on the property. It will have to or they will not be able to operate this car wash.

Mr. Smith also stated that the fence, if they put in a stockade, would have to be kept in good repair at all times.

The Board then discussed which type of fencing would be better, the stockade or the chain link.

Mr. Julius Hollowell, 3331 Magnolia Avenue, spoke before the Board in opposition to this application. He stated that he lives opposite this service station. His main objection was the trash that he stated comes from this station and the drainage problem with the water. He stated that he had called the County prior to this, but had not gotten any results.

Mr. Smith asked who he had talked with, but Mr. Hollowell could not remember. Mr. Hollowell stated that he also talked with the State Highway Department and asked them to come out and clean out the pipe which keeps getting clogged up, but they have not done anything about it. He stated that he used to clean it out himself, but he has now had five heart attacks and cannot do it anymore.

Mr. Smith stated that that debris may be coming from the other stores, but the water problem would have to be solved. Some of the water may be coming off Route 7 and this the applicant would have no control over.

Mr. Shumate spoke in rebuttal. He stated that he appreciated the complainant's position. He stated that had he known they were going to be present and had these problems, he would have met with them in advance. He stated that he did not feel that Crown should be blamed for all the debris as there is a Tasty Freeze there also. Mr. Hollowell also lives directly in back of the Esso Station and they do change oil. Perhaps this contributes to the problem. They will be glad to extend the fence along the rear property line. The new curb will take care of any runoff that might occur.

Mr. Smith asked if they plan to leave the free standing sign there.

Mr. Shumate stated that they do plan to leave the free standing sign there. He stated that he feels this will be a great improvement to the community. This upgrading will cost \$45,000.

Mr. Smith stated that the rendering that is before the Board does not show the sign. He stated that if this is granted, the Permit could not be released until a new rendering is submitted showing the sign.

Mr. Shumate agreed to do this.

Mr. Smith stated that they would also need new plats showing the proposed extension of the fence.

Mr. Shumate agreed to do this also.

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In application No. S-199-73, application by Crown Central Petroleum Corporation, under Section 30-7.2.10.2.1 of the Zoning Ordinance, to permit refurbishing and refinishing of existing auto laundry and gasoline dispensing station on property located at 6000 Leesburg Pike, also known as tax map 61-2((1))7, Mason District, County of Fairfax, 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 in accordance with the bylaws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 28th day of November, 1973.

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

1. That the owner of the subject property is Energy Oil Co., Inc.
2. That the present zoning is C-N.
3. That the area of the lot is 22,835 square feet.
4. That compliance with all County Codes is required.
5. That site plan approval is required.
6. That property is subject to pro rata share for off-site drainage.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permits in C or I Districts as contained in Section 30-7.1.2 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. There shall not be any display, selling, storing, rental or leasing of automobiles, trucks, trailers or recreational vehicles on said property.
7. The minimum number of parking spaces shall be 3.
8. Landscaping, screening and/or fencing shall be as approved by the Director of County Development.

Mr. Barnes seconded the motion.

The motion passed 3 to 0.

Mr. Runyon abstained as his firm worked on the plans.

Mr. Baker was absent.

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12:00 - JEFFREY SNEIDER AND CO., application under Section 30-2.2.2 PAD of Ordinance to P.M. permit recreation center (swimming pool and bathhouse/community building and tennis courts), approximately 300 feet south of Blake Lane and 1/2 mile east of Route 123, 47-4((1))36, Providence District PAD, Oakton Village Subdivision, S-220-73, OTH

Mr. Harold Miller, attorney for the applicant, represented them before the Board.

Notices to contiguous owners were in order. The contiguous owners were Raymond Carter, 3137 Danborne Drive, Fairfax, Virginia and Elizabeth Chappell, 3121 Danborn Drive.

Mr. Miller stated that they now have a Special Use Permit to use the existing house that is on the property as a Club House. However, this has been reviewed by their engineers and architects and they have advised Mr. Sneider that the use of this building as a Club House would not be economically feasible. They are still going to use it as a community building, but the large community meeting room will be the second floor of the bath house. They do want to preserve the old house and the large trees around it.

This pool will be a walk-to pool for the apartments that surround it. They have done an extensive landscaping job on the premises. They have provided bike racks and emergency parking. There will be another pool in this project too and another one at the other end of the site. Therefore, there will be a pool within walking distance from all of the buildings. The water surface area is 4300 square feet. Therefore, according to the standard of 27 square feet per person for water surface area, there could be 160 people in the pool at any one time.

Mr. Kelley asked how they were going to keep people from driving.

Mr. Miller stated that the people are so close. They are right across the street. These are very large buildings with 300 families.

Mr. Kelley stated his concern with the parking problem as so many of the pools that are coming in these days are not providing parking, but say that it is a walk-to pool, but a lot of the people will not walk. This is going to create numerous problems in the future.

Mr. Miller stated that all of these buildings are interconnected with a walk-way. The total population, family dwelling units, will be 1405. The people will be able to use any one of the pools that they choose. He stated that he lives in Reston and there are four pools that they can use. They use the pool that is closest to them except occasionally when they visit friends, they then use the pool that is closest to their friends' houses.

There was no opposition to this application.

In application No. S-220-73, application by Jeffrey Sneider and Company, under Section 30-2.2.2 of the Zoning Ordinance, to permit recreation center approximately 300 feet south of Blake Lane and 1/2 mile east of Route 123, on property located at Oakton Village Subdivision, Providence District, also known as tax map 47-4((1))36, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 28th day of November, 1973.

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

1. That the owner of the subject property is Jeffrey Sneider and Company.
2. That the present zoning is PAD.

3. That the area of the lot is 2.811 acres.
4. That site plan approval is required.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.
5. The resolution pertaining to the granting of this Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The maximum number of family memberships shall be 1,405.
7. The hours of operation shall be from 10:00 a.m. to 9:00 p.m. Any after hours party(s) shall require special permission from the Zoning Administrator; such parties shall not exceed 6.
8. There shall be a minimum of 14 parking spaces for cars and a minimum of 100 spaces for bicycles.
9. All loudspeakers, noise and lights shall be directed to the pool area and confined to the site.
10. Landscaping, fencing, screening and planting shall be as approved by the Department of County Development.

Mr. Barnes seconded the motion.

The motion passed 4 to 0.

Mr. Baker was absent.

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12:20 - HUNT VALLEY SWIM CLUB, INC., application under Section 30-7.2.6.1.1 of Ordinance to permit community swim club, 7100 Sydenstricker Road, 89-3((1))4, Springfield District (RE-1), S-222-73, OTH

Mr. Fred Taylor, attorney for the applicant, represented them before the Board. His address is the Executive Building, Springfield, Virginia.

Notices to property owners were in order. The contiguous owners were Mr. and Mrs. Joseph Rafferty, 7200 Sampal Place, Springfield, Virginia and East Coast Conf. of the Evangelical Church, 5101 N. Francisco Avenue, Chicago, Illinois.

Mr. Taylor stated that this club contemplates a membership of 400. 160 have signed a subscription agreement at the present time. There is an attempt to draw on a membership within a 3,000 foot radius. At this point, it has been shown on the plans that the membership will be from the immediate area within a 2,000 foot radius of the site. 83 percent of the members are coming from that area. They want to draw on people who can walk or ride their bikes to the pool site. There are three other clubs in the immediate area. There are three other pools in the area that are now either in operation or being constructed. This Club is the contract owner of the property.

Mr. Taylor submitted a copy of the contract to the Board.

He stated that they are providing 50 parking spaces, but the church will be built on the adjacent property. The church will have 30 parking spaces. In addition, the Hunt Valley School will have 42 parking spaces. Their thought is to share the parking lots rather than cut down any trees on that portion of the property that abuts single family homes. They have reached an agreement with the church. It is not yet in writing, but the church's representative is present today to advise the Board on this. He stated that if the Board would condition the approval on this Agreement, they could have it by the end of the afternoon. The pool will operate from 10:00 A.M. until 10:00 P.M. except on Sunday when it would be 12:00 Noon to 10:00 P.M.

Mr. Smith stated that the normal pool hours are from 9:00 A.M. to 9:00 P.M. on all the swim clubs in Fairfax.

Mr. Taylor stated that the application doesn't show tennis courts, but they later submitted new plats showing tennis courts and would like to have the application amended to include the tennis courts.

Mr. Smith asked how high the lights would be.

Mr. Logan Jennings, representative from Hunt Valley, stated that they would be from 20 to 25 feet.

Mr. Kelley stated that there are new lights now that are only 14 to 15 feet high that adequately light the courts. He stated that he lives about one-half mile from the Country Club and from his back yard the light shine like an automobile coming at him. He asked if the courts would be closed at 9:00 P.M.

Mr. Jennings stated that their tennis court operation would coincide with the swimming pool operation.

Mr. Smith asked if there was any objection to amending the application to include the tennis courts.

There was no objection.

Mr. Smith stated that bearing no objection, they would amend the application to include the tennis courts.

The Board then discussed the parking problem.

Mr. Smith stated that he saw no problem with the parking as long as there is an Agreement with the Church.

There was no opposition to this application.

Mr. Taylor, in answer to Mr. Runyon's question, stated that the bath house will be constructed of brick and it will be a one story building compatible with the surrounding subdivisions.

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HUNT VALLEY SWIM & TENNIS CLUB (continued)

In application No. S-222-73, application by Hunt Valley Swim Club, Inc. application under Section 30-7.2.6.1.1 of the Zoning Ordinance, to permit community swim club and 2 tennis courts, on property located at 7100 Sydenstricker Road, Springfield District, also known as tax map 89-3(1)4, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 28th day of November, 1973.

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

1. That the owner of the subject property is Robert & Elaine Travers & Jerry H. Sills.
2. That the present zoning is RE-1.
3. That the area of the lot is 5.47 acres.
4. That site plan approval is required.
5. That the applicant is contract owner.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN DONE.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The maximum number of family memberships shall be 400.
7. The hours of operation shall be from 9:00 a.m. to 9:00 p.m. Any after hour party(s) shall require special permission from the Zoning Administrator; such parties shall not exceed 6 per year.
8. There shall be a minimum of 50 parking spaces for cars and a minimum of 100 spaces for bicycles.
9. All loudspeakers, noise and lights shall be directed to the pool area and confined to the site. Lights on the tennis court not to exceed 15' in height with no spillage off the courts.
10. Landscaping, fencing, screening and planting shall be as approved by the Department of County Development.

Mr. Barnes seconded the motion.

The motion passed 4 to 0.

Mr. Baker was absent.

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AFTER AGENDA ITEMS:

HARRISON W. GALE, Horse Riding Instruction and rental, Granted January 24, 1973, S-202-72 9718 Beach Mill Road, Dranesville District, 8((1))5, RE-2

Mr. Gale requested the Board of Zoning Appeals in his letter of October 23, 1973, to relieve them of the burden of providing a deceleration lane to the east of the driveway entrance for 100 feet and also dedication to 45 feet from the center line of the existing right of way for the full frontage of the property for future road widening. He stated that they find it impossible to comply with these limitations imposed because, there is a mortgage on the property and the mortgage holder will not release this land. With reference to the deceleration lane, with a current boarding complement of 22 horses the resulting traffic created thereby has never presented any problems on this portion of Beach Mill Road. Also, they have another entrance to their property on Yarnick Road that they could use to utilize all entrances and decrease the impact at any one entrances should the traffic increase, which they do not anticipate since their operation is limited to 40 horses.

He further stated that they feel these two limitations represent an extreme hardship and they asked that the Board waive these.

Mr. Barnes stated that they do not have much traffic on Beach Mill Road.

Mr. Runyon stated that there has been a restudy of the right of ways in that area and the Board has not been requiring this deceleration lane where the traffic is so light. He stated that he did not feel it would do any harm to waive these requirements on the Special Use Permit. He stated that Mr. Gale has not begun his operation because of this deceleration lane requirement.

Mr. Smith stated that the Board put this requirement on the Use at the suggestion of the Preliminary Branch. He asked that the Zoning Administrator ask Mr. Reynolds from Preliminary Engineering Branch to come down and speak to this question.

Mr. Runyon stated that he lives in the area and has had occasion to pass the place frequently and went by to see what was going on since they did have a Special Use Permit. They had not begun operation. This property had had this type operation for some time, he was told by the Gales' and once they bought the property, they then found that a Special Use Permit was required. They could not afford to do this deceleration lane and therefore had not been able to begin the operation. He stated that it was at his suggestion that they write to the Board and request that this be waived or modified in light of some of the other applications and the restudy of the existing roads in the Great Falls area. There is only 32 cars per day on that road.

Mr. Reynolds came down and stated that he had no objection to this limitation being waived as long as they construct a standard VDH asphalt or concrete entrance to the site.

Mr. Runyon stated that he felt this was a good idea and made the following motion:

That Item Number 6 of the Special Use Permit which stated:

"The owner shall dedicate to 45 feet from the center line of the existing right of way for the full frontage of the property for future road widening. Also, a deceleration lane to be provided to the east of the driveway entrance 100 feet."

be deleted and the following wording substituted:

"The owner will construct a standard VDH 30' wide by 20 feet long asphalt or concrete entrance to the site at the present existing entrance off Beach Mill Road."

Mr. Barnes seconded the motion and the motion passed unanimously.

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By Jane C. Kelsey
Clerk


DANIEL SMITH, CHAIRMAN

APPROVED January 16, 1974
DATE