

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

Vice-Chairman DiGiulian called the meeting at 9:20 A.M. and Mrs. Day led the prayer.

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

9:00 A.M. RUXTON HOMES APPEAL, A 87-S-005, application under Sect. 18-301 of the Zoning Ordinance to appeal the Zoning Administrator's decision that appellant's property is not a lot under the Zoning Ordinance, located at Averett Drive, on approx. 2.4138429 acres, zoned R-C, Springfield District, Tax Map 87-1((3))Outlot D.

John Connor, attorney with the law firm of Miles & Stockbridge, 11350 Random Hills Road, Suite 500, Fairfax, Virginia, came forward and requested a deferral on behalf of the applicant. He stated that the applicant and the Zoning Administrator were in the process of trying to resolve the issue involved in the Appeal.

Jane Gwinn, Zoning Administrator, agreed with the deferral.

Vice-Chairman DiGiulian polled the audience to determine if there was anyone present interested in this case and Randy Lewis, 10713 Averett Drive, Fairfax, Virginia, expressed his displeasure at the applicant requesting a deferral at such a late date as he had traveled 25 miles to attend the public hearing.

Mrs. Thonen agreed with Mr. Lewis and stated that she did not like deferrals being brought to the Board on the public hearing date as citizens could not be informed of the delay.

Following a discussion among the Board and the applicant's attorney, Mr. Connor stated that he would renotify all the citizens of the new public hearing date and time. Mrs. Thonen made a motion to defer this case to November 5, 1987 at 9:00 A.M. as suggested by staff. Mr. Hammack seconded the motion which carried by a vote of 4-0 with Mr. Ribble not present for the vote and Chairman Smith and Mr. Hyland absent from the meeting.

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As there was time before the next scheduled case, the Board took action on an After Agenda Item.

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

LAWRENCE KOK-MING LI, VC 87-D-115  
REQUEST FOR ADDITIONAL TIME

Jane Kelsey, Branch Chief of the Board of Zoning Appeals, explained that the applicant was requesting additional time in order to allow him to complete the site plan process and to obtain the necessary easements from his neighbors.

Mr. Hammack made a motion to grant the applicant a 12-month extension with the new expiration date being October 13, 1988. Mrs. Thonen seconded the motion which carried by a vote of 4-0 with Mr. Ribble not present for the vote. Chairman Smith and Mr. Hyland were absent from the meeting.

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

9:30 A.M. HERITAGE FOREST ASSOCIATES, SP 87-S-016, application under Sect. 3-803 of the Zoning Ordinance to allow community center and recreation facilities, located in the Heritage Estates Subdivision on approx. 3.82 acres, zoned R-8(WS), Springfield District, Tax Map 65-2((1))pt. 23. (DEF. FROM 5/5, 5/19, 6/9 & 7/7/87)

Lori Greenlief, Staff Coordinator, explained that the applicant's attorney was present and was requesting another deferral. She explained that the County is presently trying to reach a monetary agreement as this involves a road which runs through the middle of the applicant's proposed recreational facility.

Patricia Palumbo, with Falcons & Rosenfeld, Ltd., 10521 Judicial Drive, Suite 100, Fairfax, Virginia, represented the applicant and agreed with the deferral.

Mrs. Thonen made a motion to defer this application to November 10, 1987 at 9:00 A.M. as suggested by staff. Mr. Hammack seconded the motion which carried by a vote of 4-0 with Mr. Ribble not present for the vote. Chairman Smith and Mr. Hyland were absent from the meeting.

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Page 2 September 10, 1987, (Tape 1), Scheduled case of:

9:45 A.M. G. THOMAS CATOR, VC 87-P-090, application under Sect. 18-401 of the Zoning Ordinance to allow construction of deck addition to dwelling to 4.0 feet from side lot line (12 ft. min. side yard req. by Sect. 3-107), located at 10326 Hickory Forest Drive, on approx. 28,195 square feet, zoned R-1(C), Providence District, Tax Map Reference 37-4((19))21A.

Jane Kelsey, Branch Chief of the Board of Zoning Appeals, explained that this application needed to be deferred in order to allow the applicant time to submit new plats at which time the case would have to be readvertised.

Mrs. Thonen made a motion to defer this application to no specific date or time as the applicant would need to submit new plats and the case would have to be readvertised. Mr. Hammack seconded the motion which carried by a vote of 4-0 with Mr. Ribble not present for the vote. Chairman Smith and Mr. Hyland were absent from the meeting.

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Page 2 September 10, 1987, (Tape 1), Scheduled case of:

10:00 A.M. ROBERT A. OSBORN, JR. AND MICHAEL F. OSBORN, VC 87-D-051, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into four (4) lots, proposed lot 2 having a lot width of 12 feet and proposed lot 3 having a lot width of 88 feet (100 ft. min. lot width req. by Sect. 3-206), located at 2139 North Powhatan Street, on approx. 2.393 acres, zoned R-2, Dranesville District, Tax Map 41-1((1))66. (DEF. FROM 7/14/87)

Jane Kelsey, Branch Chief of the Board of Zoning Appeals, explained that this case had been deferred for additional information. She stated that the applicant's attorney was present and wished to make a brief statement.

As the public hearing had been closed on July 14, 1987, Mr. Hammack made a motion to reopen the hearing so that the applicant's attorney could speak. Mrs. Day and Mr. Ribble seconded the motion which carried by a vote of 5-0 with Chairman Smith and Mr. Hyland absent from the meeting.

Mark Moorstein, attorney with the law firm of Watt, Tieder, Killian, Toole and Hoffar, 8401 Old Courthouse Road, Vienna, Virginia, came forward and stated that he believed that this application does meet the guidelines and that the applicants have demonstrated a hardship. He stated that the applicants were present and were available to respond to questions.

Vice-Chairman DiGiulian closed the public hearing as there were no additional comments or discussion.

Mr. Hammack made a motion to deny VC 87-D-052 as he did not believe that the applicants have satisfied the standards for a variance and they can subdivide the property into three lots without a variance.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-D-051 by ROBERT A. OSBORN, JR. AND MICHAEL F. OSBORN, under Section 18-401 of the Zoning Ordinance to allow subdivision into four (4) lots, proposed Lot 2 having a lot width of 12 feet and proposed Lot 3 having a lot width of 88 feet, on property located at 2139 Powhatan Street, Tax Map Reference 41-1((1))66, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 10, 1987; and

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

1. That the applicants are the executors of the land.
2. The present zoning is R-2.
3. The area of the lot is 2.393 acres of land.

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

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

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

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

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

Mrs. Thonen and Mr. Ribble seconded the motion which carried by a vote of 5-0 with Chairman Smith and Mr. Hyland absent from the meeting.

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

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Page 3, September 10, 1987, (Tape 1), Scheduled case of:

9:45 A.M. THE CHILDREN'S SCHOOL OF GREAT FALLS, SP 87-D-046, application under Sect. 3-E03 and 8-901 of the Zoning Ordinance to allow nursery school and waiver of the dustless surface requirement, located at 9220 Georgetown Pike, on approximately 6.8132 acres of land, zoned R-E, Dranesville District, Tax Map 13-2((1))8. (DEFERRED FROM 9/3/87 FOR DECISION ONLY)

Jane Kelsey, Chief of the Board of Zoning Appeals Support Branch, stated that the decision in this application had been deferred from September 3, 1987 in order for the County Attorney to determine whether or not this was a valid application. She explained that the County Attorney has determined this to be a valid application and the Board is free to make its decision and that the applicant has submitted a lease between the school and the church.

As members of the Board expressed concern that the lease was not part of the original application, Ms. Kelsey explained that many applications are accepted with statements of justification as no formal lease is required by the Zoning Ordinance.

Mr. Hammack made a motion to reopen the public hearing and allow citizens who were present and wished to speak to address the Board to speak for three minutes. Mrs. Thonen seconded the motion which carried by a vote of 3-2 with Vice-Chairman DiGiulian and Mr. Ribble voting nay. Chairman Smith and Mr. Hyland were absent from the meeting.

Steven Comiskey, with the law firm of Comiskey & Hunt, 4023 Chainbridge Road, Fairfax, Virginia, told the Board that this application does not meet the criteria set forth in the Zoning Ordinance as a signed lease was not part of the original submittal.

Robert Friend, 1551 Brownsvale Drive, Herndon, Virginia, Director of the church, explained that the applicant had submitted a statement that the Governing Board of the church had written to the school. The church had believed this was sufficient. He added that the lease had been written and signed at the Board's request. He pointed out that the County Attorney has ruled this to be a valid application.

Following a discussion among the Board members, Vice-Chairman again closed the public hearing. Mrs. Thonen made a motion to pass over this case until later in the public hearing in order to allow time for someone from the County Attorney's office to be present to respond to questions from the Board as to the validity of this application. Mr. Hammack seconded the motion which carried by a vote of 5-0 with Chairman Smith and Mr. Hyland absent from the meeting.

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Page 4, September 10, 1987, (Tape 1), Scheduled case of:

10:15 A.M. GORDON L. AND ROBIN R. GAISER, VC 87-C-093, application under Sect. 18-401 of the Zoning Ordinance to allow construction of enclosed porch addition to dwelling to 10.7 feet from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located at 2911 Pleasant Glen Drive, on approx. 10,272 square feet, zoned R-3(C), Centreville District, Tax Map 25-3((9))304.

Kevin Guinaw, Staff Coordinator, presented the staff report. She stated that the lot is a pipestem lot located at the end of a cul-de-sac. The properties to the north are developed with single family dwellings with vacant parcels to the south. The applicants are requesting a variance in order to construct an enclosed porch addition with a shed underneath.

Warren Patterson, 10612 Fiesta Road, Fairfax, Virginia, represented the applicants and stated that he believes that the applicants meet the standards for a variance as the house was situated incorrectly on the lot when it was constructed. He pointed out that similar requests have been granted in the subdivision.

Robin Gaiser, 2911 Pleasant Glen Drive, Fairfax, Herndon, Virginia, co-applicant came forward and asked the Board to grant this request and stated that the Board had granted a similar request to one of her neighbors on July 14, 1987.

Mr. Hammack questioned Mrs. Gaiser as to whether or not the materials used in the addition will match those on the exterior of the house. Mrs. Gaiser replied that the material used to construct the addition will match the exterior of the house. She added that this request has to also be approved by the neighborhood's homeowners association.

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

Mr. Ribble made a motion to grant this application subject to the development conditions contained in the staff report as he believed the applicant has satisfied the criteria for a variance and due to the unusual topography of the lot.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-C-093 by GORDON L. AND ROBIN R. GAISER, under Section 18-401 of the Zoning Ordinance to allow construction of enclosed porch addition to dwelling to 10.7 feet from rear lot line, on property located at 2911 Pleasant Glen Drive, Tax Map Reference 25-3((9))304, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:



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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 10, 1987; and

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

1. That the applicants are the owners of the land.
2. The present zoning is R-3(C).
3. The area of the lot is 10,272 square feet of land.

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

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

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

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

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

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Hammack seconded the motion which carried by a vote of 5-0 with Chairman Smith and Mr. Hyland absent from the meeting.

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

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Page 6, September 10, 1987, (Tape 1), Scheduled case of:

10:30 A.M. GARY J. ALLEY, VC 87-L-092, application under Sect. 18-401 of the Zoning Ordinance to allow construction of 12 foot high detached garage in a front yard on a corner lot and 11.2 feet from the side lot line (accessory structure not permitted in any front yard, and side yard of 20 feet required by Sect. 10-104), located at 7100 Constantine Avenue, on approx. 29,938 square feet, zoned R-1, Lee District, Tax Map 90-1((12))28.

Kevin Guinaw, Staff Coordinator, informed the Board that this case needed to be deferred in order to allow time for this application to be readvertised. Mr. Guinaw suggested a public hearing date of September 29, 1987 at 11:10 A.M. and the Board so moved.

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Page 6 September 10, 1987, (Tape 1), Scheduled case of:

10:45 A.M. WILLIAM J. TATE AND SHEILA B. TATE, SP 87-D-033, application under Sect. 8-901 of the Zoning Ordinance for modification to minimum yard requirements based on error in building location to allow screen porch to remain 14.5 feet from rear lot line (25 ft. min. rear yard req. by Sect. 3-307) and 8.9 feet from a lot line formed by a pipestem driveway (25 ft. min. front yard req. by Sect. 2-416), located at 1913 Miracle Lane, on approx. 8,400 square feet, zoned R-3(C), Dranesville District, Tax Map 40-1((9))47. (DEF. FROM 7/14/87)

Kevin Guinaw, Staff Coordinator, presented the staff report. The applicants are requesting approval of a special permit due to an error in building location. They are requesting approval to permit an enclosed porch to remain 14.5 feet from the rear lot line and 8.9 feet from the lot line formed by a pipestem. During research, staff did not find evidence of a building permit for this addition therefore staff has not made any recommendations regarding the granting or denying of this application. In closing, Mr. Guinaw added that if additional information is provided to the Board showing that the standards for a special permit use have been met, then staff recommends approval of this application subject to the development conditions contained in the staff report.

Farnum Johnson, 140 Little Falls Street, Falls Church, Virginia, attorney for the applicant explained that the house was built prior to the present Zoning Ordinance. Mr. Johnson stated that it was an oversight on the applicant's part that the building permit was not obtained as they had told the builder they would obtain the proper permits. In closing, he added that this request will not be detrimental to the neighborhood and that the neighbors who would be most affected were present to speak in support of the request.

Vice-Chairman DiGiulian called for speakers in support of the application and Gordon Nash, 1906 Miracle Lane, Fairfax, Virginia, came forward. Mr. Nash spoke in support of this application as he believed this would cause no adverse impact to the neighborhood.

Jack Felder, 1950 Miracle Lane, Fairfax, Virginia, spoke in support of the application and stated that he planned to file a variance application in order to construct a similar addition.

As there were no speakers present to oppose this application, Vice-Chairman DiGiulian closed the public hearing.

Mr. Hammack made a motion to grant SP 87-D-033 subject to the development conditions contained in the staff report as he stated that he believed that the applicant had met the requirements for a special permit.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-D-033 by WILLIAM J. TATE AND SHEILA B. TATE, under Section 8-901 of the Zoning Ordinance to allow modification to minimum yard requirements based on error in building location to allow screen porch to remain 14.5 feet from rear lot line and 8.9 feet from a lot line formed by a pipestem driveway, on property located at 1913 Miracle Lane, Tax Map Reference 40-1((9))47, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 10, 1987; and

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

1. That the applicants are the owners of the land.
2. The present zoning is R-3(C).
3. The area of the lot is 8,400 square feet of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-903 and 8-914 of the Zoning Ordinance.

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

1. This approval is for the location and the specific screened porch addition shown on the plat included with this application and is not transferable to other land.
2. A building permit reflecting the location of the screened porch addition shall be submitted and approved.
3. The applicant shall plant and maintain a minimum of three nine foot evergreen trees along the side of the screened porch facing the lot line formed with the contiguous pipestem.

Mrs. Day seconded the motion which carried by a vote of 5-0 with Chairman Smith and Mr. Hyland and absent from the meeting

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

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Page 7, September 10, 1987, (Tape 1), Scheduled case of:

11:00 A.M. PHILIP AND ANN WIRDZEK, VC 87-A-077, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 13.3 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107), located at 4212 Wakefield Drive, on approx. 22,379 square feet, zoned R-1, Annandale District, Tax Map Reference 70-1((2))122.

Vice-Chairman DiGiulian stated that a letter had been received from the applicant in VC 87-A-077 requesting withdrawal. Therefore, Mrs. Thonen made a motion to allow the applicants to withdraw their application. Mr. Hammack seconded the motion which carried by a vote of 5-0 with Chairman Smith and Mr. Hyland absent from the meeting.

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Page 7, September 10, 1987, (Tapes 1 and 2):

9:45 A.M. THE CHILDREN'S SCHOOL OF GREAT FALLS, SP 87-D-046, application under Sect. 3-E03 and 8-901 of the Zoning Ordinance to allow nursery school and waiver of the dustless surface requirement, located at 9220 Georgetown Pike, on approximately 6.8132 acres of land, zoned R-E, Dranesville District, Tax Map 13-2((1))8. (DEFERRED FROM 9/3/87 FOR DECISION ONLY)

As this case had been passed over earlier in the agenda, Ms. Kelsey informed the Board that Karen Harwood, Assistant County Attorney, was now present to discuss the application of Children's School of Great Falls that the Board had passed over earlier in the day. Following questions from the Board, Ms. Harwood explained that it was the determination of the County Attorney's office that this application was a valid application and that the Board did have the authority to rule on this application.

As there were no further discussion or comments, Mrs. Day made a motion to grant, SP 87-D-046, as she did not believe this would be precedent setting, that the health department has approved this use, the play area has now been relocated to a more suitable location and is adequate in size, and that the church and the applicant now have a written lease. Mrs. Thonen seconded the motion.

Mr. Hammack stated that he could not support the motion as he disagreed with the County Attorney's determination that this was a valid application. He further stated that he felt this would impact upon the surrounding neighborhood and destroy the habitat for the wildlife in that area.

Mr. Ribble also stated that he could not support the motion as he did not believe the proposed use would be harmonious with the neighborhood.

As the motion to grant failed by a vote of 2-3 vote with Mrs. Thonen, Messrs. Hyland and Ribble voting nay, the applicant requested a waiver of the 12-month time limitation for

Thonen made a motion to grant the applicant's request. Mrs. Day seconded the motion which carried by a vote of 5-0 with Chairman Smith and Mr. Hyland absent from the meeting.

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THE MOTION TO GRANT FAILED

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-D-046 by THE CHILDREN'S SCHOOL OF GREAT FALLS, under Section 3-E03 of the Zoning Ordinance to allow nursery school and waiver of the dustless surface requirement, on property located at 9220 Georgetown Pike, Tax Map Reference 13-2((1))8, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 10, 1987; and

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

1. That the applicant is the lessee.
2. The present zoning is R-E.
3. The area of the lot is 6.8132 acres of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-903 and 8-915 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The maximum daily enrollment for the nursery school shall be limited to 30 children, ages three to five.
6. There shall be a maximum of five (5) employees associated with this use.
7. There shall be eleven (11) parking spaces provided for this use which can be accommodated in the existing church lot.
8. The hours of operation for the nursery school shall be limited to 9:00 a.m. to 12:00 p.m., Monday through Friday, and shall operate during the normal Fairfax County Public School calendar months.

9. Transitional Screening shall be provided as follow:

- o Existing vegetation along the western and northern lot lines shall be modified to allow the existing vegetation to satisfy the transitional screening requirements.
- o Existing vegetation along the eastern lot line, in the northeastern corner of the site in the area of the proposed facility, shall be supplemented to a degree equivalent to Transitional Screening 1.
- o Along the eastern lot line, from a point beginning approximately 125 feet from the front lot line and continuing back to approximately 190 feet from the rear lot line, the existing cedar trees shall be supplemented with plantings in a screening yard fifteen (15) feet in width in order to effectively screen the vehicles utilizing the drive.

The type, size and location of all plantings shall be reviewed and approved by the County Arborist. The barrier requirement shall be waived.

- 10. All appropriate inspections and approvals in accordance with Building Plan Review Branch of Department of Environmental Management and the Fairfax County Health Department shall be obtained prior to occupancy of the structure.
- 11. The existing gravel drive from a point approximately 125 feet from the front lot line back to and including the existing circle on site shall be paved.
- 12. The play area shall be a minimum of 3200 square feet in size and shall be located on the west side of the proposed school facility adjacent to the existing concrete.

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

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

Mrs. Thonen seconded the motion for purposes of discussion. The motion failed by a vote of 2-3 with Mrs. Thonen and Messrs. Hammack and Ribble voting nay. Chairman Smith and Mr. Hyland were absent from the meeting.

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

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Page 9, September 10, 1987, (Tape 2), Scheduled case of:

11:15 A.M. KENNETH B. GATES, VC 87-L-089, application under Sect. 18-401 of the Zoning Ordinance to allow construction of enclosed porch to 21.3 feet from front lot line (35 ft. min. front yard req. by Sect. 3-207), located at 8120 Martha Street, on approx. 7,259 square feet, zoned R-2(HC), Lee District, Tax Map 101-4((5))8.

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report. She stated that the application property is located on the west side of Martha Street approximately 250 feet south of its intersection with Buckman Road. The applicants are requesting an expansion and enclosure of an existing porch. She pointed out that R-2 Zoning District requires a 35 foot setback in front yards but that all the houses on the west side of Martha Street set back 29 feet.

Becky J. Gates, 8120 Martha Street, Alexandria, Virginia, co-applicant, came forward and stated that they had acquired the property in good faith in 1954. She further explained that this is the only house in the neighborhood that does not have a side door and due to the location of the front door the cold air freely enters the house each and every time the door is opened. In closing, Mrs. Gates noted that they are requesting only a 2 foot variance.

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

Mrs. Thonen made a motion to grant VC 87-L-089 subject to the development conditions contained in the staff report as she believed that the applicant has satisfied the standards for a variance and as the applicant's house was constructed prior to the present Zoning Ordinance.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-L-089 by KENNETH B. GATES, under Section 18-401 of the Zoning Ordinance to allow construction of enclosed porch to 21.3 feet from front lot line, on property located at 8120 Martha Street, Tax Map Reference 101-4((5))8, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 10, 1987; and

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

- 1. That the applicant is the co-owner of the land.
- 2. The present zoning is R-2, HC.
- 3. The area of the lot is 7,259 square feet of land.

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

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

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

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

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

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Hammack seconded the motion which carried by a vote of 5-0 with Chairman Smith and Mr. Hyland absent from the meeting.

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

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Page 11, September 10, 1987, (Tape 2) Scheduled case of:

11:30 A.M. KOREAN UNITED METHODIST CHURCH, SPA 82-D-090-2, application under Sect. 3-203 of the Zoning Ordinance to amend S-82-D-090 for a church and related facilities to permit addition to building located at 1219 Swinks Mill Road on approx. 4.7735 acres, zoned R-2, Dranesville District, Tax Map 29-2((1))15. (DEF. FROM 6/9/87)

Claudia Hamblin-Katnik presented the staff report. She stated that the applicant is requesting to construct an addition to an existing church. As staff believes this application meets all the standards for a special permit, staff is recommending approval subject to the development conditions outlined in the staff report.

Keith Martin, attorney with Walsh, Colucci, Malinchak, Emrich, Lubeley, P.C., 950 North Glebe Road, Arlington, Virginia, represented the applicant. He explained that the existing parking will accommodate the requested addition and that the applicant has already complied with development conditions 7, 8, 10, 11 and 13. The applicant has met with the surrounding neighbors and have received favorable support of this request.

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

Mrs. Day made a motion to grant SPA 82-D-090-2 as she believed that the applicant's attorney has presented testimony showing compliance with the standards for a special permit, that the applicant has already complied with conditions 7, 8, 10, 11 and 13, and that there are no objections from the surrounding neighbors.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 82-D-090-2 by KOREAN UNITED METHODIST CHURCH, under Section 3-203 of the Zoning Ordinance to amend S-82-D-090 for a church and related facilities to permit addition building, on property located at 1219 Swinks Mill Road, Tax Map Reference 29-2((1))15, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 10, 1987; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-2.
3. The area of the lot is 4.7735 acres of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 8-303 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The maximum number of seats shall be 400.
6. The maximum number of parking spaces shall be 107. All parking shall be on site.
7. The Transitional Screening 1 requirement shall be modified along all lot lines provided that the existing vegetation is retained and that the following be provided subject to the approval of the size, type, and location by the County Arborist:
  - o evergreen trees shall be planted between the existing parking lot and Lewinsville Road and
  - o the proposed parking lot shall be shifted from Lewinsville Road so as to provide Transitional Screening 1.
  - o supplemental plantings shall be provided to screen the parking lot from the adjacent residences to the east and north.
8. The parking lot shall be built and delineated in conformance with the Public Facilities Manual to the satisfaction of the Director, Department of Environmental Management (DEM). Interior parking lot landscaping shall be provided and maintained as shown on the plat and in accordance with Article 13 of the Zoning Ordinance.
9. Parking lot lighting shall be the low intensity type, on standards not to exceed twelve (12) feet in height, and shielded, if necessary, so as to prevent light or glare from projecting onto adjacent residential properties.
10. Dedication of right-of-way to 45 feet from the centerline of Lewinsville Road and Swinks Mill Road or the amount necessary to match the widening on the subdivision to the north shall be provided for the entire frontage of the property. Temporary grading and construction easements for possible future widening of Lewinsville and Swinks Mill Roads shall be provided to the satisfaction of the Director, DEM.
11. The right turn lane into the site's entrance on Swinks Mill Road shall be striped in accordance with VDOT standards. The applicant shall ensure adequate sight distance to the north of the site entrance on Swinks Mill Road. This condition shall involve removal of vegetation and other sight distance obstructions on Swinks Mill Road and future maintenance to ensure continued adequate sight distance.
12. The barn on the site shall be used for storage only.



13. In accordance with Article 17 and the Countywide Trails Plan, a trail shall be provided along Swinks Mill Road.

14. Signs shall be permitted in accordance with the provisions of Article 12.

These development conditions contain those applicable development conditions from all previously approved special permits.

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

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

Mrs. Thonen seconded the motion which carried by a vote of 5-0 with Chairman Smith and Mr. Hyland absent from the meeting.

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

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Page 13, September 10, 1987, (Tape 2), Scheduled case of:

11:45 A.M. ROBERT KEE AND LINDA MORGAN KEE, VC 87-D-091, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed lot 43A having a width of 124.11 feet and proposed lot 43B having a width of 12 feet (150 ft. min. lot width req. by Sect. 3-106), located at 7417 Dulaney Drive, on approx. 3.046 acres, zoned R-1, Dranesville District, Tax Map 30-1((2))43.

As the Board was in receipt of a letter from the applicant requesting a withdraw of their application, Mr. Hammack made a motion to allow the withdrawal of VC 87-D-091. Mrs. Thonen seconded the motion which carried by a vote 5-0 with Chairman Smith and Mr. Hyland absent from the meeting.

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Approval of Resolutions  
September 3, 1987

Mrs. Thonen moved to approve the Resolutions for September 3, 1987 as submitted.

Mr. Hammack seconded the motion which passed by a vote of 5-0 with Chairman Smith and Mr. Hyland absent from the meeting.

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Page 13, September 10, 1987, (Tape 2), Scheduled case of:

12:00 NOON IMMANUEL PRESBYTERIAN CHURCH, SPA 79-D-037-1, application under Sect. 3-103 of the Zoning Ordinance to amend S-37-79 for a church and related facilities to permit new entrance and modifications and additions to driveway and parking lot, additional parking and modification of the dustless surface requirements, on property located at 888 Dolley Madison Boulevard, on approximately 5.834 acres of land, zoned R-1, Dranesville District, Tax Map 31-2((1))4A.

Kevin Guinaw, Staff Coordinator, stated that the citizens of the area are requesting that this application be deferred in order for them to meet with the church to resolve outstanding issues. He added that the applicant is in agreement with this request.

Gordon Nash, 1906 Miracle Lane, Falls Church, Virginia, came forward and represented the church. Mr. Nash stated that he was a member of the church and Chairman of the Property Maintenance Committee. Since the time the notices were sent to the abutting property owners, the church has become aware of opposition from the surrounding neighbors and would like a deferral in order to resolve these issues.

Jane Kelsey, Branch Chief of the Board of Zoning Appeals, suggested a date and time of October 6, 1987 at 9:40 A.M.

Mrs. Thonen made a motion to defer this application to October 6, 1987 at 9:40 A.M. as suggested by staff. Mr. Ribble seconded the motion which carried by a vote of 5-0 with Chairman Smith and Mr. Hyland absent from the meeting.

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Page 14, September 10, 1987, (Tape 2), Scheduled case of:

12:10 P.M. NEW LIFE CHAPEL MOTHER'S DAY OUT, SP 87-S-047, application under Sect. 6-303 of the Zoning Ordinance to allow child care center, located at 9837 Burke Pond Lane, on approximately 6.24 acres of land, zoned PRC, Springfield District, Tax Map Reference 78-3(14)pt. U1 and 3C3.

Lori Greenlief, Staff Coordinator, presented the staff report. She stated that staff is recommending approval of this application subject to the development conditions contained in the staff report being implemented.

Carol Coulter, 4973 Tibbitt Lane, Burke, Virginia, Director of the Program, came forward and stated that she believes that this application meets the standards for a Special Permit and requested that it be granted. Ms. Coulter asked those in support of this application to stand and citizens in audience stood in support.

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

Mr. Ribble made a motion to grant SP 87-S-047 as he believed that the applicant had presented testimony showing compliance with the standards for a Special Permit.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-S-047 by NEW LIFE CHAPEL MOTHER'S DAY OUT, under Section 6-303 of the Zoning Ordinance to allow child care center, on property located at 9837 Burke Pond Lane, Tax Map Reference 78-3(14)p.t U1 and 3C3, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 10, 1987; and

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

1. That the applicant is the lessee.
2. The present zoning is PRC.
3. The area of the lot is 6.24 acres of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-303 of the Zoning Ordinance.

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

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

3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The maximum daily enrollment for the child care center shall be limited to 20 children.
6. There shall be a maximum of four (4) employees on site associated with this use.
7. There shall be ten (10) parking spaces provided for this use.
8. The hours of operation for the child care center shall be limited to 9:30 a.m. to 1:30 p.m., three days a week and shall operate during the normal Fairfax County Public School calendar.
9. Transitional screening and barrier requirements shall be modified to allow the existing vegetation to satisfy these requirements.

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

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

Mr. Hammack seconded the motion which carried by a vote of 5-0 with Chairman Smith and Mr. Hyland absent from the meeting.

\*The Board waived the 8-day time limitation and this decision was officially filed in the office of the Board of Zoning Appeals and became final on September 10, 1987. This date shall be deemed to be the final approval date of this special permit.

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As that was the end of the agenda scheduled for today, a discussion took place among the Board and staff regarding the presence of someone from the Land Use Division of the Office of Comprehensive Planning to make a presentation to the Board regarding the Environmental Quality Corridor Policy.

Ms. Kelsey informed the Board that she would discuss this with that office and come back to the Board with suggested dates.

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As there was no other business to come before the Board, the meeting was adjourned at 12:28 P.M.

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

  
Daniel Smith, Chairman  
Board of Zoning Appeals

SUBMITTED: 10/20/87

APPROVED: 10/27/87

16

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, September 15, 1987. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Mary Thonen; Paul Hammack; John Ribble; Gerald Hyland.

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

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Page 16, September 15, 1987, (Tape 1), Scheduled case of:

8:00 P.M. SEYED M. BASSAM, VC 87-L-006, application under Sect. 18-401 of the Zoning Ordinance to allow a 6 foot high fence to remain in front yard (4 ft. max. hgt. for fence in a front yard req. by Sect. 10-104), located at 6908 Old Rolling Road, on approx. 43,566 square feet, zoned R-3(HC), Lee District, Tax Map Reference 81-4((1))78. (DEF. FROM 3/31/87)

Lori Greenlief, Staff Coordinator, presented the staff report. She stated that the applicant is requesting approval of a variance to allow a fence, six feet in height, to remain in a front yard. She added that the Board conducted a public hearing on this application in March and at that time it had been discovered that the neighbor's house next door was constructed too close to the shared side lot line. The Board deferred this application to enable the neighbor to apply for a special permit so that both applications could be heard together. The Board also requested that the Zoning Enforcement Branch to issue a written notice of violation to the neighbor. The neighbor has not applied for a special permit.

Donald Beaver, Supervisory Inspector, Zoning Enforcement Branch, stated that a notice of violation was sent to the property owner of Lot 77. The property owner has not applied for a special permit. In conclusion, Mr. Beaver stated that the Zoning Enforcement Branch does plan to take the appropriate follow-up legal action.

Sayed M. Bassam, 6008 Old Rolling Road, Alexandria, Virginia, the applicant, stated that his neighbor does not intend to comply with Zoning Enforcement regulations. Therefore, he needs a variance to allow his fence to remain. After questions from the Board, Mr. Bassam stated he wanted his case heard and a decision made at this hearing.

Ms. Kelsey stated that the current plat of the adjacent property is not in accordance with the building permit and requested that Mr. Beaver review the plat. She also pointed out that Mr. Bassam testified that his justification for the fence was that he put up the fence because the neighbor's air conditioning unit was too close to the property line.

Mr. Beaver stated that the plat that was submitted with the building permit application indicated that this addition on Lot 77, the adjacent lot, would be no closer than the existing dwelling which was 7.5 feet from the side lot line. He pointed out that this house, according to the land records, was constructed in 1899. The addition was built in approximately 1984. The error concerning the plats was not caught.

Mr. Bassam stated that the addition is 2.5 feet away from the property line and the heat pump is on the property line. He pointed out that his justification for the variance is that the children cannot play in the front yard because of the neighbor's complaint about the windows being broken.

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

Mr. Hammack moved to grant VC 87-L-006 based on the applicant's testimony and that the applicant has satisfied the nine required standards for a variance. In particular, the fact that the adjacent neighbor has built an addition within 2.6 feet of the property line in a district which would require a greater setback; and for the further reason that the heat pump appears to be directly on the property line. He further noted that the applicant has not put the fence all the way around the yard; just along one lot line.

Mr. Ribble and Mr. Hyland suggested an additional condition requesting that if the neighbor's house is brought into compliance not by special permit or variance approval, then the applicant be required to lower the height of the fence to meet the location requirements stipulated in the Zoning Ordinance and Mr. Hammack accepted the amendment.

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#### COUNTY OF FAIRFAX, VIRGINIA

#### VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-L-006 by SEYED M. BASSAM, under Section 18-401 of the Zoning Ordinance to permit 6 foot high fence to remain in front yard, on property located at 6908 Old Rolling Road, Tax Map Reference 81-4((1))78, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 15, 1987; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-3 and HC.
3. The area of the lot is 43,566 square feet of land.

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

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

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

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

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

1. This variance is approved for the location and the specific structures shown on the plat included with this application and is not transferable to other land.
2. If the neighbor's house is brought into compliance other than by a Variance or Special Permit, then the applicant shall lower the height of the fence between the two houses to four (4) feet. The fence must then also meet the location requirements stipulated in the Zoning Ordinance.

Mr. DiGiulian seconded the motion and the motion carried by a vote of 7-0.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 23, 1987. This date shall be deemed to be the final approval date of this variance.

As there was time before the next application, the Board took action on the After Agenda Item.

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Resolutions for September 10, 1987

Mr. DiGiulian stated that the Resolution for the Children's School of Great Falls was incorrect on the vote. Mr. DiGiulian commented that Mrs. Thonen did second the motion to grant the request, but Mr. DiGiulian and Mrs. Day voted for the motion and Messrs. Thonen, Hammack and Ribble voted nay.

Mrs. Thonen moved to approve the resolutions for September 10, 1987 with the correction. Mrs. Day seconded the motion which passed unanimously.

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8:30 P.M. CALVARY CHURCH OF THE NAZARENE, SP 87-M-036, application under Sect. 3-203 of the Zoning Ordinance to allow church and related facilities, located at 8250 Little River Turnpike, on approximately 19.157 acres, zoned R-2, Mason District, Tax Map Reference 59-3((91))pt. 32. (DEF. FROM 7/21/87)

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report. She stated that the applicant is requesting a special permit for a church and related facilities. She pointed out that staff is recommending denial and she also noted the major areas of concern that staff is basing their recommendation upon as set forth in the staff report. First of all, staff does not support the design of having parking spaces within the front yard, and suggests that they be moved to some area other than in front of the sanctuary to avoid the parking being seen from the road which would detract from the residential character of the area.

Ms. Kelsey pointed out that staff is trying to encourage the churches that come in for new applications to shift their parking to the side or rear of the site so that it will not create a visible intrusion into the residential community.

Ms. Hamblin-Katnik stated that another outstanding issue is that a service drive is required along the frontage of Little River Turnpike. This would not be required should the applicant include the entire 23 acres onto this site. The applicant is not providing any access in this area and are not providing a service drive.

Ms. Hamblin-Katnik stated that the third problem that staff has with this application is the impact of noise. The applicant does not meet the noise standards required for indoor noise, nor does staff believe the applicant would meet the outdoor dBA levels for noise. However, this could be met with proper attenuation measures.

The fourth outstanding issue that staff has with this application is the fact that the applicant is not including the entire 23 acre parcel contained in Lot 32, which the applicant owns, in the special permit application. The acreage that is left out of the application is the area from the stream eastward. There are less than 200 feet of frontage in this area along Little River Turnpike. To subdivide the remaining portion to try to obtain more than one lot out of this particular area would require a variance and staff would not be able to support a variance by which the hardship for granting the variance was self-created.

Ms. Hamblin-Katnik continued by stating that the intent of the Comprehensive Plan to implement the Environmental Quality Corridor Policy is not fulfilled with this application. The width of the stream valley is completely contained within this 23.6 acre. The acreage contained in the eastern portion contains over 65% of its land mass in a corridor which is intimately associated with the western portion of the stream valley. The stream valley is an independent ecological system and should be preserved as such.

Discussion with the Board and Ms. Hamblin-Katnik concerning the parcel of land to the east by the stream and the need for a service drive, determined that if the land develops as a non-church use then the service drive would be required. However, if it could be utilized by the church then the Department of Transportation stated that it would be acceptable to access this parcel through the rear of the property.

Ms. Kelsey pointed out a service drive is always required along a major arterial road.

Sarah H. Reifsnnyder, 4020 University Drive, Fairfax, Virginia, attorney for the applicant, stated that in 1979 a Special Permit was granted for a church on a 9 acre portion of the same property. Unfortunately, this church did not have the funds to go forward. Ms. Reifsnnyder commented on the meetings that were held between the citizens and the church to work out the major areas of concern with this application. The meetings resulted in the applicant reducing their seating capacity from 1200 to 800, parking was reduced, the amphitheater was removed, stormwater management was agreed upon, and all efforts were made to move the parking away from the residents. Ms. Reifsnnyder stated that every effort was made to satisfy staff's concerns with the application: 35 feet transitional screening was provided, detached rectories instead of attached rectories, and dedication of a right turn lane.

Following questions from the Board, Ms. Reifsnnyder stated that parcel 7 was purchased by the church in order to use as access if the remaining portion of the parcel is developed. She also explained that the applicant did not include the remainder of Lot 23 in their application because they did not deem it necessary and they do not have immediate plans to develop the parcel.

Karl E. Kohler, 8205 Woodland Avenue, Annandale, Virginia, representing the Millcreek and Camelot Homeowners Associations, spoke in support of the application. Mr. Kohler stated that all of the major areas of concern had been resolved.

Charles E. Preble, Jr., 8027 Garlot Drive, Annandale, Virginia, Chairman for Camelot Homeowners Association, spoke in support of the application. Mr. Preble stated that this application was the most reasonable use of land for this particular site.

Fletcher Elder, 3911 Mill Creek Drive, Annandale, Virginia, President of Millcreek subdivision, spoke in support of the application. Mr. Elder stated that he was in full support with the use of land for the particular site of the application.

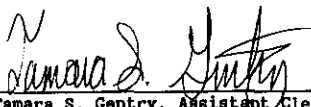
Mrs. Thonen moved to take a five minute recess to allow the applicant to read the development conditions that staff had prepared but had not included in the application since staff was recommending denial of the application. Mr. DiGiulian seconded the motion which passed with a vote of 7-0. The Board recessed at 9:30 p.m.


The Board reconvened at 9:40 p.m.

After discussion between the Board, Ms. Reifsnnyder and staff concerning the development conditions for this application, Mr. Hyland moved to defer SP 87-M-036 to September 22, 1987 at 12:15 for additional information from the Department of Environmental Management. Mrs. Thonen seconded the motion which passed unanimously.

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As there was no other business to come before the Board, the meeting was adjourned at 10:30 P.M.

  
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Tamara S. Gentry, Assistant Clerk to the Board of Zoning Appeals

  
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Daniel Smith, Chairman Board of Zoning Appeals

SUBMITTED: 10/20/87

APPROVED: 10/27/87

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The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, September 22, 1987. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Gerald Hyland; Mary Thonen; Paul Hammack; and John Ribble.

Chairman Smith opened the meeting at 9:25 A.M. and Mrs. Day led the prayer.

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Page 20, September 22, 1987, (Tape 1), Scheduled case of:

9:00 A.M. HARRY W. WRIGHT, VC 86-L-127, application under Sect. 18-401 of the Zoning Ordinance to allow 6 foot high and 7 foot high fence to remain in front yards of a corner lot, located 6416 Richmond Highway, on approx. 20,754 square feet, zoned C-8 (H-C), Lee District, Tax Map 93-1((2))(2)1. (DEF. FROM 5/12/87 - NOTICES NOT IN ORDER, DEFERRED FROM 6/9/87)

Chairman Smith announced that the Board had received a request to withdraw the above-referenced application.

Mr. DiGiulian moved to grant the request to withdraw VC 85-L-127.

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

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Page 20, September 22, 1987, (Tape 1), Scheduled case of:

9:15 A.M. ELWYNNE WRAY GODLOVE, SP 87-P-005, application under Sect. 3-403 of the Zoning Ordinance to allow family day care home as permitted by S-307-79, expired, located at 2906 Lawrence Drive, on approx. 9,453 square feet, zoned R-4, Providence District, Tax Map Reference 50-3((15))138. (DEF. FROM 7/7/87)

Lori Greenlief, Staff Coordinator, reminded the Board that the application had been deferred to allow the applicant time to address the parking issue. She also pointed out that staff was concerned about the provision of adequate turn-around and parking. Mrs. Greenlief stated that staff was recommending approval of the proposal subject to the development conditions.

Elwynne Godlove, 2906 Lawrence Drive, Falls Church, Virginia, the applicant, appeared before the Board and explained that she could not afford \$10,000 to provide a turn around and additional parking spaces. She added that she had been caring for children in her home for the past 20 years without any problems.

Following a question from Mrs. Thonen, Mrs. Greenlief stated that the applicant could care for five children without a special permit but the applicant was requesting to care for nine children.

Chairman Smith called for speakers and Mark Godlove of Manassas, Virginia, the applicant's son, appeared before the Board and pointed out that the neighbors in the area had similar driveways and all pulled in and out of their driveways the same way. Mr. Godlove questioned why the applicant was granted a permit in 1979 and now staff is recommending denial.

Chairman Smith pointed out that the Board was more aware of the safety factors.

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

Prior to making the motion, Mrs. Thonen stated that she was impressed by the applicant and noted that most of the children walked to school and that there was not a safety problem. Therefore, Mrs. Thonen moved to grant the request subject to the revised development conditions.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-P-005 by ELWYNNE WRAY GODLOVE, under Section 3-403 of the Zoning Ordinance to allow family day care home as permitted by S-307-79, expired, on property located at 2906 Lawrence Drive, Tax Map Reference 50-3((15))138, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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



WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 22, 1987; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-4.
3. The area of the lot is 9,453 square feet of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-303 and 8-305 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. There shall be a maximum of one employee associated with this use in addition to the applicant.
6. There shall be a minimum and a maximum of three (3) parking spaces provided on site. All parking and drop-off and pick-up associated with this use shall be on site.
7. There shall be a maximum enrollment of nine (9) children.
8. The outdoor play area shall not be used prior to 8:00 a.m. nor after 5:00 p.m. for recreational activities by the children.

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

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

Mr. DiGiullian seconded the motion.

The motion carried by a vote of 4-1 with Chairman Smith voting nay; Messrs. Hyland and Ribble not present for the vote.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 30, 1987. This date shall be deemed to be the final approval date of this special permit.

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9:30 A.M. DR. THOMAS S. ROEHR, SPA 79-C-091-1, application under Sect. 4-503 of the Zoning Ordinance to amend S-91-79 for a veterinary hospital to permit addition to existing building and to allow a real estate office within the existing building, located at 2703 Centreville Road, on approx. 19,049 square feet, zoned C-5 and R-1, Centreville District, Tax Map 25-1((1))23A. (DEF. FROM 7/7/87 - TO BE HEARD CONCURRENT WITH VC 87-C-110)

9:30 A.M. DR. THOMAS S. ROEHR, VC 87-C-110, application under Sect. 18-401 of the Zoning Ordinance to allow building for a Special Permit use to remain 24.3 ft. from front lot line (compliance with bulk regulations for the zoning district 40 ft. min. front yard, required by Sect. 8-903) located at 2703 Centreville Road, on approx. 19,049 square feet, zoned C-5, Centreville District, Tax Map 25-1((1))23A. (TO BE HEARD CONCURRENT WITH SPA 79-C-091-1)

Jane Kelsey, Branch Chief, BZASB, advised the Board that there was a question regarding the notices. She explained that one of the property owners (B. Brooke McCauley, Jr., Lot 22) had changed but that the microfiche in the Office of Assessments had not been updated at the time the applicant sent out the notification letters. Therefore, staff determined that the applicant's notices were in order as they used the information available in the Office of Assessments at the time the notices were sent out. She further stated that the new property owner had requested a deferral of the application until he had time to review the staff report.

Lance Gardner with Gardner and Carter, 10560 Main Street, Fairfax, Virginia, representative of the applicant, appeared before the Board and stated that he had spoken with the new property owner, and Mr. McCauley who did not seem to have any concerns but had requested the application be deferred to allow him time to review the staff report. He stated that he wanted to go forward with hearing.

Chairman Smith determined that the notices were not in order and should be redone.

Mr. Hammack moved to proceed with the hearing as it was his opinion that the notices were in order.

Mrs. Day seconded the motion which passed by a vote of 4-1 with Chairman Smith voting nay; Messrs. Hyland and Ribble not present for the vote.

Claudia Hamblin-Katnik, Staff Coordinator, proceeded with the staff report and advised the Board that staff was recommending approval of the special permit request.

At this time, Lance Gardner submitted pictures of the property to the Board. He advised the Board that the applicant was requesting a one story addition not a two-story addition. With regard to the development conditions, Mr. Gardner explained that the applicant was confused about the location of the easement serving the lot to the north and the lot to the south because of the possible widening of Centreville Road. He added that the driveway was already dedicated, which was a 30 foot easement for widening. Mr. Gardner expressed concern about the staff recommendation that access be oriented onto West Ox Road which would require an easement from the land to the north.

Ms. Hamblin-Katnik clarified that the Office of Transportation (OT) was suggesting that interparcel access be given to the front of the parcel although it was not a convenient location for access. Therefore, OT stated that they would not be adverse to interparcel access being provided in the rear but it is necessary to give interparcel access to Lot 22 and Lot 24. In conclusion, Ms. Hamblin-Katnik stated that staff was recommending approval of the requests, subject to all of the development conditions.

Since there were no speakers to address these applications, Chairman Smith closed the public hearing.

Mr. Hammack moved to grant SPA 79-C-091 subject to the revised development conditions.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 79-C-091-1 by DR. THOMAS S. ROEHR, under Section 4-503 of the Zoning Ordinance to amend S 91-79 for a veterinary hospital to permit addition to existing building and to allow addition to existing building and to allow a real estate office within the existing building, and to decrease the special permit property from approximately 19,049 square feet to approximately 18,149 square feet, on property located at 2703 Centreville Road, Tax Map Reference 25-1((1))23A, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 22, 1987; and

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

- 1. That the applicant is the owner of the land.
- 2. The present zoning is C-5.
- 3. The area of the lot is 18,149 square feet of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-903 and 8-911 of the Zoning Ordinance.

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

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
- 2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
- 3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
- 4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
- 5. There shall be seventeen (17) parking spaces provided. All parking shall be on site. Two (2) spaces may be removed in order to provide interparcel access when required.
- 6. There shall be no more than three (3) employees associated with the veterinary clinic on site at any one time.
- 7. There shall be no more than two (2) employees associated with the realty office on site at any one time.
- 8. The applicant shall comply with all Health Department regulations pursuant to Sect. 8-911, Additional Standards for Veterinary Hospitals.
- 9. Transitional Screening 1 to the east and south of the subject property shall be waived adjacent to the 900 square feet of R-1 property.

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

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

Mr. DiGiulian seconded the motion.

The motion carried by a vote of 4-1 with Chairman Smith voting nay, Messrs. Hyland and Ribble not present for the vote.

Prior to making the next motion, Mr. Hammack stated that the applicant had satisfied the standards for a variance and also noted that additional road frontage was required by the County. Therefore, Mr. Hammack moved to grant VC 87-C-110 subject to the development conditions.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-C-110 by DR. THOMAS S. ROEHR, under Section 4-503 of the Zoning Ordinance to allow building for a Special Permit use to remain 24.3 ft. from front lot line, on property located at 2703 Centreville Road, Tax Map Reference 25-1((1))23A, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 22, 1987; and

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

1. That the applicant is the owner of the land.
2. The present zoning is C-5.
3. The area of the lot is 18,149 square feet of land.

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

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

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

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

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

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\*of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. DiGiulian seconded the motion which carried by a vote of 4-1 with Chairman Smith voting nay; Messrs. Myland and Ribble not present for the vote.

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Page 25, September 22, 1987, (Tape 1) Scheduled case of:

9:45 A.M. MARK ALLEN LAWRENCE, M.D., SP 87-D-035, application under Sect. 3-E03 and 8-901 of the Zoning Ordinance to allow a home professional office and waiver of the dustless surface requirement, located at 8612 Tebbs Lane, on approx. 4.2760 acres, zoned R-E, Dranesville District, Tax Map 20-1((1))52. (DEF. FROM 7/14/87)

Heidi Belofsky, Staff Coordinator, presented the staff report and advised the Board that the above referenced application had been deferred from July 14, 1987 because the Board was three hours behind schedule on that day. Ms. Belofsky stated that staff was recommending approval of the request subject to the development conditions.

Keith Martin, attorney representing the applicant of 950 N. Glebe Road, Arlington, Virginia, appeared before the Board and advised the Board that the applicant had been operating his office for the past 14 years. He noted that the lot was heavily wooded and he added that Dr. Lawrence had the support of the contiguous and adjacent land owners. Mr. Lawrence pointed out there was no traffic problem but that some people thought they could cut-through Tebbs Lane to avoid traffic on Georgetown Pike.

Mark Lawrence, 8612 Tebbs Lane, McLean, Virginia, the applicant, appeared before the Board and clarified that his patients were out-patients only and that he had the support of his neighbors.

Chairman Smith called for speakers and Robert Grindle, 8527 Georgetown Pike, McLean, Virginia, appeared before the Board in support of the request.

Mary Ellen West, 8601 Tebbs Lane, McLean, Virginia, appeared before the Board in opposition to the request. She expressed concern for traffic and safety problems.

In rebuttal, Mr. Martin referred to the letters of support from the neighbors.

Following a questions from Mr. Hammack, Mr. Martin stated that the applicant would reluctantly agree to change the hours of operation so that the doctors hours would end at 6:00 P.M. instead of 9:15 P.M. Dr. Lawrence advised the Board that the owners of Lots 53 and 54 were not opposed to the paving of Tebbs Lane.

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

Mr. DiGiulian moved to grant the request subject to the revised development conditions.

Mrs. Day suggested the following amendment: That the use be permitted for a period of three years instead of five years. Mr. DiGiulian accepted the amendment.

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The Motion To Grant Failed. Therefore This Resolution Was DENIED  
COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-D-035 by MARK LAWRENCE, M.D. under Sections 3-E03 and 8-901 of the Zoning Ordinance to a home professional office and modification of the dustless surface requirement, on property located at 8612 Tobbs Lane, Tax Map Reference 20-1((1))52, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 22, 1987; and

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

1. That the applicant is the co-owner of the land.
2. The present zoning is R-E.
3. The area of the lot is 4.2760 acres of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-903 and 8-915 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. There shall be no employees other than the applicant associated with this use.
6. No sign shall be erected on the property.
7. This Special Permit use and modification to the dustless surface for parking area only is approved for a period of three (3) years.
8. The hours of operation shall be limited to 7:30 a.m. to 5:00 p.m., Monday through Friday.
9. Group therapy sessions shall have a maximum of four (4) clients on site at any one time. There shall be a maximum of one (1) group session per day.
10. Existing vegetation shall fulfill the transitional screening requirement. The barrier requirement shall be waived.
11. Security lighting, if used shall be directed on site with no light projecting off the property.

- 12. A waiver of the dustless surface requirement shall be granted for the parking areas only. This area shall be maintained in accordance with the standard practices approved by the Director, Department of Environmental Management, which shall include but not be limited to the following:
  - A. Travel speeds in the parking areas shall be limited to 10 mph or less.
  - B. During dry periods, application of water or calcium chloride shall be made in order to control dust.
  - C. Routine maintenance shall be performed to prevent surface unevenness, wear-through or subsoil exposure. Resurfacing shall be conducted when stone becomes thin.
  - D. Runoff shall be channeled away from and around the parking areas.
  - E. The property owner shall perform periodic inspections to monitor dust conditions, drainage functions, compaction and migration of stone surface.
- 13. Alterations and improvements to the property not affecting the home professional office are permitted without amendment to this Special Permit.
- 14. The driveway from the right-of-way easement to the parking area on the lot shall be paved.

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

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

Mr. Hammack seconded the motion. Mr. Hammack accepted Mrs. Day's amendment to the motion.

Mr. Martin requested a waiver of the 12-month limitation on rehearing the application.

Mrs. Thonen moved to grant the request and Mr. DiGiulian seconded the motion which passed by a vote of 4-2 with Messrs. Ribble and Smith voting nay; Mr. Hyland not present for the vote.

Chairman Smith stated that the applicant should cease operation of his business even though the waiver had been granted.

Mr. Martin requested the applicant be allowed to continue operating his business until he can refile the application and be heard by the Board.

Ms. Kelsey advised the Board that since it had granted a waiver of the 12-month limitation on rehearing the application, that any action could be stayed by the Zoning Enforcement Branch once the applicant refiled.

Mrs. Day then moved to reconsider the action by the Board to grant the 12-month waiver.

Mr. Ribble seconded the motion which failed by a vote of 3-3 with Chairman Smith Mr. Ribble and Mrs. Day voting aye; Mr. Hyland not present for the vote.

At this time, Mr. Hammack explained that he had opposed the application because he was concerned about the high volume of business and the length of the hours of operation specifically the early morning and late evening. Chairman Smith shared Mr. Hammack's concerns and added that he was also concerned because there was no deceleration lane off of Georgetown Pike.

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10:00 A.M. ROBERT R. AND DOROTHY E. JORGENSEN, VC 87-L-059, application under Sect. 18-401 of the Zoning Ordinance to allow enclosure of existing carport for a garage 7.1 feet from a side lot line (12 ft. min. side yard req. by Sect. 3-307), located at 6501 Bowie Drive, on approx. 13,110 square feet, zoned R-3, Lee District, Tax Map 81-3((13))(M)501.

Claudia Hamblin-Katnik presented the staff report.

Robert and Dorothy Jorgensen, 8801 Cuttermill Place, Springfield, Virginia, the applicants, appeared before the Board and explained their request as outlined in the statement of justification submitted with the application. Mr. Jorgensen stated that the proposal would enhance the aesthetics of the neighborhood and increase the value of the property. He also stated that they had been victims of vandalism and hoped that a garage would deter crime.

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

Prior to making the motion, Mrs. Day pointed out that the proposed garage would not go beyond the existing carport and would provide more security. Therefore, Mrs. Day moved to grant the request subject to the development conditions.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-L-059 by ROBERT R. AND DOROTHY E. JORGENSEN, under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport for a garage 7.1 feet from a side lot line, on property located at 6501 Bowie Drive Tax Map Reference 81-3((13))(M)501, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 22, 1987; and

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

1. That the applicants are the co-owners of the land.
2. The present zoning is R-3.
3. The area of the lot is 13,110 square feet of land.

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

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



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

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

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

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

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

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. DiGiulian seconded the motion.

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

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 30, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 29, September 22, 1987, (Tape 2), Scheduled case of:

10:30 A.M. LIVING SAVIOR LUTHERAN CHURCH, SPA 86-S-023-1, application under Sect. 3-103 of the Zoning Ordinance to amend SP 86-S-023 for church and related facilities to permit additional land area and relocation of proposed building and parking, located at 5540 Ox Road, on approx. 7.9 acres, zoned R-C, Springfield District, Tax Map Reference 68-3(1)50, 50A. (DEFERRED FROM 7/30/87)

As the Board was behind schedule and there was a request to defer the above-referenced application, it took up the request before the 10:15 A.M. case.

Mrs. Thonen moved to grant the request for deferral to November 11, 1987 at 9:15 A.M.

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

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Page 29, September 22, 1987, (Tape 2), Scheduled case of:

10:15 A.M. KATIE H. BARR, SP 87-S-019, application under Section 3-C03 of the Zoning Ordinance to allow a kennel and waiver of dustless surface requirement, located at 7121 Bull Run P.O. Road on approx. 28.403 acres, zoned R-C and WSP0D, Springfield District, Tax Map 64-1(1)36. (DEF. FROM 5/26/87 & 7/23/87 FOR DECISION ONLY)

Frederick Goldbecker, Box 517 Fairfax, Virginia, the applicant's representative, requested a deferral of SP 87-S-019.

Following a question from Chairman Smith, Ms. Kelsey, Branch Chief, BZASB, advised the Board that the applicant has been under violation since June 12, 1986.

James Armstrong, Sanitarian, Fairfax County Health Department, appeared before the Board and stated that he had attempted to inspect the subject property on September 17, 1987.

He reported that as soon as he got out of his vehicle six dogs running loose came over to him and when he began taking photographs Mrs. Barr became quite upset and started shouting obscenities at him. He added that he decided to stop the inspection and return to his office before being able to complete the inspection.

Warden Lee, 4500 West Ox Road, Fairfax County Department of Animal Control, appeared before the Board and clarified that dogs can run loose on an owner's property provided they stay on their property.

Following a discussion among the Board, it was determined that a meeting should take place at the subject property for the purpose of inspecting the property. The Board also suggested that the following parties be present: The Animal Warden, James Armstrong of the Health Department, Frederick Goldbecker, the police and possibly some members. It was also agreed that this meeting take place on October 7, 1987 at 1:30 P.M.

The Board also took action to defer the decision on the subject application to October 13, 1987 at 11:20 A.M.

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Page <sup>30</sup> 28, September 22, 1987, (Tape 2), Scheduled case of:

10:40 A.M. PHILIP L. AND BARBARA C. GRAY, SP 87-L-053, application under Sect. 8-901 of the Zoning Ordinance to allow modification to the minimum yard requirements based on error in building location to allow addition to dwelling to remain 19.6 feet from rear lot line (25 ft. min. rear yard req. by Sect. 3-207), located at 5833 Bethel Road, on approx. 17,908 square feet, zoned R-2, Lee District, Tax Map 82-4((8))17. (OTH HEARING GRANTED 8/4/87)

Lori Greenlief, Staff Coordinator, presented the staff report.

Philip Gray, 6885 Bethel Drive, Clifton, Virginia, the applicant, appeared before the Board and explained his request as outlined in the statement of justification submitted with the application.

Mr. Genuario of Genuario Construction Inc., 8625 Fort Hunt Road, Alexandria, Virginia, contractor for the addition, appeared before the Board and explained that the error was made in good faith. He noted that there was only one corner in violation and the error was due to a mathematical error.

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

Mr. Hyland moved to grant the request subject to the development conditions.

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#### COUNTY OF FAIRFAX, VIRGINIA

#### SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-L-053 by PHILIP L. AND BARBARA C. GRAY, under Section 8-901 of the Zoning Ordinance to allow modification to the minimum yard requirements based on error in building location to allow addition to dwelling to remain 19.6 feet from rear lot line, on property located at 5833 Bethel Road, Tax Map Reference 82-4((8))17, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 22, 1987; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-2.
3. The area of the lot is 17,908 square feet of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-903 and 8-914 of the Zoning Ordinance.

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

1. This special permit is granted for the addition indicated on the plat submitted with this application and is not transferable to other land or other structures on the same land.

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

Mrs. Thonen moved to waive the eight day period for the Resolution becoming final, thus making final approval today.

Mr. Ribble seconded the motion which passed by a vote of 5-1 with Chairman Smith voting nay; Mr. Hammack not present for the vote.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 22, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 31, September 22, 1987, (Tape 2), Scheduled case of:

10:40 A.M. REECE AND JANET BAKER APPEAL, A 87-V-003, to appeal the Zoning Administrator's determination that replacement equipment at a nonconforming concrete batching plant is not in violation of Article 15 of the Zoning Ordinance, located at 9917 Richmond Highway, zoned R-1, Mount Vernon District, Tax Map 113-2((1))57. (DEFERRED FROM 8/4/87)

Chairman Smith announced that there was a request by the applicant to withdraw the above referenced application.

Mr. DiGiulian moved to accept the request for withdrawal and Mr. Ribble seconded the motion which passed unanimously with Mr. Hammack not present for the vote.

Mr. Hyland suggested that the Zoning Administrator continue to pursue the issue and make a determination as to whether or not the County's action in permitting the concrete facility to be there is proper.

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At 12:28 P.M. the Board took a ten minute recess.

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Page 31, September 22, 1987, (Tape 3), Scheduled case of:

11:10 A.M. PAUL J. UMBERGER, VC 87-S-080, application under Sect. 18-401 of the Zoning Ordinance to allow enclosure of existing carport for a garage 8.5 ft. from side lot line such that yards total 17.8 ft. (8 ft. min., 20 ft. total min. side yard req. by Sect. 3-307), located at 8801 Cuttermill Place, on 8,599 square feet, zoned R-3(C), Springfield District, Tax Map 89-3((6))108.

Heidi Belofsky, Staff Coordinator, presented the staff report.

Paul UMBERGER, the applicant of 8801 Cuttermill Place, Springfield, Virginia, appeared before the Board and explained his request as outlined in the statement of justification submitted with the application. He noted that there were other properties in the neighborhood with garages.

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

Prior to making the motion, Mr. Ribble noted the exceptional shape of the lot and its converging lot lines. He moved to grant the request subject to the development conditions.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-S-080 by PAUL J. UMBERGER, under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport for a garage 8.5 feet from side

lot line such that yards total 17.8 feet, on property located at 8801 Cuttermill Place, Tax Map Reference 89-3((6))108, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 22, 1987; and

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

1. That the applicant is the co-owner of the land.
2. The present zoning is R-3(C).
3. The area of the lot is 8,599 square feet of land.

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

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

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

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

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

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

- 4. The exterior of the addition shall be architecturally compatible with the existing dwelling and shall be similar in color and materials utilizing a combination of mixed red brick and white aluminum siding.

Mr. Hyland seconded the motion.

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

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 30, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 33 September 22, 1987, (Tape 3), Scheduled case of:

11:20 A.M. JOHN B. DEANE, VC 87-D-076, application under Sect. 18-401 of the Zoning Ordinance to allow construction of a detached garage 2 ft from side lot line (12 ft. min. side yard req. by Sects. 3-307) located at 6320 Kellogg Drive, on approx. 13,163 square feet, zoned R-3, Dranesville District, Tax Map 31-3((19))66.

Lori Greenlief, Staff Coordinator, presented the staff report.

James Boykin, 1308 Vincent Drive, McLean, Virginia, the applicant, appeared before the Board and explained the request as outlined in the statement of justification submitted with the application.

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

Mrs. Day noted that the Board had received a letter of opposition from Sara W. Robinson.

Prior to making the motion, Mrs. Thonen noted the topographical conditions and pointed out that a garage could not be located any place else. She then moved to grant the request subject to the development conditions.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-D-076 by JOHN B. DEANE, under Section 18-401 of the Zoning Ordinance to allow construction of a detached garage two (2) feet from side lot line, on property 6320 Kellogg Drive located at Tax Map Reference 31-3((19))66, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 22, 1987; and

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

- 1. That the applicant is the owner of the land.
- 2. The present zoning is R-3.
- 3. The area of the lot is 13,163 square feet of land.

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

- 1. That the subject property was acquired in good faith.
- 2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;
  - F. An extraordinary situation or condition of the subject property, or
  - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.

3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.

4. That the strict application of this Ordinance would produce undue hardship.

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

6. That:

A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or

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

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

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

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

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

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

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

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

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

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 30, 1987. This date shall be deemed to be the final approval date of this variance.

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Page <sup>34</sup> 34, September 22, 1987, (Tape 3) Scheduled case of:

11:30 A.M. DANIEL L. GERMAN, VC 87-S-048, application under Sect. 18-401 of the Zoning Ordinance to allow dwelling in an existing building located 21.4 feet from front lot line (40 ft. min. front yard req. by Sect. 3-107), located at 5416 Bradley Road, on approx. 75,000 square feet, zoned R-1, Springfield District, Tax Map Reference 55-3((2))61. (DEF. FROM 7/23/87 FOR DECISION ONLY)

Chairman Smith announced that there was a request to defer the above referenced application.

Lori Greenlief, Staff Coordinator, advised the Board that the applicant's attorney was out-of-town and staff was recommending that the decision be deferred to October 6, 1987 at 10:20 A.M.

Mrs. Thonen so moved. Mr. DiGiulian seconded the motion which passed unanimously with Mr. Hammack not present for the vote.

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11:45 A.M. ARNOLD W. AND EDNA G. REITZE, VC 87-M-074, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed Lot 2 having a lot width of 27.6 feet (80 ft. min. lot width req. by Sect. 3-306), located at 6024 Munson Hill Road, on approximately 2.49 acres, zoned R-3 and HC, Mason District, Tax Map Reference 61-2((1))5.

Lori Greenlief, Staff Coordinator, presented the staff report and advised the Board that staff was concerned about the application setting a precedent.

Jane Kelsey, Branch Chief, BZASB, added that staff does not support the application since the standards have not been met.

Arnold Reitze, 6024 Munson Road, Falls Church, Virginia, the applicant, appeared before the Board and explained the request as outlined in the statement of justification submitted with the application. He noted the exceptional narrowness of the lot.

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

Prior to making the motion, Mrs. Day stated that the application did meet the standards for a variance and would not be precedent setting. Mrs. Day then moved to grant the request subject to the development conditions.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-M-074 by ARNOLD W. AND EDNA G. REITZE, under Section 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed Lot 2 having a lot width of 27.6 feet, on property 6024 Munson Hill Road located at Tax Map Reference 61-2((1))5, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 22, 1987, the Board has made the following findings of fact:

- 1. That the applicant is the owner of the land.
- 2. The present zoning is R-3 and HC.
- 3. The area of the lot is 2.49 acres of land.

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

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

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

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

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

1. This variance is approved for the subdivision of one lot into two lots as shown on the plat submitted with this application.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless this subdivision has been recorded among the land records of Fairfax County, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. Only one (1) entrance to the lots shall be allowed from Munson Hill Road. The driveway easements shall be recorded with deeds to the property to ensure future access to these lots via a common driveway.
4. The driveway to the proposed lots shall be constructed in accordance with the Public Facilities Manual.
5. No grading shall occur within 75 feet of the rear lot line adjacent to Long Branch Stream.
6. The provision of adequate sight distance shall be demonstrated at the time of subdivision review and adequate sight distance shall be obtained prior to the issuance of any building permits.
7. The convergence of the driveways of Lots 1 and 2 shall be at least 50 feet from Munson Hill Road.

Mr. DiGiulian seconded the motion.

The motion carried by a vote of 5-1 with Chairman Smith voting nay; Messrs. Hammack and Hyland not present for the vote.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 30, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 36, September 22, 1987, (Tape 3), Scheduled case of:

12:00 NOON CENTRAL BAPTIST CHURCH, SP 87-C-042, application under Sects. 3-103 and 8-915 of the Zoning Ordinance to allow church and related facilities and waiver of the dustless surface, located at 2355 Hunter Mill Road, on approx. 5.0 acres, zoned R-1, Centreville District, Tax Map Reference 37-2(1)25.

Lori Greenlief, Staff Coordinator, advised the Board that the applicant had requested a deferral of SP 87-C-042 to November 5, 1987 at 9:30 A.M.

There being no objection, it was so ordered.

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Mrs. Thonen moved to go into Executive Session to discuss legal matters.

There being no objection, it was so ordered.

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Page 37, September 22, 1987, (Tape 3), Scheduled case of:

12:15 P.M. CALVARY CHURCH OF THE NAZARENE, SP 87-M-036, application under Sect. 3-203 of the Zoning Ordinance to allow church and related facilities, located at 8250 Little River Turnpike, on approximately 19.157 acres, zoned R-2, Mason District, Tax Map Reference 59-3((91))pt. 32. (DEF. FROM 7/21/87)

Sara Reifsnnyder with Blankingship & Keith located at 4020 University Drive, Fairfax, Virginia, representative of the applicant, appeared before the Board and explained that the applicant was still trying to resolve the parking issue and transitional screening issue.

Mrs. Thonen moved to defer the application to October 6, 1987. There being no objection, it was so ordered.

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Page 37, September 22, 1987, (Tape 3) After Agenda Item #1:

Out-Of-Turn Hearing Request  
Southview Baptist Church  
SPA 80-C-111-2

Mrs. Day moved to deny the request. Mr. Ribble seconded the motion which passed unanimously with Mr. Hammack not present for the vote.

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Page 37, September 22, 1987, (Tape 3) After Agenda Item #2:

Approval of Resolutions for September 15, 1987

Mrs. Thonen moved to approve the resolutions as submitted.

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

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Page 37, September 22, 1987, (Tape 3) After Agenda Item #3:

Out-Of-Turn Hearing Request  
Vernye S. Barrett  
VC 87-M-116

Mrs. Thonen moved to grant the request. Mr. DiGiulian seconded the motion which passed by a vote of 5-1 with Chairman Smith voting nay; Mr. Hammack not present for the vote.

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As there was no other business to come before the Board, the meeting was adjourned at 2:22 P.M.

*Patti M. Hicks*

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

*Daniel Smith*

Daniel Smith, Chairman  
Board of Zoning Appeals

SUBMITTED: 12/8/87

APPROVED: 12/15/87

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, September 29, 1987. The following Board Members were present: Chairman Daniel Smith; Ann Day; Mary Thonen; Paul Hammack; Gerald Hyland; and John Ribble. John DiGiulian was absent from the meeting.

In the absence of Chairman Smith and Vice-Chairman DiGiulian, Mrs. Thonen made a motion to appoint Gerald Hyland, Acting Chairman, until the arrival of Chairman Smith and the Board so moved.

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Page 38, September 29, 1987, (Tape 1):

Before calling the first scheduled case, the Board discussed a request to reconsider the applications of Dr. Thomas S. Roehr, SPA 79-C-091-1 and VC 87-C-110, which it heard at its September 22, 1987 public hearing. The request was made by Brooke MacCauley, an abutting property owner, who informed the Board that he had not been duly notified of the public hearing and therefore the applicant had not met the notification requirement of the Zoning Ordinance.

Lance Gardner, Gardner and Carter, 10560 Main Street, Fairfax, Virginia, came forward to represent the applicant. He stated that he had been informed by staff that the case would need to be deferred and had conveyed this to Mr. MacCauley. He further stated that he had determined the adjoining property owners by viewing the microfiche in the Office of Assessments.

Mr. Hyland pointed out that staff had documentation showing that the microfiche information had been corrected as of June 1987.

W. McCauley Arnold, attorney with the law firm of Cowles, Rinaldi and Arnold, represented Brooke MacCauley. Mr. Arnold explained that possibly the confusion had occurred when the applicant's agent viewed the microfiche screens and inadvertently viewed last year's screen. He pointed out that during a discussion with Assessments he had been told that the latest microfiche had been entered into the computers in August 1987. He added that he had confirmed this information with the company who enters the information into the microfiche for the County.

Mr. Hammack made a motion that the Board reconsider its action in these applications as testimony had been presented showing that the notifications were not in order.

Mrs. Thonen clarified for the record and for the citizens who were present that the Board has the legal right to reconsider its actions within eight days of the public hearing.

Mr. Hyland questioned staff as to who would bear the expense of readvertising and Jane Kelsey, Chief of the Board of Zoning Appeals Support Branch, replied the expense would be borne by the County. She suggested a date and time for the public hearing of November 5, 1987 at 11:10 A.M.

Following a discussion among the Board, the attorneys, and staff, Mrs. Thonen made a motion to rehear this case on December 1, 1987 at 8:00 P.M. and the Board so moved.

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Page 38, September 29, 1987, (Tape 1):

As there was time before the next scheduled case, Mrs. Thonen pointed out that information on the Home Professional Office Amendment from the Zoning Administrator had not as yet been received by the Board. She noted that this information had been requested during the Information Session between the Board and Staff which was held on April 1, 1987.

Ms. Kelsey explained that she was aware that a draft amendment had been prepared. She stated that due to the Board of Supervisors' last scheduled meeting for the year being October 19, 1987 the Zoning Administrator needed to rearrange the scheduling of proposed amendments.

Mrs. Thonen stated that this information had been promised to the Board in September and that that she was prepared to make a formal motion to be delivered to the Zoning Administrator.

Mr. Hyland suggested that perhaps the Zoning Administrator's schedule would allow her time to come and discuss this with the Board today. The Board requested staff to contact the Zoning Administrator.

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39  
Page 39, September 29, 1987, (Tape 1), Scheduled case of:

9:00 A.M. JACK BAKER APPEAL, A 87-V-008, application under Sect. 18-301 of the Zoning Ordinance to appeal the Zoning Administrator's determination that the junk yard and towing service uses on the appellant's properties are not permitted as a non-conforming use, located at 9415 Richmond Highway and 8643 Richmond Highway, on approximately 152,425 square feet of land and 102,714 square feet of land, zoned R-1 and C-8, Mount Vernon District, Tax Map References 107-4((1))27 and 107-3((1))100.

9:00 A.M. JACK BAKER APPEAL, A 87-V-009, application under Sect. 18-301 of the Zoning Ordinance to appeal the July 30, 1987 decision of the Zoning Administrator regarding application of stay provisions of Sect. 18-307, located at 9415 and 8643 Richmond Highway, Zoned R-1, C-8 on approximately 152,425 square feet of land and 102,714 square feet of land, Mount Vernon District, Tax Map Reference 107-4((1))27, 101-3((1))100.

Jane Kelsey, Chief of the Board of Zoning Appeals Support Branch, explained that these Appeals needed to be readvertised and suggested a date and time for the new public hearing of October 13, 1987 at 11:20 A.M.

Mr. Hammack made a motion to defer the Jack Baker Appeals to October 13, 1987 at 11:20 A.M. in order to allow time for readvertising. Mrs. Day seconded the motion which carried by a vote of 4-0 with Messrs. Ribble and Smith not present for the vote and Mr. DiGiulian absent from the meeting.

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Page 39, September 29, 1987, (Tape 1), Scheduled case of:

9:30 A.M. PHILIP B., JR. AND LUCY A. HENSHAW, VC 87-M-071, application under Sect. 18-401 of the Zoning Ordinance to allow construction of second story addition to dwelling to 7.2 feet from a side lot line (12 feet minimum side yard required by Sect. 3-307), located at 6250 Diamond Drive, on approximately 13,944 square feet, zoned R-3, Mason District, Tax Map Reference 61-1((7))8. (DEFERRED FROM 8/4/87 TO ALLOW TIME FOR APPLICANT TO FILE A SPECIAL PERMIT APPLICATION)

9:30 A.M. PHILIP B. HENSHAW, JR. AND LUCY A. HENSHAW, SP 87-M-057, application under Sect. 8-901 of the Zoning Ordinance to allow modification to minimum yard requirements based on error in building location to allow attached garage to remain 7.2 ft. from the side lot line (12 ft. min. side yard required by Sect. 3-307) located at 6250 Diamond Drive, on approximately 13,844 square feet of land, zoned R-3, Mason District, Tax Map Ref. 61-1((7))8 (To be heard in conjunction with VC 87-M-071).

Lori Greenliel, Staff Coordinator, presented the staff report. She stated that the applicant is requesting special permit approval to allow an attached garage to remain 7.2 feet from the side lot. In addition, the applicant is requesting a variance to allow a second story addition to the garage.

Mrs. Greenliel outlined the background of the special permit by stating that there had been a discrepancy on the written building permit regarding the type of structure to be built. She stated that in the description portion of the building permit the structure was described as a garage, and in the zoning section on the bottom, where the yards are specified, it was designated as a carport and that was how the yards were determined. She added that when the property was resurveyed for the variance it was found that the original house may have been located incorrectly on the lot, thus the garage was also located incorrectly.

The variance request is to construct a two story addition on top of the garage. She stated that the house on Lot 9, adjacent to the applicant, is located 28 feet from the shared lot line and is set back a similar distance.

Philip B. Henshaw, 6250 Diamond Drive, Falls Church, Virginia, co-applicant, stated that when the garage was constructed in 1966 the plat showed the back of the house to be 27 feet from the rear lot line with the back of the garage to be 10 feet from the rear lot line. However, when the recent survey was done, it was discovered that the original survey was in error and the house was actually closer to the lot line than was indicated. He added that there is only a portion of the garage that does not meet the setback requirements.

Mr. Henshaw explained that many homes in his neighborhood were constructed with a porch and over a period of time those porches have been enclosed. He added that this request would be in harmony with the neighborhood and submitted letters in support into the record.

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

Mr. Hammack made a motion to grant VC 87-M-071 subject to the development conditions contained in Appendix 2 and as he believed that the applicant had presented testimony showing compliance with the standards for a variance and due to the unusual topography of the lot.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-M-057 by PHILIP B. HENSHAW, JR. AND LUCY A. HENSHAW, under Section 8-901 of the Zoning Ordinance to allow modification to minimum yard requirements based on error in building location to allow attached garage to remain 7.2 feet from the side lot line, on property located at 6250 Diamond Drive, Tax Map Reference 61-1((7))8, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 29, 1987; and

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

1. That the applicants are the owners of the land.
2. The present zoning is R-3.
3. The area of the lot is 13,844 square feet of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-903 and 8-914 of the Zoning Ordinance.

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

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

Mrs. Day seconded the motion which carried by a vote of 5-0 with Chairman Smith not present for the vote; Mr. DiGiulian absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on October 7, 1987. This date shall be deemed to be the final approval date of this special permit.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-M-071 by PHILIP B., JR., AND LUCY A. HENSHAW, under Section 18-401 of the Zoning Ordinance to allow construction of second story addition to dwelling to 7.2 feet from a side lot line, on property 6250 Diamond Drive, located at Tax Map Reference 61-1((7))8, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 29, 1987; and

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

1. That the applicants are the owners of the land.
2. The present zoning is R-3.
3. The area of the lot is 13,994 square feet of land.

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

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

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

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

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

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.
4. The addition shall be constructed of red brick as close in color to the existing brick as possible and shall be of similar architectural style as the existing house and garage.

Mrs. Day seconded the motion which carried by a vote of 5-0 with Chairman Smith not present for the vote; and Mr. DiGiulian absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on October 7, 1987. This date shall be deemed to be the final approval date of this variance.

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9:45 A.M. KAREN E. GREMER, VC 87-A-096, application under Sect. 18-401 of the Zoning Ordinance to allow construction of a garage addition to dwelling to 9.5 feet from side lot line (12 ft. min. side yard req. by Sect. 3-307), located at 4317 San Marcos Drive, on approximately 12,108 square feet of land, zoned R-3, Annandale District, Tax Map Reference 57-3((7))353.

Jane Kelsey, Chief of the Board of Zoning Appeals Support Branch, presented the staff report. She stated that the applicant is requesting a variance to the minimum side yard requirements in order to construct an attached one car garage. The garage will be located 9.5 feet from the side lot line, therefore the applicant is requesting a variance of 2.5 feet. In closing, she stated that during research it was noted that a substantial number of variances have not been granted in this area.

Dennis Gremer, 4317 San Marcos Drive, Fairfax, Virginia, co-applicant, stated that the garage would be constructed in such a way so that it would look as though it were a part of the house using similar materials. He added there are no objections from his neighbors and submitted one letter in support into the record.

As there were no speakers to address this issue, Acting Chairman Hyland closed the public hearing.

Mrs. Thonen made a motion to grant VC 87-A-096 as she believed that the applicants had presented testimony showing compliance with the standards for a variance, that the lot has an irregular shape, and that the design is compatible with the exterior of the existing dwelling.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-A-096 by KAREN E. GREMER, under Section 18-401 of the Zoning Ordinance to allow construction of a garage addition to dwelling to 9.5 feet from sidelot line, on property located at 4317 San Marcos Drive, Tax Map Reference 57-3((7))353, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 29, 1987; and

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

1. That the applicant is the co-owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 12,108 square feet of land.

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

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

6. That:

A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or

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

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

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

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

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

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

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

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.
4. The exterior of the addition shall be architecturally compatible with the existing building and shall be similar in color and materials.

Mrs. Day and Mr. Ribble seconded the motion which carried by a vote of 4-0 with Chairman Smith and Mr. Hammack not present for the vote; Mr. DiGiulian absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on October 7, 1987. This date shall be deemed to be the final approval date of this variance.

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The Board took a brief recess at 9:58 A.M. and reconvened at 10:11 A.M. Acting Chairman Hyland called for the next scheduled case.

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Page 43, September 29, 1987, (Tapes 1 and 2), Scheduled case of:

10:00 A.M. MARY ANNE DUFFUS AND THE BROOKFIELD SCHOOL, SP 87-D-051, application under Sect. 3-303 of the Zoning Ordinance to allow a nursery school and child care center, located at 1830 Kirby Road, on approximately 5.0871 acres of land, zoned R-3, Dranesville District, Tax Map Reference 31-3((1))59. (OUT-OF-TURN HEARING GRANTED ON 8/4/87)

Heidi Belofsky, Staff Coordinator, presented the staff report. She pointed out that the application has been amended to include The Brookfield School. She continued by stating that this request is for a child care facility with a maximum of 50 children, 8 employees, with the hours of operation from 7:00 A.M. until 6:00 P.M. The proposed site is bordered on the northeast by a swim and tennis recreational facility, with the remaining boundaries developed with single family detached dwellings. The center will be located in the existing parish hall with no new construction associated with this use other than relocation of the play area and the installation of the required fence. Ms. Belofsky apologized to the Board for the poor readability of the plat and pointed out that the asphalt parking lot for 26 cars shown in the rear of the church, the road widening, and curb along the site frontage do not exist. The plat submitted with the application was an old plat which was difficult to copy for the staff report.

There is a history of drainage and runoff problems from the subject property onto adjacent lot 60A which appears to have been corrected. She added that should these problems reoccur appropriate corrective action should be implemented as determined by the Department of Public Works.

The co-applicant has verbally indicated that the location for the new play area was chosen for the following reasons: 1) proximity to the existing school building, 2) the existing shade trees, and 3) to minimize conflicts with outdoor church activities. Staff does not object to the relocation of the play area as long as it does not adversely impact the surrounding properties, is acceptable to the Health Department, and does not encroach on the 25 foot screening yard.

Ms. Belofsky stated that there are several unresolved transportation issues in this application such as: 1) dedication to 45 feet from the centerline of Kirby Road, 2) construction of a right turn taper and a left turn deceleration lane, and 3) the provision of temporary grading and construction easements. Even though the present traffic volume warrants a four lane highway, she stated that there are no road improvements planned for the next six years

In closing, Ms. Belofsky stated that staff recommends approval of this application if the application can conform with all general and additional standards which can only be done if the approval is subject to the implementation of the development conditions.

In response to questions from the Board, Ms. Belofsky replied that staff is requesting the transportation improvements due to the residential development that has taken place in the area since the original special permit was granted.

Andrew Carroll, attorney with the law firm of Land, Clark, Carroll and Mendelson, 600 Cameron Street, Alexandria, Virginia, represented the applicant. He stated that Ms. Duffus is requesting approval to operate a non-profit nursery school and child care at Saint Dunstan's Church on Kirby Road. In 1960 the Board of Zoning Appeals (BZA) granted a special permit for a school for kindergarten and first grade. In 1964 the BZA granted approval for the school to expand to include second and third grade and to increase the number of students to 90. He pointed out that the applicant plans to limit the enrollment to 50 students and has spent the last three years searching for a suitable site and believes this is an ideal location.

Mary Anne Duffus, 3321 Grass Hill Terrace, Falls Church, Virginia, co-applicant, came forward and outlined her credentials as follows: Bachelors Degree from the University of Richmond in Sociology; Montessori International Diploma from the Washington Montessori Institute; and, Masters Degree in Education from the Catholic University with a speciality in Curriculum Design and Instructional Technology. She stated that for the past seven years she has taught in Montgomery and Fairfax Counties and has administered programs of 120 students with a staff of 15. She has lived in Fairfax County all her life and would like to provide a service for the community. In closing, she stated that the church has welcomed her proposal to operate this day care facility. At this time, Mr. Hyland interjected and told the applicant that the Board was not questioning the need for the child care center nor her qualifications to operate such a facility. He pointed out that the Board does have to consider the land use issues, particularly the transportation issues and asked the applicant if she could address these issues.

Ms. Duffus presented pictures to the Board showing the location of the proposed use and stated that she believes there is adequate sight distance when entering or exiting the site. She explained that Keller Co. had conducted a traffic survey which showed that the increase in traffic volume from the school would be less than one percent as many of the parents who would utilize the school already travel Kirby Road.

In response to questions from Mr. Hyland, Ms. Duffus replied that no more than 25 cars would be turning into the site and there will be staggered hours which will begin at 7:00 A.M. until 9:00 A.M. in the morning and from 3:00 P.M. until 6:00 P.M. in the evening. The McLean Citizens Association's Planning and Zoning Committee voted unanimously in favor of the school and disagreed with staff's recommendation that the school should construct a turn lane. The Association did suggest that a flashing yellow light indicating a 25 mile per hour school zone should be provided. Ms. Duffus pointed out other schools, churches, and businesses that are located within one mile of the proposed site that do not have left turn lanes to access their sites.

Ms. Duffus stated that the play area had been relocated due to the close proximity to the front door of the building and on the side that has windows which will allow staff a better view of the play area. She added that the area has more trees which will provide shade for the children and will alleviate any interference to church activities that may be conducted in an outdoor chapel.



Acting Chairman Hyland called for speakers in support of this application and the following came forward. Hollis Dakin, 3410 Greentree Drive, Falls Church, Virginia, Senior Warden of Saint Dunstan's Church, explained that the church and the applicant had been unaware of concerns that had been expressed until yesterday. He stated that meetings had been held with the citizens in the area and these concerns had not been raised at those meetings.

Chairman Smith arrived during the speaker's testimony and Acting Chairman Hyland relinquished the Chair.

Paul Graling, 1947 Friendship Place, Falls Church, Virginia, told the Board that in her profession as a nurse it is essential that she have a day care which opens very early in the morning. She added that this location is convenient as she will not have to travel with her child a great distance in order to take to her to a day care facility.

Heredith Tonnesen, 111 Commonage Drive, Great Falls, Virginia, and Samuel B. Heller, 6635 Hazel Lane, McLean, Virginia, chose not to speak as the other speakers had addressed the issue of the great need for this facility.

Mr. Carroll pointed out that there is going to a tree planting ceremony that is underway to provide additional screening between the play area and the adjacent properties.

As there were no additional speakers in support of this application, Acting Chairman Hyland called for speakers in opposition to the request and the following came forward: William Lowenbach, 1842 Kirby Road, McLean, Virginia; Richard C. Emrich, 6416 Noble Drive, McLean, Virginia; Marie Sebenius, 6420 Noble Drive, McLean, Virginia; Steve Sebenius, 6420 Noble Drive, McLean, Virginia; James G. Kyle, 1807 Sheridan Court, McLean, Virginia; Jack Morris, 3431 Greentree Drive, Falls Church, Virginia; Janet Gordon Frick, 1909 Birch Road, McLean, Virginia; and Elizabeth Funnell, 1831 Kirby Road, McLean, Virginia.

The citizen opposition was based upon the additional traffic that would impact Kirby Road, the location of the play area, and they did not believe that the applicant had provided them with appropriate information regarding this request.

During rebuttal, Samuel B. Heller, 6635 Hazel Lane, McLean, came forward and stated that he was a Vestryman and Chairman of the Finance with Saint Dunstan's. Mr. Heller stated that he was embarrassed that members of the church had opposed this application as a meeting had been held and there were no questions raised at that meeting nor had he received any calls following that meeting. In closing, Mr. Heller requested that the Board approve this request.

In response to questions from Mr. Hyland, Mr. Heller replied that there is a one year renewal agreement between the school and church. He added that at the end of the year the school will make a contribution towards the operation of the church in the sum of approximately \$12,000.

Chairman Smith explained that this is a common practice for churches that are providing services to the community.

Mr. Heller responded to Mr. Hyland's second question by stating that the terms for renewing the contract have not yet been established due to the rector position of the church being vacant.

During staff's closing comments, Ms. Belofsky clarified that the flashing light referenced by the applicant in her presentation came under the purview of VDOT and that the cost of the flashing light would be borne by the applicant. She noted this for the record as the applicant's objection to providing road improvements was based upon the monetary value of providing these improvements.

In response to questions from Mr. Ribble, Ms. Belofsky replied that staff has no objection to the present location of the playground as it is very well screened. She added that the proposed location is the least wooded on the parcel and it would be difficult to mitigate the noise and the visual impact even with the full implementation of full Transitional Screening 1.

Mrs. Thonen requested that the applicant's agent come forward to respond to questions regarding the care of the children.

Mr. Carroll stated that food will be catered in for the children. In response to further questions from Mrs. Thonen, Ms. Duffus came forward and explained that there is a room available for the children to play in during bad weather and that the bathrooms have been approved by the Health Department.

Mrs. Thonen recommended that the applicant work closely with the church to insure that the room will be available for the children to use as a play area when weather prevents the children from utilizing the outside playground.

As there were no additional comments or speakers, Chairman Smith closed the public hearing.

Mr. Ribble made a motion to grant SP 87-D-051 as he believed that the applicant had presented testimony indicating compliance with the general standards for a special permit and subject to the development conditions with the following modifications: delete numbers 14, 15, 16, and add the following new conditions:

"11. The outdoor play area shall be approximately 4,100 square feet and in the location that presently exists. Revised plats showing the location of the play area must be submitted to staff before the special permit resolution is valid.

15. This special permit is approved for a period of one year."

Mr. Hyland agreed that this case was difficult as he sympathized with the citizens who did not wish to see their neighborhood changed. He stated that he would support the motion and agreed with the one year trial period as he was concerned about the issues that had been raised by the citizens.

Mrs. Thonen commented that she understood the concerns of the senior citizens and stated that she would like to see the applicant work very closely with all the neighbors.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-D-051 by MARY ANNE DUFFUS AND THE BROOKFIELD SCHOOL, under Section 3-303 of the Zoning Ordinance to allow a nursery school and child care center, on property located at 1830 Kirby Road, Tax Map Reference 31-3((1))59, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 29, 1987; and

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

1. That the applicant is the lessee.
2. The present zoning is R-3.
3. The area of the lot is 5.0871 acres of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-303 and 8-305 of the Zoning Ordinance.

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

1. This approval is granted to the applicants only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.

5. The hours operation shall be limited to 7:00 a.m. to 6:00 p.m., Monday through Friday.
6. The maximum daily enrollment shall be fifty (50) children.
7. There shall be a maximum of eight (8) employees on site at any one time.
8. The existing parking spaces, including handicap spaces, shall be used to satisfy the required ten (10) parking spaces. All parking shall be on site.
9. Existing vegetation shall be used to satisfy the required Transitional Screening 1 along all lot lines. Additional plantings shall be provided between the play area and the adjacent residential properties. The amount, type, and size of the plantings shall be approved by the County Arborist and shall serve to minimize the potential for adverse impact on adjacent properties.
10. The existing fencing shall fulfill the barrier requirement provided the outdoor play area is fenced.
11. The outdoor play area shall be approximately 4,100 square feet and in the location that presently exists. Revised plats showing the location of the play area must be submitted to staff before the special permit resolution is valid.
12. Any sign erected on the property shall conform to Article 12, of the Zoning Ordinance.
13. Plantings shall be provided around the parking lots so as to improve the visual appearance of the parking lots. The amount, type and size of the planting shall be subject to the approval of the County Arborist.
14. This use shall be served by public sewer and water. All existing septic facilities shall be permanently capped.
15. This special permit is approved for a period of one year.

The above noted Development Conditions incorporate all Development Conditions from all previous Special Permits on the application property.

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

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

Mr. Hyland seconded the motion which carried by a vote of 6-0 with Mr. DiGiulian absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on October 7, 1987. This date shall be deemed to be the final approval date of this special permit.

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Mrs. Thonen made a motion to go into Executive Session in order to discuss legal matters at 11:50 A.M. The Board reconvened at 12:18 P.M. and proceeded with the next scheduled case.

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10:15 A.M. WILLIAM C. SANTMAN AND JUDITH G. SANTMAN, VC 87-P-094, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed Parcel A having a lot width of 146.4 feet and proposed Parcel B having a lot width of 63.5 feet (150 ft. min. lot width req. by Sect. 3-106), located at 2819 Hunter Mill Road, on approximately 2.0888 acres of land, zoned R-1, Providence District, Tax Map Reference 47-2((1))12A.

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report. She stated that the applicant wishes to subdivide a lot into two and in order to accomplish the proposed subdivision a variance is required for both lots. The major concerns with this application is that the applicant is proposing to access Parcel A off Hunter Mill Road and the Office of Transportation is suggesting that access be off Remington Road. In closing, she stated that staff does not believe the applicant meets the standards for a variance as they do have reasonable use of the land without subdivision, but if it is the Board's intent to approve this application staff suggests that access for both lots be off Remington Road.

James Conroy, P.O. Box 297, Fairfax, Virginia, attorney for the applicant, distributed photographs to the Board showing the area surrounding the subject property. He stated that the applicants have lived on this property since 1972 and while their children were young the back lot was used for horses. He added that several of the surrounding lots have been purchased by RJL Associates and are presently being developed. The applicants have negotiated with RJL Associates to purchase Outlot Z which has approximately 63 feet of road frontage on Remington Road with public sewer and water. In conclusion, Mr. Conroy pointed out that the applicants have dedicated a 10 foot permanent easement which is now black topped and disagreed with staff's recommendation regarding both lots having access onto Remington Road.

Mrs. Hamblin-Katnik pointed out that dedication which is required by the Office of Transportation has not yet occurred as shown on the plat.

In response to comments from the Board, Ms. Hamblin-Katnik replied that the dedication would be for the widening of Hunter Mill Road.

A discussion took place among the Board and staff regarding staff's recommendation not to allow access on to Hunter Mill Road. Mrs. Hamblin-Katnik informed the Board that this is a new subdivision and new subdivisions in that area do not have access onto Hunter Mill Road. Jane Kelsey, Chief of the Board of Zoning Appeals Support Branch, stated that staff is trying to implement good transportation planning when preparing staff reports and pointed out that the applicant does have reasonable use of the land.

Mr. Conroy explained that the new house that would be built on Parcel B would access onto Remington Road and that only Parcel A would access onto Hunter Mill Road which it does at present.

Mrs. Hamblin-Katnik agreed that when this area was rezoned and subdivided in 1984 this parcel was not included in that application. However, she added that this outlot was specifically required to be provided adjacent to this property so that this property would be accessed other than from Hunter Mill Road.

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

Mrs. Day asked Mr. Conroy if the applicant agreed with the 45 foot dedication that staff is recommending. Mr. Conroy replied that he believes that the 10 foot permanent easement that has already been given plus another 15 feet will be only 8 feet short of what staff is requesting. If any additional land is required, he stated that he believed this could be addressed at the time Hunter Mill Road is widened.

Mrs. Day made a motion to grant VC 87-P-094 as she believed that the applicants have presented testimony showing compliance with the standards for a variance and subject to the development conditions contained in the staff report with the following modifications:

3. Lot A will continue to use the driveway for access to Hunter Mill Road.
4. Lot B will have access to Remington Road.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-P-094 by WILLIAM C. SANTMAN AND JUDITH G. SANTMAN, under Section 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed

Parcel A having a lot width of 146.64 feet and proposed Parcel B having a lot width of 63.51 feet, on property located at 2819 Hunter Mill Road, Tax Map Reference 47-2(1)12A, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 29, 1987; and

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

1. That the applicants are the owners of the land.
2. The present zoning is R-1.
3. The area of the lot is 2.0888 acres of land.

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

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

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

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

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

1. This variance is approved for the subdivision of one lot into two lots as shown on the plat submitted with this application.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless this subdivision has been recorded among the land records of Fairfax County, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. Lot A will continue to use the driveway for access to Hunter Mill Road.

4. Lot B will have access to Remington Road.
5. The driveways to the proposed lots shall be constructed in accordance with the Public Facilities Manual.
6. The applicant shall work with the County Arborist to determine the boundaries for tree clearance and shall develop a plan to preserve and protect existing trees. The plan shall be submitted to the County Arborist for approval prior to the submission of a grading plan or the undertaking of any site clearance activity.
7. Environmental studies, if determined necessary by the Director, Department of Environmental Management, shall be completed prior to application for a building permit or the undertaking of any site clearance or construction activity.

Mr. Hammack seconded the motion which carried by a vote of 4-1 with Chairman Smith voting nay; Mrs. Thonen not present for the vote; Mr. DiGiulian absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on October 7, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 50, September 29, 1987, (Tape 3), Scheduled case of:

10:30 A.M. McLEAN CHILDREN'S ACADEMY, INC., SPR 82-D-083-1, application under Sect. 3-303 of the Zoning Ordinance to renew S-82-D-083 for nursery school and child care center to permit continuation of use without term, located at 6900 Elm Street, on approximately 10,390 square feet of land, zoned R-3, Dranesville District, Tax Map Reference 30-2(5)3.

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report and stated that staff cannot recommend approval of this application for the following reasons: transitional screening is meager to non-existent, the parking is inadequate and there is insufficient room to provide additional legal parking spaces, the lot is substandard and there is no room to provide additional plantings required by the Zoning Ordinance, and the buildings upon the lot do not have the minimum required yards for the district.

In response to questions from the Board, Mrs. Hamblin-Katnik stated that this use has been in operation since 1981 and the applicant is requesting special permit approval without term. She added that the applicant has volunteered the information that she has had a greater number of children enrolled in the center other than was approved in the special permit.

Jane Kelsey, Chief of the Board of Zoning Appeals Support Branch, stated that she had been involved in the original permit and had not been aware that the applicant had an enrollment in the excess of 30 children. She pointed out that the review of the application was based upon the number of children as submitted by the applicant.

John W. Farrell, attorney with the law firm of Odin, Feldman & Pittleman, P.C., 10505 Judicial Drive, Suite 300, Fairfax, Virginia, represented the applicant. Mr. Farrell stated that the special permit was initially granted by the Board on November 3, 1981 and at that time the Zoning Ordinance used the same standards as the Health Department for setting the limit for the total number of children on site at any one time. He explained that when the Zoning Ordinance was amended in 1982 the word "daily" was inserted into the language which governed day care centers. Mr. Farrell outlined the history of the special permit as follows: 1) approximately one month after the Zoning Ordinance amendment was adopted, Mrs. Shumway came back before the Board to change the name of the holder of the original special permit from herself personally to the corporation that she has established to run the day care center, and at that time the word "daily" was not inserted, 2) in 1984 she came before the Board again to request an increase in the maximum number of children per day from 30 to 45 and the Board denied the request, 3) on February 12, 1985, she requested approval to use the existing block building as part of her day care center which was granted with the inclusion of the word "daily" into the development condition language. As this was found to be unacceptable, the applicant did not utilize the building and therefore the permit expired on August 12, 1986. In closing, Mr. Farrell stated that the applicant was before the Board with this application to request renewal of the original special permit without term.

Mr. Hyland requested a clarification regarding the number of students. He stated that he had been under the impression that the number referenced by the applicant was the total number of students who would be enrolled in the school. He pointed out that this was a very important issue due to staff's research being based on this figure.

Mr. Farrell stated that the applicant had made a request to expand the school by requesting an increase in the number of students on site at any one time. He pointed out that by computing on a daily basis the number of students who utilize school buses, carpools, van pools, and those who walk to school, the number of vehicle trips per day average out to be the same as if only 30 students attended the school.

In response to a questions from Mr. Hyland, Mr. Farrell stated that the school is presently operating under the original special permit with two year extensions being granted by the Zoning Administrator's office.

Mrs. Hamblin-Katnik quoted the following from the Minutes of the previous public hearing, "Mrs. Shumway stated that she was requesting a capacity of 30 children which was approved by the State; however, she stated that she anticipated having between 15 and 20 children at any one time."

Following Mrs. Hamblin-Katnik's comments, Mr. Farrell continued his presentation by stating that this is not strictly a residential neighborhood as it is surrounded by a library, park, and a community center. He asked that this request be granted with development condition #14 being deleted.

Barbara Shumway, 7122 Old Dominion Drive, McLean, Virginia, Director of the school, came forward and explained that her previous request was to expand the number of students to 45. She added that the initial purpose for making that application was to be able to utilize the block building that exists on the site. She pointed out that the Minutes did not reflect a discussion which took place at the last public hearing concerning the number of students who could be enrolled at the school. With regard to staff's transportation concerns, Mrs. Shumway stated that some of the students were brought to the school by a County school bus and carpools and generated no more than 160 vehicle trips per day. In closing, Mrs. Shumway stated that the land use is the same as when the original permit was issued and requested that the school be allowed to continue without term.

A discussion took place among the Board and staff regarding day care centers being allowed to stagger shifts throughout the day in which children can arrive and leave the schools. Ms. Kelsey explained that the Zoning Ordinance speaks to this issue as the number being the maximum daily enrollment in order that the traffic impact could be established. She stated that if the number of students is more than 99 then the application becomes a Special Exception and is heard by the Board of Supervisors.

At this time Chairman Smith called for speakers in support of this application and the following came forward. Martha Galvin, 6902 Lemon Road, McLean, Virginia, stated that she was employed by the school and was very impressed with the care that the children received while at school. She added that she would be sorry to see the school close.

Willard Roberts, 6140 Tompkins Drive, McLean, Virginia, told the Board that his daughter attended the school, therefore he is very interested in seeing the school continue. He stated that he believes that this is a wonderful location for a school and that he is not aware of any traffic problems.

Martha Kendall DeSpencer, 7904 Fox Hound Road, McLean, Virginia, stated that she has two children who attend the school and as she is a physician she travels back and forth to the school at different times during the day. She stated that she has not encountered any difficulty with the traffic.

Beth Alvarez, 1201 Colonial Road, McLean, Virginia, spoke in support of the school and stated that she believes this is a excellent location as it is located close to the library, the park, and in a residential area.

Michael Dennis, 1175 Huntover Court, stated that he has no problem either when dropping off or picking up his children from the school.

As there were no additional speakers in support of this application nor any speakers in opposition to the request, Mr. Farrell commented on the Minutes of the 1981 public hearing by stating that there was no reference to the number of children at any one. He added that the applicant's special permit was issued prior to the time when the County began analyzing day care centers based upon criteria that would determine the number of children at the school at any one time.

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

Mr. Hammack moved to grant SPR 82-D-083-1 as he believed that the applicant had presented testimony showing compliance with the standards for a special permit, and that there are no objections from the citizens in the area. The approval was subject to the development conditions contained in the staff report with the following modification:

"14. The term of the special permit shall be five (5) years. The applicant is counseled to seek an alternate site as this amendment shall expire September 29, 1992, and shall not be renewed."

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Renewal Application SPR 82-D-083-1 by McLEAN CHILDREN'S ACADEMY, INC., under Section 3-303 of the Zoning Ordinance to renew S-82-D-083 for nursery school and child care center to permit continuation of use without term, on property located at 6900 Elm Street, Tax Map Reference 30-2((5))3, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 29, 1987; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 10,390 square feet of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-303 and 8-305 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The maximum daily enrollment shall be 60 and the maximum number of students on site at any one time shall be 30.
6. The maximum hours of operation shall be 8:00 a.m. to 6:00 p.m., five days a week.
7. There shall be a maximum number of four (4) employees on site at any one time.
8. The three (3) parking spaces located in the driveway shall be reserved for employees only. An area shall be reserved to provide adequate turning movements in the vicinity of the turnaround area.
9. A turnaround, 12 feet wide and a minimum of 18 feet long shall be provided to the east of the existing driveway. Approval for a gravel surface shall be requested in accordance with Sect. 11-102 of the Zoning Ordinance from the Director, Department of Environmental Management (DEM).





In response to questions from Mr. Hyland regarding the applicant being informed of the violation during construction, Mr. Cake replied that the applicant had obtained a building permit and that the addition had passed several inspections, including a final inspection.

Mrs. Greenleaf clarified for the record that a Zoning Inspector did visit the site and informed the applicant that the trenches were dug too close to the side lot line. She added that subsequent inspections were conducted by Building Inspectors who look for structural soundness but do not take measurements to determine if the required yards are being met.

At this time Mrs. Greenleaf introduced Joe Bertoni, Chief Building Inspector with the Department of Environmental Management, and Paul McAdam, Senior Inspector of the Zoning Administration Division, who were present to respond to questions from the Board.

Mr. Bertoni outlined the inspection background as follows: 1) a building permit was issued on December 7, 1984 for the construction of a 26 feet by 42 feet garage, 2) on December 14, 1984 an inspection was conducted by a professional engineer, hired by the property owner, who approved the inspection, 3) on January 2, 1985 a second inspection was conducted by a professional engineer to approve the slab, 4) the first Building Inspector visited the site on February 11, 1985 for a framing inspection and the inspection was denied, 5) the framing inspection was subsequently approved on February 15, 1985, 6) the plumbing permit was finalized on April 22, 1987, and 7) the final inspection was approved on March 6, 1985. He added that as of today an electrical permit has not been finalized.

Chairman Smith questioned Mr. Bertoni as to why the electrical permit had not been finalized. Mr. Bertoni replied that he had no knowledge as to why this inspection had not taken place.

In response to allegations from the citizens regarding concrete being delivered in the middle of the night, Mr. Cake stated that the applicant was living on the property at the time of the pouring of the concrete and there had been no deliveries during the night.

Ms. Kelsey pointed out that the applicant's responses from the audience was not being recorded. Chairman Smith asked Mr. Campbell to come forward to the podium and speak into the mike in order that his comments could be recorded.

Herbert J. Campbell, 805 Airline Parkway, Manassas, Virginia, stated that Clearwater Concrete made the deliveries at approximately 11:00 A.M. and no night deliveries. He added that when a Zoning Inspector first visited the site the trench had been dug and it was pointed out that the trench was located too close to the side lot line and the trench was moved back 5 feet.

In response to questions from Mr. Hammack, Mr. McAdam stated that when Stanley Manolis, Zoning Inspector, visited the site on December 14, 1984 in response to a complaint, the trench was being dug too close to the side lot line. The Zoning Inspector measured the distance and informed Mr. Campbell that he was infringing upon the 15 foot setback. He added that at the time of the inspection only a trench had been dug and no concrete had been poured.

Mrs. Day pointed out that the Board is in receipt of a letter stating that within hours after the Zoning Inspector had left the property the applicant had concrete poured and rows of cinder block constructed. Mr. McAdams stated that Mr. Manolis had informed the applicant that he could apply for a variance if he wished to construct the addition in the location where the trench was dug. On December 17, 1986, the applicant met with Donald Smith of the Permit Plan Review Branch to discuss the possibility that he might need to apply for a variance.

Mr. Hammack asked staff to clarify that the modification requested was 1.9 feet from the minimum side yard requirement. Mrs. Greenleaf stated that was correct.

Mrs. Day asked why the applicant believed that he had the right to extend the addition into the front yard. Mr. Cake explained to the Board that the addition extended into the front yard by 5 feet to allow for the stoop which is on the rear of the house.

Ms. Kelsey stated that there is no building permit amendment which gave the applicant permission to extend into the front yard by 5 feet.

There were no speakers to speak in support of this application, therefore Chairman Smith called for speakers in opposition and the following came forward: John Leeper, 4601 Brasburn Drive, Fairfax, Virginia, President of the Rutherford Civic Association; Jack Shepherd, 4618 Guinea Road, Fairfax, Virginia; Shelley Larson, 4648 Guinea Road, Fairfax Virginia; and, Bernard Larson, 4628 Guinea Road, Fairfax, Virginia.

The citizen opposition was based on the addition not being in harmony with the surrounding neighborhood and that the applicant did not act in good faith.

During rebuttal, Mr. Cake stated that the applicant had acted in good faith and requested that the application be granted.

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

Mrs. Day made a motion to deny this application as she did not believe that the applicant had acted in good faith.

Mr. Hammack stated that he would support the motion as he agreed with Mrs. Day's comments and as he believed that the size of the addition was too overwhelming for the neighborhood.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-A-041 by HERBERT J. CAMPBELL, under Section 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow addition to dwelling to remain 13.1 feet from side lot line, on property located at 4624 Guinea Road, Tax Map Reference 69-2((6))42, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 29, 1987; and

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

1. That the applicant is the father of the property owner.
2. The present zoning is R-2.
3. The area of the lot is 20,013 square feet of land.

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

THAT the applicant has not presented testimony indicating compliance with the general standards for Special Permit Uses and the additional standards for this use as contained in Sections 8-903 and 8-914 of the Zoning Ordinance.

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

Mr. Hammack seconded the motion which FAILED by a vote of 2-3 with Messrs. Hyland, Ribble, and Smith voting nay; Mrs. Thonen not present for the vote; and Mr. DiGiulian absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on.

The applicant's attorney requested a waiver of the 12-month limitation for filing a new application which the Board granted by a 4-1 vote with Mrs. Day voting nay; Mrs. Thonen not present for the vote; and Mr. DiGiulian absent from the meeting.

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Page 55, September 29, 1987, (Tapes 4), Scheduled case of:

11:00 A.M. SYDENSTRICKER UNITED METHODIST CHURCH, SPA 78-S-264-3, application under Sect. 3-103 of the Zoning Ordinance to amend S 264-78 for church and related facilities to permit building and parking additions, nursery school and child care center, located at 8508 Hooes Road, on approximately 4.9075 acres of land, zoned R-1, Springfield District, Tax Map Reference 89-3((1))15.

Heidi Belofsky, Staff Coordinator, presented the staff report and stated that the applicant is requesting an amendment to the original permit in order to construct an addition, a nursery school and child care center, and add an additional 15 parking spaces. She added that the seating capacity of the church will remain at 300, an existing modular unit will be removed following completion of the new addition, the addition will be architectural compatible with the existing church, and the Floor Area

Ratio (FAR) will be within the allowable limit of 0.15. In closing, she stated that staff recommends approval of SPA 78-S-264-3 subject to the implementation of the development conditions contained in the staff report.

In response to questions from the Board, Ms. Belofsky replied that the trail has not been completed and technically the church is in violation. She noted that the Department of Environmental Management has indicated that they will defer construction of the trail until such time as the plans for Springfield Bypass has been finalized and construction underway.

Edward Wright, 8521 Hooes Road, Springfield, Virginia, pastor of the church, came forward and told the Board that he agreed with the development conditions as recommended by staff.

Mr. Hyland and Mrs. Day commended the applicant for his willingness to comply with the development conditions.

Chairman Smith stated that the church has always been cooperative and expressed his appreciation.

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

Mr. Hyland made a motion to grant this application subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 78-S-264-3 by SYDENSTRICKER UNITED METHODIST CHURCH, under Section 3-103 of the Zoning Ordinance to allow building and parking additions, nursery school and child care center, on property located at 8508 Hooes Road, Tax Map Reference 89-3((1))15, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 29, 1987; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 4.9075 acres of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-303 and 8-305 of the Zoning Ordinance.

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

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

3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. Existing vegetation shall be retained and used to satisfy the transitional screening requirement. Existing vegetation shall remain undisturbed except that removal shall be permitted to accommodate construction of the new addition and any required utility work. The requirement for a barrier shall be waived.
6. The seating capacity in the main worship area shall remain unchanged at 300 seats.
7. There shall be a maximum of 115 parking spaces provided as shown on the plat and all parking shall be on-site.
8. There shall be no church related parking in the driveway adjacent to the structure used for the Sunday School rooms. This driveway shall be for the use of the parsonage only.
9. All signs on the property shall conform with Article 12 of the Zoning Ordinance.
10. Right-of-way to 30 feet from centerline of Hooes Road and to 45 feet from centerline of Sydenstricker Road along the entire property frontage necessary for public street purposes shall be dedicated and shall convey to the Board of Supervisors in fee simple upon thirty (30) days notice.
11. Temporary grading, construction, and slope easements shall be provided along Sydenstricker Road and Hooes Road frontages to facilitate road improvements.
12. A six foot wide type I trail shall be provided along the southwest side of Sydenstricker Road and along the frontage of Hooes Road for the entire frontage of the property. Construction may be deferred at the discretion of the Director of the Department of Environmental Management (DEM).
13. The applicant shall take all necessary actions to correct any drainage deficiencies as determined by the Director, DEM.
14. The applicant shall perform maintenance on the existing drainage and detention facilities as follows: that it shall clean out sediment and debris from the six foot detention pond and swale behind Lot 122 and that it should cut weeds and remove cuttings from the pond between Lots 123 and 124 and that this maintenance function shall be performed annually or as often as required in order to minimize the off-site drainage impact.
15. The maximum daily enrollment of the nursery school and child care program shall be forty-five (45) children.
16. The maximum number of staff persons associated with the nursery school/child care program shall be seven (7).
17. Health Department approval shall be obtained prior to the commencement of the nursery school/child care program.
18. The hours of operation for the nursery school/child care center program shall be limited to 8:30 a.m. to 12:00 noon, Monday through Friday.
19. The existing modular unit shall be removed from the property within sixty (60) days following completion of the addition.
20. Variance approval shall be obtained to allow the existing dwelling to remain within the minimum required front yard or the dwelling shall be relocated outside the minimum required front yard or shall be removed. The applicant shall select one of the alternatives and shall notify the Board of Zoning Appeals in writing of the selection within sixty (60) days following the transfer of the property to be dedicated for public street purposes.
21. Non-Residential Use Permit for the modular unit shall be obtained within thirty (30) days of the Board of Zoning Appeals approval of SPA 78-S-264-3.

These conditions incorporate all conditions of the previously approved special permits.

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

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

Mr. Ribble seconded the motion which carried by a vote of 5-0 with Mrs. Thonen not present for the vote; Mr. DiGiulian absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on October 7, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 58, September 29, 1987, (Tapes 4 and 5), Scheduled case of:

11:10 A.M. GARY J. ALLEY, VC 87-L-092, application under Sect. 18-401 of the Zoning Ordinance to allow construction of 12 foot high detached garage in a front yard on a corner lot and 11.2 feet from the side lot line (accessory structure not permitted in any front yard, and side yard of 20 feet required by Sect. 10-104), located at 7100 Constantine Avenue, on approx. 29,938 square feet, zoned R-1, Lee District, Tax Map 90-1((12))28. (DEFERRED FROM 9/10/87)

Kevin Guinaw, Staff Coordinator, presented the staff report. He stated that the property is located on the west side of Constantine Avenue at its intersection with Hooes Road and is surrounded by R-1 and R-8 zoning. The applicant is requesting a variance in order to allow construction of a detached garage in the front yard on a corner lot.

Gary Alley, 7100 Constantine Avenue, Springfield, Virginia, applicant, came forward and stated that he believes the close proximity of the Springfield Bypass places his property in an unique position.

Mr. Ribble interjected that he had read the staff report, that he believes that the applicant does have an extraordinary situation, and that he had every intention of making a motion to grant this application.

Chairman Smith questioned why the garage could not be located some other place on the property. Mr. Alley stated that the only other location would be the rear where there is an existing deck.

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

Mr. Ribble made a motion to grant this VC 87-L-092 subject to the development conditions contained in the staff report and as he believed that the application has met the standards for a variance, especially F and G.

Mrs. Day stated that she would support the motion as she believed this is an unusual hardship due to the Springfield Bypass.

Chairman Smith stated that the garage could be constructed in another location on the property therefore he could not support the motion.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-L-092 by GARY J. ALLEY, under Section 18-401 of the Zoning Ordinance to allow construction of 12 foot high detached garage in a front yard on a corner lot and 11.2 feet from the side lot line, on property located at 7100 Constantine Avenue, Tax Map Reference 90-1((12))28, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 29, 1987; and

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

- 1. That the applicant is the owner of the land.
- 2. The present zoning is R-1.
- 3. The area of the lot is 29,938 square feet of land.

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

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

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

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

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

- 1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
- 2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
- 3. A Building Permit shall be obtained prior to any construction.

Mr. Hyland seconded the motion which carried by a vote of 4-1 with Chairman Smith voting nay; Mrs. Thonen not present for the vote; Mr. DiGiulian absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on October 7, 1987. This date shall be deemed to be the final approval date of this variance.

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60  
Page 60, September 29, 1987, (Tape 5), After Agenda Item:

McLean Hamlet Swim Club, SPA 74-D-037-1  
Out-of-Turn Hearing

Mr. Hammack made a motion to deny the request for an out-of-turn-hearing for the McLean Hamlet Swim Club. Mr. Hyland seconded the motion which carried by a vote of 5-0 with Mrs. Thonen not present for the vote; Mr. DiGiulian absent from the meeting.

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Page 60, September 29, 1987, (Tape 5), After Agenda Item:

Greater Little Zion Baptist Church, SP 86-A-007  
Additional Time

Mr. Hyland made a motion to grant an additional time to the applicant of SP 86-A-007. Mr. Ribble seconded the motion which carried by a vote of 5-0 with Mrs. Thonen not present for the vote; Mr. DiGiulian absent from the meeting. The new expiration date will be October 26, 1988.

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Page 60, September 29, 1987, (Tape 5), After Agenda Item:

College Town Association, SP 87-S-068  
Out-of-Turn Hearing

Jane Kelsey, Chief of the Board of Zoning Appeals Support Branch, informed the Board that upon the applicant learning that the Board of Supervisors could not hear their special exception application for a day care center with more than 100 children until after January, the applicant then filed an application for a Special Permit for a child care center with less than 100 children. Mr. Hyland made a motion to deny SP 87-S-068. Mr. Ribble seconded the motion which carried by a vote of 5-0 with Mrs. Thonen not present for the vote; Mr. DiGiulian absent from the meeting. The public hearing is tentatively scheduled December 15, 1987.

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Page 60, September 29, 1987, (Tape 5) After Agenda Item:

Ruth LoBianco, SP 87-S-067  
Out-of-Turn Hearing

Mr. Hyland made a motion to grant the applicant of SP-87-S-067 an out-of-turn hearing. Mr. Ribble seconded the motion which carried by a vote of 5-0 with Mrs. Thonen not present for the vote; Mr. DiGiulian absent from the meeting. The public hearing was scheduled for November 5, 1987 as suggested by staff.

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Page 60, September 29, 1987, (Tape 5), After Agenda Item:

Approval of September 22, 1987 Resolutions

Mr. Hyland moved to approve the Resolutions for September 22, 1987 as submitted. and hearing no objection the Board so moved. Mrs. Thonen was not present for the vote and Mr. DiGiulian was absent from the meeting.

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Page 60, September 29, 1987, (Tape 5), After Agenda Item:

Mr. Hammack made a motion to accept the Minutes of July 28, 1987 as submitted. Mr. Ribble seconded the motion which carried by a vote of 5-0 with Mrs. Thonen not present for the vote and Mr. DiGiulian absent from the meeting.

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As there was no other business to come before the Board, the meeting was adjourned at 9:45 A.M.

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

  
Daniel Smith, Chairman  
Board of Zoning Appeals

SUBMITTED: 12/1/87

APPROVED: 12/8/87



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

Due to Chairman Smith and Vice Chairman DiGiulian's absence at the beginning of the meeting, Mrs. Thonen moved to make Paul Hammack the acting Chairman of the Board with Mrs. Day seconding the motion which passed unanimously. Acting Chairman Hammack opened the meeting at 9:53 a.m. and Mrs. Day led the prayer.

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Page 66, October 6, 1987, (Tape 1), Scheduled case of:

9:00 A.M. W. BELL & COMPANY INC., SP 86-M-069, application under Sect. 8-901 of the Zoning Ordinance to allow additional sign area in a regional shopping center, located at 6201 Arlington Blvd., on approx. 1,260 square feet, zoned C-7, S-C, and H-C, Mason District, Tax Map 51-3(1)29. (DEF. FROM 3/3/87, 5/12/87 & 6/23/87)

Kevin Guinaw, Staff Coordinator, presented a letter from the applicant requesting that SP 86-M-069 be withdrawn.

Mrs. Thonen moved to grant the request that SP 86-M-069 be withdrawn with Mr. Ribble seconding the motion. The motion passed by a vote of 4-0 with Chairman Smith, Messrs. DiGiulian and Hyland not present for the vote.

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Page 67, October 6, 1987, (Tape 1), Scheduled case of:

9:20 A.M. CHRIST FELLOWSHIP MINISTRIES, INCORPORATED, SP 87-P-003, application under Sect. 3-103 of the Zoning Ordinance to allow church and related facilities with modification of the dustless surface requirement, located at 2821 Chain Bridge Road, on approx. 1.09331 acres, zoned R-1, Providence District, Tax Map Reference 48-1(1)29. (DEFERRED FROM 5/12/87 AND 6/23/87)

9:20 A.M. CHRIST FELLOWSHIP MINISTRIES, INC., VC 87-P-028, application under Sect. 18-401 of the Zoning Ordinance to allow church and related facilities in building which are 5.9 ft. and 7.5 ft. respectively from side lot lines (20 ft. min. side yard req. by Sects. 3-107 and 8-303) located at 2821 Chain Bridge Road on 1.09331 acres, zoned R-1, Providence District, Tax Map Reference 48-1(1)29. (DEFERRED FROM 5/12/87 AND 6/23/87)

Kevin Guinaw, Staff Coordinator, presented a letter from the applicant's attorney, Mr. Randall Minchew, requesting that Special Permit Application, SP 87-P-003 and Variance Application, VC 87-P-028 be withdrawn.

Mrs. Day moved to grant the request that SP 87-P-003 and VC 87-P-028 be withdrawn with Mr. Ribble seconding the motion. The motion passed with a vote of 4-0 with Chairman Smith, Messrs. DiGiulian and Hyland not present for the vote.

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Page 68, October 6, 1987, (Tape 1), Scheduled case of:

9:40 A.M. RANDY AND KAREN STEIN, SP 87-S-038, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow 11 foot high pool enclosure to remain 10.7 feet from side lot line (20 ft. min. side yard req. by Sects. 3-C07 and 10-104), located at 5911 Innisvale Drive, on approx. 25,682 square feet, zoned R-C & WSP0D, Springfield District, Tax Map 76-2(6)5. (DEF. FROM 7/23/87 - NOTICES NOT IN ORDER)

Kevin Guinaw, Staff Coordinator, presented a letter from the applicants attorney, John L. Fagleson, requesting that SP 87-S-038 be withdrawn. The letter stated that the applicants intend to bring the pool cover into compliance, and therefore do not have a need for the special permit.

Mrs. Thonen moved to grant the request that SP 87-S-038 be withdrawn since there is no longer a need for the special permit. Mr. Ribble seconded the motion which passed with a vote of 4-0 with Chairman Smith, Messrs. DiGiulian and Hyland not present for the vote.

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Mr. DiGiulian arrived at 10:00 a.m. and Mr. Hyland arrived at 10:08 a.m.

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62  
Page 62, October 6, 1987, (Tape 1), Scheduled case of:

9:40 A.M. IMMANUEL PRESBYTERIAN CHURCH, SPA 79-D-037-1, application under Sect. 3-103 of the Zoning Ordinance to amend S-37-79 for a church and related facilities to permit new entrance and modifications and additions to driveway and parking lot, additional parking and modification of the dustless surface requirements, on property located at 888 Dolley Madison Boulevard, on approx. 5.834 acres, zoned R-1, Dranesville District, Tax Map 31-2((1))4A. (DEFERRED FROM 9/10/87)

Kevin Guinaw, Staff Coordinator, presented the staff report. Mr. Guinaw noted that there were several letters in opposition received in referenced to the above application. He also stated that a Special Permit was granted to the Church in 1979 for a church and related facilities and a Special Exception was approved by the Board of Supervisors on June 3, 1985 to operate a school of special education and nursery school.

Gordon Nash, 1906 Miracle Lane, Falls Church, Virginia, agent for the applicant, stated that the church has reduced their parking from 131 to 122 parking spaces. He also stated that the overall look of their design was taken into consideration with the impact it would have on the neighborhood, and they wanted to preserve as many trees as possible. Mr. Nash commented that the church was willing to conform with the majority of the Development Conditions.

Mr. William Metcalf, member of the Immanuel Presbyterian Church and resident of the Immanuel area, agent for the applicant, stated that the entrance for the church is to be relocated on Dolley Madison Boulevard. He stated that the church would provide transitional screening around this area of the entrance and parking area, and that this entrance is the best possible place to be relocated.

John Kenney, 1029 Savile Lane, McLean, Virginia; Phillip Tierney, 114 Savile Lane, McLean, Virginia; Mrs. Alexander Haig, 6041 Crimson Court, McLean, Virginia; Mrs. Danielle Schwarz, 1009 Savile Lane, McLean, Virginia; Mrs. Smirniotopoulos, 6033 Crimson Court, McLean, Virginia; Mrs. Kilcullen, 1110 Savile Lane, McLean, Virginia; Mrs. Peters, 1109 Savile Lane, McLean, Virginia; Mrs. Buckley, 1107 Savile Lane, McLean, Virginia; Mr. and Mrs. Cooper, 6037 Crimson Court, McLean, Virginia; Mr. H. Sterret, 1027 Savile Lane, McLean, Virginia; and Mr. W. Newmyer, 1033 Savile Lane, McLean, Virginia, spoke in opposition to the application of Immanuel Presbyterian Church.

In summary, the three main concerns presented to the Board by the speakers involving the application by Immanuel Presbyterian were the danger of increased traffic, the screening that would be removed with the new entrance, and the problem of parking on Savile Lane.

In rebuttal, Mr. Nash stated that the neighbors and his clients were at a standstill in working out their differences.

Mrs. Thonen made the motion to defer the application for Immanuel Presbyterian until January 12, 1988 at 9:00 a.m. in order to give the applicant and the citizens time to meet and negotiate their differences on issues associated with the application. Mr. DiGiulian seconded the motion which passed 6-0, with Chairman Smith not present for the vote.

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Chairman Smith arrived at 10:55 a.m. and Acting Chairman Hammack turned the Chair over to Chairman Smith.

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Page 62, October 6, 1987, (Tape 1), Scheduled case of:

9:50 A.M. JULIE A. KEPLINGER, SP 87-D-027, application under Sect. 8-901 of the Zoning Ordinance to allow waiver of dustless surface requirement for a plant nursery, located at 10618 Leesburg Pike, on approx. 3.462 acres, zoned R-1, Dranesville District, Tax Map 12-3((1))11. (TO BE HEARD CONCURRENT WITH SE 87-D-029)

Kevin Guinaw, Staff Coordinator, stated that a letter from the applicant had been received requesting an indefinite deferral. The applicant also has an application for a Special Exception to be heard before the Board of Supervisors. The applicant has asked for a deferral of both applications in order to negotiate with the adjacent property owners concerning some of the issues raised by staff. The Special Exception is not on the agenda for the Board of Supervisors and the Special Permit is to be heard concurrent with the Special Exception. Thus, the applicant is requesting an indefinite deferral.

Mr. Hammack made the motion to defer the application for Julie Keplinger to March 8, 1988 at 10:00 a.m. in order for the Special Permit and Special Exception to be heard concurrently. Mr. DiGiulian seconded the motion which passed with a vote of 5-0 with Mr. Ribble and Mrs. Thonen not present for the vote.

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10:00 A.M. C. ERVIN BROWN AND MARTHA C. BROWN, VC 87-D-050, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 7.8 feet from a side lot line (20 ft. min. side yard req. by Sect. 3-107), located at 10608 Good Spring Avenue, on approx. 36,857 square feet, zoned R-1, Dranesville District, Tax Map 12-3((2))8.

Kevin Guinaw, Staff Coordinator, presented the staff report. The applicants are requesting a variance to the minimum side yard requirement to allow construction of a two-story addition to the dwelling. Staff noted that on April 27, 1965, the Board of Zoning Appeals approved variance application V-88-65 by a previous owner, Charles C. Caldwell, to permit erection of a garage 13.5 feet from the west side lot line.

C. Ervin and Martha C. Brown, 10608 Good Spring Avenue, Great Falls, Virginia, the applicants stated that they wish to add a room with basement to their small brick rambler to make a more efficient and less cramped kitchen, dining room, shop and study. Mr. Brown stated that they currently have a septic field, septic tank and well on their property. The only logical place to build the addition was as he stated. Mr. Brown stated that the adjacent property owners do not have the width that he has with his property.

In response to Mr. Hammack's question, the Brown's stated that the adjacent neighbor had no objection to this variance.

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

Mr. DiGiulian moved to grant VC 87-D-050 based on the applicant's testimony and that the applicant has satisfied the nine required standards for a variance; in particular, the exceptional shape of the lot, and the location of the septic field and drainage easement to the rear of their property.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-D-050 by C. ERVIN AND MARTHA C. BROWN, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 7.8 feet from a side lot line, on property 10608 Good Spring Avenue located at Tax Map Reference 12-3((2))8, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

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

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

1. That the applicants are co-owners of the land.
2. The present zoning is R-1.
3. The area of the lot is 36,857 square feet of land.

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

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

6. That:

A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or

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

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

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

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

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

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

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

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.
4. If research determines that a building permit was not obtained for the existing screened porch, such shall be obtained prior to issuance of a building permit for the proposed addition.

Mrs. Thonen seconded the motion which carried by a vote of 6-1, with Chairman Smith voting nay.

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

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Page 64, October 6, 1987, (Tape 1), Scheduled case of:

10:10 A.M. KETTLER & SCOTT, INC., SP 87-S-045, application under Sect. 3-C03 of the Zoning Ordinance to allow community recreation facility, located in the Swart Farm Subdivision, on approximately 5.22 acres, zoned R-C & WSP0D, Springfield District, Tax Map 53-4((1))pt. 4 and 64-2((3))4, 5.

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report. The applicant is requesting a special permit to construct and operate a community recreation facility which will include a pool, community center, two tennis courts and a tot lot. Ms. Hamblin-Katnik pointed out that the applicant is in agreement with all the development conditions, therefore staff recommends approval subject to the development conditions. Staff suggests that a new plat be provided which shows the closure of the entrance on Route 29 and the interparcel access in this area, which the applicant has agreed.

Mrs. Day pointed out that condition #25 in the Development Conditions stated that a trail easement shall be provided in conformance with Article 17 of the Zoning Ordinance, but staff stated that a trail had not been designated for this tract of land.

Mr. Hyland stated that a development condition for a trail to be required should not be put in a staff report if the Board has no control as to whether or not a trail is or is not required. He further stated that staff required trail easements for churches and homeowners that want to subdivide lots, but are not requiring trail easements for this application.

In reply to Mrs. Day and Mr. Hyland's concerns about the trail easements, Ms. Hamblin-Katnik suggested that the wording of Development Condition #25 could be changed to take out the word trails and start with corresponding easements.

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Mrs. Day pointed out in the staff report that construction of a service drive is required unless a waiver is obtained, but in the Development Conditions this is not mentioned.

In response to Mrs. Day's concern, Ms. Hamblin-Katnik pointed out that the applicant is providing interparcel access and since interparcel access is being provided a service drive is not necessary.

Claire Guidas, 8081 Wolftrap Road, Kettler & Scott, Vienna, Virginia, agent for the applicant, stated that Kettler and Scott is in full agreement with the Development Conditions as recommended by staff. She pointed out that Kettler and Scott worked with the Western Fairfax Citizens Association, as well as the Pleasant Hills Community over the past several months and they are also in agreement with this application. Ms. Guidas stated that Kettler and Scott have also agreed to provide the plat to show the access to the west in more detail.

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

Mrs. Day moved to grant SP 87-S-045 based on the applicant's testimony, and that the applicant is in agreement with the Development Conditions. Mrs. Day pointed out that Development Condition #5 will have a maximum number of 10 employees. Mrs. Day changed the Development Conditions as such; condition #25 the words Trails and will be eliminated and start the sentence with "Corresponding easements . . . . .", and to add a new condition #26 that will read, "A new plat showing no access on Route 29 and it will designate access to the west.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-S-045 by KETTLER & SCOTT, INC., under Section 3-C03 of the Zoning Ordinance to allow community recreation facility, on property located in the Swart Farm Subdivision, Tax Map Reference 53-4((1))pt. 4 and 64-2((3))4 and 5, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

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

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

1. That the applicant is the owner of the land.
2. The present zoning is R-C and WSP0D.
3. The area of the lot is 5.22 acres of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-403 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only. However, upon conveyance of the property to the Virginia Run Homeowners Association, this approval will transfer to the association. This approval is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The maximum number of employees shall be ten (10).
6. The maximum number of family memberships shall be 1,500.
7. There shall be a minimum and maximum of 94 parking spaces provided. All parking shall be on-site.
8. The hours of operation for the pool and tennis courts shall be limited to 9:00 a.m. to 9:00 p.m.
9. The hours of operation for the community center meeting room and offices shall be limited to 9:00 a.m. to 9:00 p.m.
10. After hour parties for the swimming pool shall be governed by the following:
  - o Limited to six (6) per season.
  - o Limited to Friday, Saturday and pre-holiday evenings.
  - o Shall not exceed beyond 12:00 midnight.
  - o The applicant shall provide a written request at least ten (10) days in advance and receive prior written permission from the Zoning Administrator for each individual party or activity.
  - o Requests shall be approved for only one (1) such party at a time and such requests shall be approved only after the successful conclusion of a previous after-hour party.
11. Maximum occupancy of the recreation center shall be 52 persons while the pool is open for use, except for parties as noted. At all other time the maximum occupancy shall be 100 persons.
12. If lights are provided for pool and parking lot, they shall be in accordance with the following:
  - o The combined height of the light standards and fixtures shall not exceed twenty-two (22) feet for the tennis courts, and twelve (12) feet for the pool and parking lot.
  - o The lights shall be a low-intensity design which focuses the light directly onto the facility.
  - o Shields shall be installed, if necessary, to prevent the light from projecting beyond the facility.
  - o There shall be an automatic cut-off device installed to control tennis courts lights.

The tennis courts shall not be lighted.
13. All noise shall be in accordance with the provisions of Chapter 108 of the Fairfax County Code, shall not be waived, and there shall be no bullhorns, whistles, or loudspeakers used before 9:00 a.m. or after 9:00 p.m.
14. Interior parking lot landscaping shall be provided in accordance with Article 13.
15. Transitional Screening 1 shall be provided along the northern and western lot lines without modifications. Along the southern lot line the full width of Transitional Screening 1 shall be provided with a modification in plantings to provide landscaping to enhance the aesthetics of the facility rather than screen the use. Along the eastern lot line the full width of Transitional Screening 1 shall be provided except for the 130 feet adjacent to the curved island within the travel aisle. Here the width tapers to 15 feet. Plantings shall be placed within the island within the travel aisle to compensate for the decrease in width of the transitional screening in this area. A modification of plantings is also granted along the eastern property line to allow landscape plantings to enhance the aesthetics of the facility rather than screen the use. All landscaping shall be to the satisfaction of the County Arborist.

The barrier requirement shall be waived along the southern and eastern lot lines only.

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16. No access shall be allowed onto Lee Highway.
17. Interparcel access to the parcels to the west shall be required. The design of the interparcel access shall be to the satisfaction of the Director of Environmental Management. Dedication shall occur upon plat approval. Monies shall be placed in escrow by Kettler and Scott for the construction of the access aisle prior to site plan approval.
18. Temporary grading and construction easements shall be provided for any road improvements along Lee Highway if full road improvements are not made at the time of site development.
19. All paved areas shall be constructed of pervious materials.
20. Best Management Practices (BMPs) shall be provided according to the provision of the Water Supply Protection Overlay District (WSPOD) to prevent run-off pollution in the Occoquan Reservoir.
21. A soil survey if determined necessary by the Director, Department of Environmental Management, shall be completed prior to pool construction. If high water table soils or unstable soils resulting from uncompacted fill, resource removal or any other circumstances resulting in instability are found in the immediate vicinity of the pool, then the pool shall be engineered and constructed to ensure pool stability, including the installation of hydrostatic relief valves and other appropriate measures.
22. Landscaping and plantings shall be required for screening around the pool and bathhouse and shall conform to the standards prescribed by Article 13 of the Zoning Ordinance.
23. The Consumer Services Section of the Environmental Health Division of the Fairfax County Health Department shall be notified before any pool waters are discharged during drainage or cleaning operations. This agency will make a determination as to whether proper neutralization of these pool water has been completed.
24. Bicycle racks shall be provided for a minimum of ten (10) bicycles.
25. Corresponding easements shall be provided in conformance with Article 17 of the Zoning Ordinance and the Countywide Trails Plan, as determined by the Director, Department of Environmental Management (DEM).
26. A new plat showing no access to Route 29 and revised interparcel access to the west shall be submitted to the Board of Zoning Appeals Support Staff for conformance with these conditions prior to final approval.

Mrs. Thonen seconded the motion.

The motion carried by a vote of 7-0.

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

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Page 67, October 6, 1987, (Tape 2), Scheduled case of:

10:20 A.M. DANIEL L. GERMAN, VC 87-S-048, application under Sect. 18-401 of the Zoning Ordinance to allow dwelling in an existing building located 21.4 feet from front lot line (40 ft. min. front yard req. by Sect. 3-107), located at 5416 Bradley Road, on approx. 75,000 square feet, zoned R-1, Springfield District, Tax Map Reference 55-3((2))61. (DEF. FROM 7/23/87 & 9/22/87 FOR DEC. ONLY)

Chairman Smith stated that this application was for Decision Only but he has received correspondence from a citizen concerning this application.

Robert Whitestone, 10513 Judicial Drive, Fairfax, Virginia, attorney for the applicant, stated that the correspondence presented to the Board was written by one of the citizen's who spoke in opposition to the variance.

Chairman Smith pointed out that the correspondence has no bearing on the variance in question, but will be entered into the record.

There being no objections from the Board, the public hearing was closed.

Before Mr. Hyland made his motion he questioned the setbacks of the other properties along Bradley Road.

In response to Mr. Hyland's question, Ms. Greenlief stated that staff did research the files in Zoning Administration, unfortunately due to the age of the subdivision, there were not many plats in the file. Ms. Greenlief pointed out however that there are two plats, lot 60 which shows the house setback around 50 feet, and lot 62 which shows the house is setback around 60 feet.

Mr. Hyland made the motion to grant VC 87-S-048 based on the applicant's testimony. He noted that the structure the applicant is now living in does for all intent purposes present the appearance of a dwelling, this variance is an unusual case in terms of what has occurred as far as the construction of the dwelling on the residence, and it does not appear that the granting of the variance is not in any way going to change the residential character of the zone, nor is it going to adversely affect any abutting property owners.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-S-048 by DANIEL L. GERMAN, under Section 18-401 of the Zoning Ordinance to allow dwelling in an existing building located 21.4 feet from front lot line, on property located at 5416 Bradley Road, Tax Map Reference 55-3((2))61, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

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

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

- 1. That the applicant is the owner of the land.
- 2. The present zoning is R-1.
- 3. The area of the lot is 75,000 square feet of land.

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

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



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

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

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

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

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

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. All appropriate inspections shall be conducted and approved and a Residential-Use Permit shall be obtained within sixty (60) days of the approval of this variance unless a request for additional time is approved by the BZA. Basis for approval of additional time shall be because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.

Mr. DiGiulian seconded the motion.

The motion carried by a vote of 5-2, with Mr. Hammack and Chairman Smith voting nay.

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

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Page 69, October 6, 1987, (Tape 2), Scheduled case of:

10:20 A.M. JACK BAKER APPEAL, A 87-V-008, application under Sect. 18-301 of the Zoning Ordinance to appeal the Zoning Administrator's determination that the junk yard and towing service uses on the appellant's properties are not permitted as a non-conforming use, located at 9415 Richmond Highway and 8643 Richmond Highway, on approximately 152,425 square feet of land and 102,714 square feet of land, zoned R-1 and C-8, Mount Vernon District, Tax Map References 107-4((1))27 and 107-3((1))100. (DEFERRED FROM 9/29/87)

10:20 A.M. JACK BAKER APPEAL, A 87-V-009, application under Sect. 18-301 of the Zoning Ordinance to appeal the July 30, 1987 decision of the Zoning Administrator regarding application of stay provisions of Sect. 18-307, located at 9415 and 8643 Richmond Highway, Zoned R-1, C-8 on approximately 152,425 square feet of land and 102,714 square feet of land, Mount Vernon District, Tax Map Reference 107-4((1))27, 101-3((1))100. (DEFERRED FROM 9/29/87)

Jane C. Kelsey, Chief of the Board of Zoning Appeals Support Branch, stated that there was a request by the applicant and the Zoning Administrator to defer this application until October 20, 1987 at 8:30 p.m.

Mr. Hyland moved to grant the request that A 87-V-008 and A 87-V-009 be deferred to October 20, 1987 at 8:30 p.m. with Mr. DiGiulian seconding the motion. The motion passed with a vote of 7-0.

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Page 69, October 6, 1987, (Tape 2), Schedule case of:

10:40 A.M. CALVARY CHURCH OF THE MAZARENE, SP 87-M-036, application under Sect. 3-203 of the Zoning Ordinance to allow church and related facilities, located at 8250 Little River Turnpike, on approx. 19.157 acres, zoned R-2, Mason District, Tax Map Reference 9-3((91))pt. 32. (DEF. FROM 7/21/87 & 9/22/87 FOR DEC. ONLY)

Claudia Hamblin-Katnik, Staff Coordinator, presented the changes in the development conditions. Development condition #6 changed to reflect the number of parking spaces which are reflected on the new plat. The applicant is providing in Phase I the minimum number of parking spaces - 160. In development condition #7 the transitional screening

has been changed as per the request of Mr. DiGiulian and the applicant. Development condition #10 concerning the service drive, has been changed to reflect the Department of Environmental Management's concerns. In development condition #18 all development clearing and grading shall be outside the boundaries of the EQC as shown on the plat. Development condition #22 states that at the applicant's and Mr. DiGiulian's request and subject to DEM approval the stormwater management techniques shall be implemented.

Following Mrs. Thonen's question Ms. Hamblin-Katnik explained that the applicant's staff houses are not encroaching upon the EQC. However, the foliage that the applicant is suggesting they provide as barriers behind the rectories are now within the EQC and should remain outside the EQC.

Sarah Reifsnnyder, 4020 University Drive, Fairfax, Virginia, attorney for the applicant, stated that most of the development conditions have been worked out. As far as the parking spaces in development condition #6, the design of the parking spaces was at the request of the nearby homeowners. Ms. Reifsnnyder stated that the EQC should be defined in the development conditions as the EQC defined with the applicant working in conjunction with DEM according to the definitions in the Comprehensive Plan. Ms. Reifsnnyder strenuously object to development condition #16 as she believed it was unnecessary.

Ms. Hamblin-Katnik stated that development condition #16 was intended to cover the EQC policy which requires dedication or an easement provided on the property. This development condition has been reviewed by the County Attorney's office and has been okayed and has been placed upon other Rezoning Application Proffers and development conditions within church and other properties that are before this Board and the Board of Supervisors.

In response to Chairman Smith's question, Ms. Hamblin-Katnik stated that the Accotink Church on Pohick Road, and St. John Neuman Church were two applications that used the development condition concerning the Open Space Land Act easement.

Following Mr. Hammack's question, Ms. Hamblin-Katnik stated that the applicant can cross the EQC with the service drive.

Mr. Hammack stated that the applicant should include the entire acreage of Lot 23 (23 acres) in the application, but the applicant does have the legal right to submit the 19.175 acre parcel for consideration. However, the applicant does not address the environmental or ecological issues to his satisfaction. Mr. Hammack stated that the basic application for the church and buildings was a good application, and he complimented the applicant for working with the citizens in addressing those issues.

Mr. Hammack moved to grant SP 87-M-036 based on the applicant's testimony and that the applicant satisfied the requirements for a special permit. The development conditions 1 through 9 will remain the same, delete development condition #10 in its entirety, development conditions #11 through #15 will remain the same, development condition #16 should include the Open Space Land Act easement, development condition #17 remains the same, development condition #18 will read "All development, .....as defined in the Comprehensive Plan and determined by the Department of Environmental Management.", development conditions #19 through #22 shall remain the same. All of the development conditions following the deletion of #10 should be renumbered in consecutive order. Mr. Hammack stated to change development condition #13 to read, "A six (6) foot concrete sidewalk ..... along the north side of Little River Turnpike.

Mr. Hyland moved to amend Mr. Hammack's motion by including development condition #10 in the development conditions dated October 5, 1987 with Mrs. Thonen seconding the motion. This amended motion failed by a vote of 2-5, with Mr. Hyland and Mrs. Thonen voting aye and Chairman Smith, Mr. Hammack and Mr. DiGiulian voting nay.

Ms. Reifsnnyder stated that development condition #16, where the EQC is mentioned, should read as defined in the Comprehensive Plan and by DEM to be consistent with development condition #18.

Mr. Smith stated that he wanted a copy of the new approved plat from DEM to be made part of the official record.

In response to Mr. DiGiulian's question, Ms. Kelsey stated that a service drive can be built through a floodplain or an EQC. The EQC is not something that the Department of Environmental Management can enforce. The only way the EQC can be protected is by

conditions by the Board of Zoning Appeals, the Board of Supervisors or if it is a cluster subdivision. Ms. Kelsey further stated that DEM preferred that OCP make the determination of where the EQC line is rather than DEM because our environmental planners work with this more frequently.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SF 87-M-036 by CALVARY CHURCH OF THE NAZARENE, under Section 3-203 of the Zoning Ordinance to allow church and related facilities, on property located at 8250 Little River Turnpike, Tax Map Reference 59-3((1))pt. 32, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

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

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

1. That the applicant is the owner of the land.
2. The present zoning is R-2.
3. The area of the lot is 19.157 acres of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-303 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The maximum seating capacity in the main worship area for Phase I shall be 500, and for Phase II the maximum seating capacity may be increased by 300, with the total maximum sanctuary seating capacity being 800.
6. The number of parking spaces provided shall satisfy the minimum requirement set forth in Article 11, and shall be a minimum of 160 for Phase I and shall be 46 for Phase II, the total of both phases not to exceed 206. All parking shall be on site.
7. Transitional Screening shall be in accordance with this plat. Transitional screening requirements inconsistent with the placement of screening shown on the application plat are thus modified. However, where those areas are outlined as being planted, twenty-five (25) feet in width shall be devoted to screening. The existing plantings are to be supplemented to the satisfaction of the County Arborist.
8. The barrier requirement shall be waived along all lot lines.
9. Interior parking lot landscaping shall be provided in accordance with provisions of Sect. 13-106 of the Zoning Ordinance.

10. A right-turn lane, to meet Virginia Department of Transportation (VDOT) standard, shall be dedicated and constructed along Little River Turnpike.
11. The entrance to the site shall be shown as dedicated right-of-way to match the existing service drive at this location.
12. Handicapped parking shall be shown and provided in accordance with applicable Codes.
13. A six (6) foot concrete sidewalk shall be required along the north side of Little River Turnpike.
14. All commercial uses (a church without a school is considered a commercial use concerning noise standards) between the centerline and 295 feet from the centerline of Little River Turnpike shall meet the guidelines for the acoustical treatment of commercial structures within the highway noise impact zone with levels in excess of 75 dBA Ldn.

All commercial uses (a church without a school is considered a commercial use concerning noise standards) between 295 and 635 feet from the centerline of Little River Turnpike shall meet the guidelines for the acoustical treatment of commercial structures within the highway noise impact zone with levels between 70 and 75 dBA Ldn.

All indoor residential uses and/or outdoor recreation areas between 295 and 635 feet from the centerline of Little River Turnpike shall meet the guidelines for the acoustical treatment of residential structures within a highway noise impact zone with levels between 70 and 75 dBA Ldn.

All residential uses between 635 and 1370 feet from the centerline of Little River Turnpike shall meet the guidelines for the acoustical treatment of residential structures within a highway noise impact zone with levels between 65 and 70 dBA Ldn.

The following criteria apply to residential structures within a highway noise impact zone with levels between 70-75 dBA Ldn and commercial structures within this area with levels between greater than 75 dBA Ldn:

- o Exterior walls shall have a laboratory sound transmission class (STC) of at least 45. Doors and windows should have a laboratory STC of at least 37. If "windows" function as the walls, then they shall have the STC specified for exterior walls.
- o Adequate measures to seal and caulk between surfaces shall be provided.

The following criteria apply to residential structures within a highway noise impact zone with levels between 65-70 dBA Ldn and commercial structures within this area with levels between 70-75 dBA Ldn:

- o Exterior walls should have a laboratory sound transmission class (STC) of at least 39.
  - o Doors and windows should have a laboratory sound transmission class (STC) of at least 28. If "windows" function as the walls, then they should have the STC specified for exterior walls.
  - o Adequate measures to seal and caulk between surfaces should be provided.
  - o In order to achieve a maximum exterior noise level of 65 dBA Ldn, noise attenuation structures such as earthen berms should be provided for those outdoor recreation areas including rear yards which are unshielded by topography or built structures. The method employed must be of sufficient height to adequately shield the impacted area from the source of the noise.
  - o If the building is not constructed to residential noise standards then a school or child care center shall not be allowed in the building, unless it can be acoustically retrofitted or modified to meet these standards.
15. Pursuant to Virginia Code Section 10-152, the applicant shall at the time of site plan approval record among the land records of Fairfax County an Open Space easement to the Board of Supervisors. The easement shall include that land that is shown on the approved special permit plat as Environmental Quality

Corridor as defined in the Comprehensive Plan and determined by the Department of Environmental Management. There shall be no clearing of any vegetation within this area, except for dead or dying trees or shrubs. No structures of any kind shall be located within this easement.

16. The limits of clearing and grading shall be as shown on the plat. However, minor alterations shall be permitted to accommodate engineering or other code required changes.
17. All development, clearing and grading shall be outside the boundaries of the EQC as defined in the Comprehensive Plan and determined by the Department of Environmental Management.
18. Erosion and sedimentation control shall be implemented both during and after construction until revegetation and stabilization as determined by the Director, Department of Environmental Management (DEM).
19. Parking lot lighting shall be the low intensity type, on standards not to exceed twelve (12) feet in height and shielded if necessary to prevent light or glare from projecting onto adjacent residential properties.
20. Signs shall be permitted provided they are erected in accordance with the provisions of Article 12. The signs allowed within Article 12 shall be located so as to complement the landscape plan rather than detract from it.
21. At the request of the applicant and subject to DEM approval, the following storm water management techniques shall be implemented:

The church facility will have no surface detention ponds. All stormwater storage will be in underground storage facilities, e.g. pipes, gravel storage. Stormwater runoff from impervious areas (paved parking lots, roofs, sidewalks) will be collected and discharged into the existing creek as follows: (1) for stormwater collected north of the proposed development's east-west high point, at a point parallel to the existing creekbed at or below the 100 year floodplain and no farther than 550 feet from the right-of-way of Route 236, and (2) for stormwater collected south of the proposed development's east-west high point, into the existing swale flowing west to east along the property's southern boundary. The underground storage facilities will be constructed only under areas disturbed by the construction of the church facility. Roof run-off will be picked up by the gutters and discharged into the storm drainage system.

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

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

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Page 73, October 6, 1987, (Tape 2), After Agenda Item #1:

Approval of Resolutions for September 29, 1987

Mr. Hammack made the motion to approve the Resolutions from September 29, 1987 with Mr. Hyland seconding the motion which passed by a vote of 7-0.

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Page 73, October 6, 1987, (Tape 2):

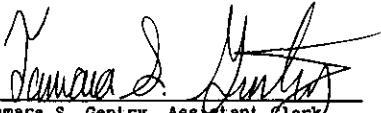
Discussion of Campbell Special Permit, Error In Building Location (This case was previously denied by the Board of Zoning Appeals):

Mr. Hyland stated that he wants to know what the Zoning Administrator's position is on the location of the garage in the front yard when this case is brought back to the Board.

In response to Mr. DiGiulian's question Ms. Kelsey commented that the Zoning Ordinance states that if the error is 10% or less, that is an Administrative Approval of the Zoning Administrator.

Mr. Hyland commented that there is another issue in the case as to whether or not there was an error in terms of building it into the front yard and the side yard. He requested that Ms. Kelsey have the Zoning Inspector see if there is a business involved with this case.

As there was no other business to come before the Board, Mr. Hyland moved to adjourn the meeting with Mr. DiGiulian seconding the motion which passed unanimously. The meeting was adjourned at 12:57 P.M.

  
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Tamara S. Gentry, Assistant Clerk  
Board of Zoning Appeals

  
\_\_\_\_\_  
Daniel Smith, Chairman  
Board of Zoning Appeals

SUBMITTED: 1/5/88

APPROVED: 1/12/88

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

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

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Page 15, October 13, 1987, (Tape 1), Scheduled case of:

9:00 A.M. CHARLES B. LOWRY, VC 86-V-120, application under Sect. 18-401 of the Zoning Ordinance to allow construction of service bay addition to a service station to 35.9 feet from a street line of a corner lot and 10.6 feet from rear lot line (40 ft. min. front yard, 20 ft. min. rear yard req. by Sect. 4-507), located at 2600 Sherwood Hall Lane, on approximately 17,531 square feet, zoned C-5, Mount Vernon District, Tax Map 102-1((7))(7)17B. (DEF. FROM 3/31/87 AND 7/7/87)

Lori Greenlief, Staff Coordinator, presented the staff report and reminded the Board that the application had been deferred twice to allow the applicant time to get a special exception application approved by the Board of Supervisors and then to obtain a special exception amendment application approved to delete a condition on the original special exception. She explained that there was a conflict between the wording of the condition and the approved special exception plat. The special exception amendment was approved by the Board of Supervisors.

Mr. Bernard Fagelson with Fagelson, Schonberger, Payne & Arthur located at 401 Wythe Street, Alexandria, Virginia was available for questions.

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

Prior to making the motion, Mrs. Thonen stated that the applicant had satisfied the standards for a variance and then moved to grant the request subject to the development conditions.

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#### COUNTY OF FAIRFAX, VIRGINIA

#### VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-V-120 by CHARLES B. LOWRY, under Section 18-401 of the Zoning Ordinance to allow construction of service bay addition to a service station to 35.9 feet from a street line of a corner lot and 10.6 feet from rear lot line, on property located at 2600 Sherwood Hall Lane, Tax Map Reference 102-1((7))(7)17B, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 13, 1987; and

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

1. That the applicant is the owner of the land.
2. The present zoning is C-5.
3. The area of the lot is 17,531 square feet of land.

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

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;
  - F. An extraordinary situation or condition of the subject property, or
  - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.

3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.

4. That the strict application of this Ordinance would produce undue hardship.

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

6. That:

A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or

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

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

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

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

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

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

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

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Ribble seconded the motion.

The motion carried by a vote of 4-0-1 with Mr. Hyland abstaining; Mr. Hammack not present for the vote; Mr. DiGiulian absent from the meeting.

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

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Page 76, October 13, 1987, (Tape 1), Scheduled case of:

9:15 A.M. MARY S. ALLAN APPEAL, A 87-S-007, to appeal the determination that there is not a floodplain on the property located at 6419 Spring Lake Drive, on approximately 30,985 square feet, zoned R-2, Springfield District, Tax Map Reference 88-1((15))1.

Jane Gwinn, Zoning Administrator, advised the Board of her position that there was no floodplain on the subject lot and further explained the definition of a floodplain as an area having a drainage area greater than seventy (70) acres. The drainage area on the subject lot is less than 15 acres. She added that Mr. Beben from the Department of Environmental Management (DEM) was present to answer questions concerning drainage.

The Board called for Mr. Joseph Beben, Special Projects Branch, DEM to respond to questions from the Board. He explained that when the subdivision was originally platted the civil engineer showed the drainage easement which crosses several properties. He further stated that it was customary for the Mapping Department to designate drainage easements as floodplain lines, but he reiterated that anything less than 70 acres will not be designated a floodplain.



Randy Minchew of Hazel, Thomas, Fiske, Beckhorn and Hanes, 4084 Univeristy Drive, Fairfax, Virginia, representative for the land owner of the subject property appeared before the Board and stated that the site was owned by Mr. Alex Rouhani and that he supported the Zoning Administrator's position.

Mary Allan, 6417 Spring Lake Drive, Burke, Virginia, the appellant, appeared before the Board and submitted a petition and letters in support of her position. She explained that the land was protected from the adverse affects of development under the Floodplain Ordinance. She also expressed concern about encroachment from the irresponsible actions of others. Ms. Allan explained that the headwaters of the Cherry Run Tributary bisecting lots 1, 3, and 4 was included in the Cherry Run floodplain study of 1977 done during the development of the adjacent subdivisions of Cherry Run and Woodside Manor which was why the subject property was included on the official zoning map. She further stated that in the Public Facilities Manual of 1981, it states that where open drainage swales exist and drainage improvements are not provided, a drainage study and storm drainage to cover the 100 year drainage way must be provided. The drainage easement shown on the plat and plans shall be designated as floodplain and storm drainage easement. She expressed the opinion that a storm drainage easement and floodplain are a restrictive easement which were restrictive covenants which run with the land. Ms. Allan stated that the 1985 change in language by the Board of Supervisors did not affect land already subdivided with existing homes and the easement should remain as is.

Chairman Smith called for speakers and Ann Bach, 6415 Spring Lake Drive, Burke, Virginia, Sebastian Lorigo, 6421 Spring Lake Drive, Burke, Virginia, John Allan, 6417 Spring Lake Drive, Burke, Virginia, appeared before the Board in support of the appellant and expressed the following concerns about the Zoning Administrator's ruling. That it would increase flooding, decrease land values, remove valuable trees, and damage to homes as a result of flooding.

In conclusion, Ms. Gwinn reiterated that when Spring Lake Woods was originally subdivided and the record plat approved, based on the drainage area, this area was approved on the record plat as storm drainage easement and there was a mistake by the Mapping Office to show the easement as a floodplain area.

Messrs. Hyland and Hammack expressed concern for homeowners who rely on information supplied by the County as to floodplain protection and then find the information is incorrect.

Chairman Smith stated that there had been an erroneous designation on the map in this particular area and the Board should alleviate the error in the form of upholding the determination of the Zoning Administrator.

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

Prior to making the motion, Mr. Hammack stated that the County had allowed a floodplain to be publicly recorded and disseminated information for a number of years which shows the floodplain on this land and now had determined that it was an error and the citizens had a right to rely on information supplied by the County. Mr. Hammack then moved to uphold the appeal by Mary Allan.

Mr. Ribble seconded the motion which passed vote of 5-1 with Chairman Smith voting nay; Mr. DiGiulian absent from the meeting.

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Page 72, October 13, 1987, (Tape 2), Scheduled case of:

9:45 A.M. WILLIAM AND GWEN KING, VC 87-C-106, application under Sect. 18-401 of the Zoning Ordinance to allow partially constructed detached garage to be completed in a front yard (accessory structure or use not permitted in any front yard by Sect. 10-104), located at 10815 Cross School Road, on approximately 21,368 square feet, zoned PRC, Centreville District, Tax Map Reference 27-1((3))8.

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report and provided the Board with the history of the application. She stated that in June of 1979 a grading plan was approved for construction of a detached dwelling and detached garage on the property. On October 15, 1979, the Board of Supervisors adopted an amendment which did not allow an accessory structure or use in any required front yard or any front yard on any lot containing 36,000 square feet or less. In December of 1979 the applicant received a second approval of a grading plan for the garage within the front yard except in a different location. Since the applicant did not construct the foundation and garage as shown on the original site plan approved in June of 1979 and the Zoning Ordinance was amended prior to the approval of the revised site plan in December of

1979, the subject garage could not be constructed in its proposed location. Ms. Hamblin-Katnik stated that the files further indicated that the applicant obtained a building permit, issued June of 1985 for construction of the foundation and garage and that issuance was based on the fact that the garage was shown on the approved preliminary site plan approved prior to the October 15, 1979 adoption of the Zoning Ordinance amendment. However, it was later determined the garage was not in accordance with the original site plan thus the building permit was issued in error. She added that a notice of violation had been issued in August of 1986 and final notice was issued in February of 1987 and on March 4, 1987, a Special Permit Application had been received. However due to an error in processing the special permit application had to be converted to a variance application.

Mrs. Thonen expressed concern about the amount of time it took staff to determine that the application was processed incorrectly.

Harold Miller, 11715 Bowman Green Drive, Reston, Virginia, appeared before the Board as the applicant's representative, and submitted letters to the Board referencing conversations with Don Smith, Zoning Administration Division. He further explained that the reason the applicants applied for this garage in its present location and proceeded with its construction is based on a meeting with Don Smith, Zoning Administration Division, who reviewed the matter and determined that the applicants were entitled to a building permit under the original site plan. He added that every other house on the block has a garage but he noted that the applicant could not place his garage anywhere else because of special conditions on the lot. On the south side there was no room and on the north side there was a large storm drainage structure. Mr. Miller reiterated that the applicant proceeded in good faith with assurance from a member of the County staff.

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At 11:05 A.M., the Board took a brief recess and reconvened the meeting at 11:22 A.M.

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Following a discussion by the Board, it was determined that a deferral would be appropriate so that the County personnel involved in the decision to issue the building permit be present to respond to questions raised by the Board. And to determine which plat was approved with the issuance of the building permit, whether or not someone from the Zoning Administrator's office was involved and if so what issues were discussed regarding the building permit. Also if it was determined that the location shown on the plat accompanying the building permit application was the same as the original site plan why was the Zoning Administrator involved?

Chairman Smith polled the audience to determine whether or not there was any opposition to the deferral and Martin Jarron appeared before the Board and expressed no objection to the deferral but suggested that the appropriate staff be present. He also submitted a petition in opposition to the request along with some photographs.

Mrs. Thonen moved to defer the application to October 27, 1987 at 10:35 A.M. at staff's suggestion. There being no objection it was so ordered.

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Page 78, October 13, 1987, (Tape 2), Scheduled case of:

10:00 A.M. PATHFINDER ASSOCIATES, VC 87-D-099, application under Sect. 18-401 of the Zoning Ordinance to allow construction of dwelling 9.0 feet from a side lot line (12 ft. min. side yard req. by Sect. 3-307), located at 1529 Pathfinder Lane, on approximately 10,993 square feet, zoned R-3, Dranesville District, Tax Map Reference 30-4((2))(6)39 and 40.

Heidi Belofsky, Staff Coordinator, presented the staff report and noted that the lots in the area were characteristically long and narrow. She added that the existing dwelling has been demolished. Ms. Belofsky concluded that records of the Zoning Administration Division did not indicate that a substantial number of variances have been granted in this area.

Following questions from Chairman Smith and Mrs. Day, Ms. Belofsky stated that the lots were substandard. Mrs. Day stated that a better design would be to construct the house in the center of lots 37, 38 and 39 and the applicant would not need a variance. Ms. Belofsky also indicated that originally there was one house on four lots.

Wassim Omran, Managing Partner of Pathfinder Associates, the applicant, appeared before the Board and explained the request as outlined in the statement of justification submitted with the application. He added that he was unaware of the sewer easement at the time the property was purchased.

Chairman Smith called for speakers and Genevieve Arespass, 1566 Chain Bridge Road, McLean, Virginia, appeared before the Board and explained that the sewer line in question served four to five houses. She expressed concern that the lots were too small for two houses and would be detrimental to the neighborhood.

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

Prior to making the motion, Mrs. Day stated that the plat did not show the sewer easement and that the applicant had acted in good faith. Therefore, she moved to grant the request subject to the development conditions.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-D-099 by PATHFINDER ASSOCIATES, under Section 18-401 of the Zoning Ordinance to allow construction of dwelling 9.0 feet from a side lot line, on property located at 1529 Pathfinder Lane Tax Map Reference 30-4((2))(6)39 and 40, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 13, 1987; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 10,933 square feet of land.

The applicant did act in good faith in that the applicant could build two (2) houses without a variance but they would be smaller and of less quality.

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

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

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

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

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

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Hyland seconded the motion.

The motion carried by a vote of 4-1-1 with Mr. Ribble abstaining; Chairman Smith voting nay; Mr. DiGiulian absent from the meeting.

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

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Page 82, October 13, 1987, (Tape 2), Scheduled case of:

10:10 A.M. JULIE SCHMIDT ROBERTS, VC 87-M-097, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 4.5 feet from side lot line and 6.0 feet from front lot line (15 ft. min. side yard, 35 ft. min. front yard req. by Sect. 3-207), located at 6116 Beachway Drive, on approximately 20,600 square feet, zoned R-2, Mason District, Tax Map Reference 61-2((16))886.

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

William Roberts, 6116 Beachway Drive, Falls Church, Virginia, the applicant, appeared before the Board and explained the request as outlined in the statement of justification submitted with the application.

Following a question from Mr. Hyland, Mr. Roberts explained that he was requesting a large garage because he would like to have a circular driveway but would abide by whatever the Board determined appropriate.

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

Prior to making the motion, Mr. Hyland noted the unusual topography conditions of the lot and there were no objections from the abutting neighbors. Therefore, Mr. Hyland moved to grant the request subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-M-097 by JULIE SCHMIDT ROBERTS, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 4.5 feet from side lot line and 6.0 feet from front lot line, on property located at 6116 Beachway Drive, Tax Map Reference 61-2((16))886, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

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WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 13, 1987; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-2.
3. The area of the lot is 20,600 square feet of land.

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

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

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

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

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

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.
4. An entrance permit from VDOT shall be obtained for the additional entrance.

Mr. Ribble seconded the motion.

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

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on October 13, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 82, October 13, 1987, (Tape 2), Scheduled case of:

10:20 A.M. RONALD L. AND BETTY J. VICKERS, VC 87-L-098, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 14.1 feet from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located at 5713 Broadmoor Street, on approximately 8,669 square feet, zoned R-3(C), Lee District, Tax Map Reference 91-4((4))691.

Lori Greenlief, Staff Coordinator, presented the staff report.

Betty Vickers, 5713 Broadmoor Street, Alexandria, Virginia, the applicant, appeared before the Board and explained the request as outlined in the statement of justification as submitted with the application.

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

Prior to making the motion, Mr. Ribble stated that the applicant had met the nine standards for a variance and noted the exceptional shallowness of the lot. He added that there was no other location for the addition and therefore moved to grant the request subject to the development conditions.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-L-098 by RONALD L. AND BETTY J. VICKERS, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 14.1 feet from rear lot line, on property located at 5713 Broadmoor Street, Tax Map Reference 91-4((4))691, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 13, 1987; and

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

- 1. That the applicant is the owner of the land.
- 2. The present zoning is R-3(C).
- 3. The area of the lot is 8,669 square feet of land.

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

- 1. That the subject property was acquired in good faith.
- 2. That the subject property has the following characteristics:
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - F. An extraordinary situation or condition of the subject property, in that this addition could not be built anywhere else on the lot.
- 3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
- 4. That the strict application of this Ordinance would produce undue hardship.
- 5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
- 6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.

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

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

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

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

- 1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
- 2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
- 3. A Building Permit shall be obtained prior to any construction.

Mrs. Day seconded the motion.

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

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

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At 12:30 P.M. the Board took a lunch recess and reconvened the meeting at 1:37 P.M.

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10:30 A.M. RICHARD D. SINGER, VC 87-M-100, application under Sect. 18-401 of the Zoning Ordinance to allow construction of an enclosed swimming pool addition to dwelling 9.6 feet from side lot and 29.0 feet from front lot line (15 ft. min. side yard, 35 ft. min. front yard req. by Sect. 3-207), located at 4215 Downing Street, on approximately 20,100 square feet, zoned R-2, Mason District, Tax Map Reference 72-1((16))9.

Jane Kelsey, Chief, Board of Zoning Appeals Support Branch, presented the staff report.

George Alexander, 5201 Grinnell Street, Fairfax, Virginia, the representative of the applicant, appeared before the Board and explained the request as outlined in the statement of justification submitted with the application. He added that the proposal would be compatible with the neighborhood.

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

Prior to making the motion, Mrs. Thonen noted the nine standards for a variance have been met and that it was compatible with the neighborhood and that it would be better to enclose the pool rather than leaving it open. She then moved to grant the request subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-M-100 by RICHARD D. SINGER, under Section 18-401 of the Zoning Ordinance to allow construction of an enclosed swimming pool addition to dwelling to 9.6 feet from side lot and 29.0 feet from front lot line, on property located at 4215 Downing Street, Tax Map Reference 72-1((16))9, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 13, 1987; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-2.
3. The area of the lot is 20,100 square feet of land.

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

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

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

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

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

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a



request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.

3. A Building Permit shall be obtained prior to any construction.
4. The exterior of the addition shall be architecturally compatible with the existing dwelling and shall be similar in color and materials.
5. Architecture and design of the addition shall be in general conformance with the sketches submitted with this application.

Mr. Ribble seconded the motion.

The motion carried by a vote of 4-0 with Messrs. Hammack and Hyland not present for the vote; Mr. DiGiulian absent from the meeting.

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

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Page 88, October 13, 1987, (Tape 3), Scheduled case of:

10:45 A.M. ANDREW CHAPEL UNITED METHODIST CHURCH, SPA 83-D-045-1, application under Sect. 3-103 of the Zoning Ordinance to amend SP 83-D-045 for church and related facilities to permit building and parking additions to existing facilities, located at 1301 Trap Road, on approximately 7.17 acres, zoned R-1, Dranesville District, Tax Map 19-4((1))47. (TO BE HEARD CONCURRENT WITH SPA 74-D-081-1)

10:45 A.M. ANDREW CHAPEL UNITED METHODIST CHURCH, SPA 74-D-081-1, application under Sect. 3-103 of the Zoning Ordinance to amend S-81-74 for nursery school/child care center to permit building and parking additions and increase in maximum daily enrollment to 99, and changes to other conditions, located at 1301 Trap Road, on approximately 7.17 acres, zoned R-1, Dranesville District, Tax Map 19-4((1))47. (TO BE HEARD CONCURRENT WITH SPA 83-D-045-1)

Lori Greenlief, Staff Coordinator, presented the staff report and advised the Board that the staff report represents two requests by the applicant. One application is to amend the original church application for an addition of a building and parking spaces and the other application is to amend the child care center application to increase the number of children from 75 to 99. She explained that one unresolved issue was the transportation improvement along Trap Road. Staff is requesting dedication to 35 feet from centerline and the applicant is requesting dedication to 30 feet from centerline. Another unresolved issue was that a trail along Route 7, the applicant is proposing 10 feet of dedication and staff is requesting dedication and construction for a trail in accordance with the trails plan as set forth in the Comprehensive Plan and as required by the site plan requirements of the Ordinance. Ms. Greenlief added that staff was also requesting additional landscaping. She further advised the Board that there were some changes in the proposed development conditions in Appendix 2 of the staff report: SPA 74-D-081-1, Condition 6, the hours of operation shall be 9:00 A.M. to 2:00 P.M. Condition 7, the combined maximum number of employees will be 13 on site at any one time. The third change is in condition 11 concerning the noise attenuation measures, the first paragraph should remain the same, the rest should be deleted and insert the revised condition submitted to the Board.

Following a question from Mr. Hammack, Ms. Greenlief stated that even with the combined uses there was excess parking.

Bruce Bussell, 1406 Claves Court, Vienna, Virginia, representative for the applicant, appeared before the Board and submitted six letters in support of the applications and also noted that the McLean Citizens Association also supported the applications. Mr. Bussell expressed concern over the following development conditions in Appendix 1: 5, regarding dedication of 35 feet from the centerline of Trap Road, the church was suggesting that only 30 feet was necessary as this was all that required of the church across the street (SP 86-D-009). With regard to condition 6, request waiver of that dedication until it is determined whether or not the service road will be completed. With regard to condition 12, they would like to forego construction until there is something to connect with. Concerning condition 7, in terms of planting of the "u" area, it will be landscaped, but in terms of the three tall trees being planted between the building and the parking area it was not necessary but they were proposing to provide some plantings.

With regard to Appendix 2, concerning condition 6, the hours of operation should be changed to 9:00 A.M. to 2:00 P.M. Concerning condition 7, the applicant would like to add one more position from 13 to 14 employees on site at any one time. Condition 11, waiver of the screening of the play area.

In closing, Ms. Greenleaf reiterated that staff was recommending approval of the applications subject to the development conditions as stated by staff.

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

Prior to making the motion, Mr. Hammack noted that the standards of the Zoning Ordinance had been met and therefore moved to grant SPA 83-D-045-1 subject to the revised development conditions.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 74-D-081-1 by ANDREW CHAPEL UNITED METHODIST CHURCH, under Section 3-103 of the Zoning Ordinance to amend S-81-74 for nursery school/child care center to permit building and parking additions and increase in maximum daily enrollment to 99, and changes to other conditions, on property located at 1301 Trap Road, Tax Map Reference 19-4((1))47, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 13, 1987; and

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

- 1. That the applicant is the owner of the land.
- 2. The present zoning is R-1.
- 3. The area of the lot is 7.17 acres of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-303 and 8-305 of the Zoning Ordinance.

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

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
- 2. This approval is granted for the Phase 1 buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
- 3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
- 4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
- 5. The combined maximum daily enrollment of the Mother's Day Out child care center and the nursery school shall not exceed 99 children.

- 6. The hours of operation for the programs shall be limited to 9:00 a.m. to 2:00 p.m.
- 7. There shall be a combined maximum of 14 employees on site at any one time associated with the programs.
- 8. There shall be 19 parking spaces provided for this use. All parking shall be on site.
- 9. The play area shall be provided as shown on the approved plat and shall be fenced in accordance with the Fairfax County Health Department standards.
- 10. Any sign erected in association with this use shall conform to Article 12 of the Zoning Ordinance.
- 11. All portions of the school facility, which for noise attenuation is considered a residential structure, between the centerline and 330 feet from the centerline of Leesburg Pike shall meet the following guidelines for the acoustical treatment of residential structures within the highway noise impact zone with levels in excess of 70 dBA Ldn. All portions of the school facility between 330 and 1050 feet from the centerline of Leesburg Pike shall meet the following guidelines for the acoustical treatment of residential structures within the highway noise impact zone with levels in excess of 65 dBA Ldn.
  - A. In order to achieve a maximum interior noise level of 45 dBA Ldn in all units located within that area impacted by highway noise having levels between 65 and 70 dBA Ldn, all units within this impacted area should have the following acoustical attributes:
    - 1. Exterior walls should have a laboratory sound transmission class (STC) of at least 39, and
    - 2. Doors and windows should have a laboratory sound transmission class (STC) of at least 28. If "windows" function as the walls, then they should have the STC specified for exterior walls.
    - 3. Adequate measures to seal and caulk between surfaces should be provided.

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

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

Mrs. Thonen seconded the motion.

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

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

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Mr. Hammack then moved to grant SPA 74-D-081-1 subject to the revised development conditions.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 83-D-045-1 by ANDREW CHAPEL UNITED METHODIST CHURCH, under Section 3-103 of the Zoning Ordinance to amend SP 83-D-045-1, on property located at 1301 Trap Road, Tax Map Reference 19-4(1)47, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 13, 1987; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 7.17 acres of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-303 and 8-305 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the Phase 1 buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. In order to facilitate the construction of the planned four-lane undivided road, dedication of a right-of-way to 30 feet from centerline along Trap Road and temporary grading easements for construction shall be provided along the site's frontage. In addition, the applicant shall dedicate, upon notice from Department of Environmental Management or Virginia Department of Transportation, an additional twelve (12) feet for replacement of a deceleration lane on the east side of Trap Road. The proposed entrance and right-turn deceleration lane shall be constructed to Virginia Department of Transportation (VDOT) standards. This requirement may be modified by DEM if determined to be necessary for consistency with adjacent development proposals. Grading and construction easements shall be provided as determined at the time of site plan review.
6. Dedication of right-of-way to ninety-eight (98) feet from centerline shall be provided along the site's frontage on Leesburg Pike if a service drive is required. If the requirement for a service drive is waived, adequate dedication has already been made. Grading and construction easements shall be provided as determined at the time of site plan review.
7. Landscaping and screening shall be provided as shown on the landscape plan submitted with this application with additional plantings, the location and type to be approved by the County Arborist, along the proposed hill in the eastern portion of the site. The purpose of these plantings on the hill shall be to screen and to provide a positive visual appearance. The landscaping should cover the entire length of the hill leaving no bare spots. Three additional shade trees shall be provided on the east side of the existing building between the building and the existing parking lot. The barrier requirement shall be waived. Interior parking lot landscaping shall be provided in accordance with Article 13 of the Zoning Ordinance.
8. There shall be a minimum planting yard of ten (10) feet after dedication for public street purposes along the western lot line in the vicinity of the existing parking lot.

9. The maximum number of seats in the principal place of worship shall be 200.
10. A minimum of 50 parking spaces shall be provided for the church use. All parking for the church use shall be on site.
11. All signs erected on site shall conform to the regulations specified in Article 12 of the Zoning Ordinance.
12. Dedication of a trail only shall be provided along Leesburg Pike. The type, size, and exact location shall be determined at the time that a service drive is required.
13. Parking lot lighting, if installed, shall be the low intensity type, on standards no to exceed twelve (12) feet in height and shielded, if necessary, so as to prevent light or glare from projecting onto adjacent residential properties.
14. This approval is for Phase 1 as shown on the plat submitted with this application only.

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

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

Mrs. Day and Mrs. Thonen seconded the motion.

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

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

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Page 89, October 13, 1987, (Tape 3), Scheduled case of:

11:00 A.M. ELEMENTARY MONTESSORI SCHOOL OF OAKTON, SPA 81-C-054-1, application under Sect. 3-103 of the Zoning Ordinance to amend S-81-C-054 for a private school of general education to allow continuation of the use without term, additional use as nursery school, increase the number of students to 70, and change ages to 2 1/2 to 12 years, located at 2709 Hunter Mill Road, on approximately 10.570 acres, zoned R-1, Providence District, Tax Map Reference 37-4(1)23.

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report and advised the Board of the need for a right turn lane for the entrance due to the traffic on Hunter Mill Road.

Mrs. Day noted that the school was the lessee and the church owned the property and the Board could not require the school to provide a right turn lane on property that they did not own. Ms. Hamblin-Katnik pointed out that if the use is not appropriate for the improvements the church is willing to provide then the Board should not approve the use. She added that if an unsafe condition exists with the use then the use should not be allowed.

Ms. Hamblin-Katnik continued with her presentation and advised the Board that the Office of Transportation suggests that a left turn lane should be provided based upon the fact that the operation of the school will be within the peak hours of traffic on Hunter Mill Road.

Mrs. Day stated that staff did not have the same requirements for Children's World School in the Oakton Shopping Center which was approved a few years ago. In response, Mrs. Kelsey stated that the Children's World School was required to obtain access through the shopping center. Mrs. Day noted out that the subject property was very secluded.

Following a question from Mr. Hammack, Ms. Hamblin-Katnik stated that the applicant was proposing to increase enrollment from 60 to 70.

Chairman Smith stated that the church and the school had been in place for many years and since there had been no problems with either use then staff should not be requiring so many transportation improvements.

Ms. Hamblin-Katnik continued with her presentation and stated that Barrier F along the property lines adjacent to the outdoor play area should be provided due to neighborhood complaints concerning noise from the children playing. In conclusion, staff recommended approval of the proposal subject to the development conditions.

Allan Lax-Antrim, 10301 Vale Road, Vienna, Virginia, representative of the applicant, appeared before the Board and stated that there had been no complaints about the school in the past six years. With regard to the development conditions, Mr. Lax-Antrim expressed concern about condition 5 which should be the same as condition 6 in of the original special permit. He added that the applicant was opposed to providing a fence but instead would be willing to provide additional plantings. Concerning condition 9, the school cannot provide dedication because the applicant is the lessee and the property has already been dedicated to the state approximately 10 years ago. Condition 10, is not necessary as there had been no accidents and there is already a right taper existing. Condition 11 is not practical for the school as the materials alone would be too costly. Mr. Lax-Antrim also expressed the opinion that the number of trips generated was incorrect.

Angela Kadar, Office of Transportation, Transportation Planner, appeared before the Board and stated that she had visited the site and researched the request. Ms. Kadar pointed out that the church had given an easement to the state which was different from dedication of right-of-way. She added that the State would require a right-turn lane and the left turn deceleration lane was necessary because of the amount of opposing traffic that someone would have to cross when making a left turn. She also explained that the formula for trips generated was the number of students (70) x 5 equals 350 trips which also include the number of employees. Ms. Kadar pointed out the problem could be solved if the school's starting hours were 9:30 a.m. which would be after the peak time for traffic.

Ms. Kelsey advised the Board the application was reviewed for not only the increase in students but as a new application as the existing application was about to expire.

Chairman Smith called for speakers and Marlene Kappesser, 2225 Malraux Drive, Vienna, Virginia, Steven Huckabee, 10300 Vale Road, Vienna, Virginia, Emma Atzai, 9804 Meadow Dale Court, Vienna, Virginia, appeared before the Board in support of the proposal and noted no traffic problems.

The following speakers appeared before the Board in opposition to the proposal. Connie Kramer, 10327 Hickory Forest Drive, Vienna, Virginia, and Laura Neale, 10331 Hickory Forest Drive, Vienna, Virginia. They expressed concern about the heavy traffic and requested additional plantings of thick evergreen or other full plants in the play area to form a natural barrier between their property line and the play area. With regard to the fence, they were opposed as it might be unsightly.

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

Prior to making the motion, Mrs. Day stated there would be no land use impact and noted that the church was located in the center of the 10 acre site. She added that the applicant had met the standards for a special permit. Mrs. Day then moved to grant the request subject to the revised development conditions with some deletions which she made which were the deletion of staff recommendation of the condition relating to transportation improvements and the screening barrier.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 81-C-054-1 by ELEMENTARY MONTESSORI SCHOOL OF OAKTON, under Section 3-103 of the Zoning Ordinance to amend S 81-C-054-1 for a private school of general education to allow continuation of the use without term, additional use as nursery school, increase the number of students to 70, and change ages to 2 1/2 to 12 years, on property located at 2709 Hunter Mill Road, Tax Map Reference 37-4(1)23, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 13, 1987; and

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

1. That the applicant is the lessee.
2. The present zoning is R-1.
3. The area of the lot is 10.570 acres of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-303 and 8-305 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. Small evergreen trees to act as a buffer are to be planted between the lot line, adjacent to lots 4 and 6 and the play area shown on the approved plat.
6. The maximum daily enrollment shall be 70 with no more than 60 on site at any one time. The ages of the students shall range from 2 and one-half through 12 years.
7. The hours of operation for the facility shall be 8:30 a.m. to 4:00 p.m., Monday through Friday.
8. The number of parking spaces reserved for this use shall be fifteen (15). All parking shall be on site.
9. The maximum number of employees shall be seven (7).
10. The term for this special permit use is to be limited to five (5) years.

These conditions include all applicable conditions from the previous approval of this special permit use.

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

Under Sect. 8-105 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date\* of the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Hammack and Mrs. Thonen seconded the motion.

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

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Page 92, October 13, 1987, (Tape 4), Scheduled case of:

11:10 A.M. McLEAN POST 8241 VETERANS OF FOREIGN WARS, VC 87-D-012, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to building to 7.8 feet from side lot line and 25.1 feet from front lot line (20 ft. min. side yard and 40 feet from front lot line required by Sect. 3-107), located at 1051 Springhill Road, on approximately 40,480 square feet, zoned R-1, Dranesville District, Tax Map 20-4((1))71. (DEFERRED FROM 7/7/87)

Jane Kelsey, Chief, Board of Zoning Appeals Support Branch, presented the staff report.

William Hansbarger of Fairfax, Virginia, representative of the applicant, appeared before the Board and provided a brief history of the application. Mr. Hansbarger explained the request as outlined in the statement of justification submitted with the application. He also submitted letters and a petition in support of the request.

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

Prior to making the motion, Mr. Ribble stated that the applicant had met the nine standards for a variance and also pointed out the narrow, shallow lot, the easement and the C-5 zoning on the side of the lot. He then moved to grant the request subject to the development conditions.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-D-012 by McLEAN POST 8241 VETERANS OF FOREIGN WARS, under Section 18-401 of the Zoning Ordinance to allow construction of addition to building to 7.8 feet from side lot line and 25.1 feet from front lot line, on property located at 1051 Springhill Road, Tax Map Reference 20-4((1))71, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 13, 1987; and

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

- 1. That the applicant is the owner of the land.
- 2. The present zoning is R-1.
- 3. The area of the lot is 40,480 square feet of land.

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

- 1. That the subject property was acquired in good faith.
- 2. That the subject property has the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
    - o and the applicant is dedicating in the front; and there is a septic tank in the back; and there is C-5 zoning on the side of this lot.
- 3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
- 4. That the strict application of this Ordinance would produce undue hardship.
- 5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.



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

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

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

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

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.
4. All conditions of the special exception approval shall also apply to the variance.

Mr. Hammack seconded the motion.

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

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

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Page 93, October 13, 1987, (Tapes 4 and 5), Scheduled case of:

11:20 A.M. KATIE H. BARR, SP 87-S-019, application under Section 3-C03 of the Zoning Ordinance to allow a kennel and waiver of dustless surface requirement, located at 7121 Bull Run P.O. Road on approx. 28.403 acres, zoned R-C and WSP0D, Springfield District, Tax Map 64-1((1))36. (DEF. FROM 5/26, 7/23 & 9/22/87 FOR DECISION ONLY)

Jim Armstrong, Sanitarian, Health Department, appeared before the Board and stated that there adequate enclosures for 53 dogs.

Mrs. Day stated that she had visited the site and expressed the opinion that the kennel should not be closed but Mrs. Barr should comply with the Health Department standards.

Mrs. Thonen also visited the site and stated that she had had several calls concerning the Barr kennel some in support and some in opposition. She stated that some of the cages were too small, there was carpet in some cages which would cause inferior cleaning efforts, the storage items should be removed from the barn which would allow a larger area to house the dogs, waste material in the backyard was not cleaned, and some cages were stacked. Mrs. Thonen also expressed the opinion that Mrs. Barr should increase the amount she charges to board the dogs which would allow her to improve conditions and have help with the care of the animals.

Frederick Goldbecker, P.O. Box 517, Fairfax, Virginia, representative of the applicant, appeared before the Board and clarified that Mrs. Barr has part-time help and volunteers. He stated that the private dogs did not come under the purview of the Health Department.

Mrs. Thonen disagreed with Mr. Goldbecker because the dogs were not kept separate, from the kennel dogs.

Mr. Goldbecker pointed out that the issue was one of land use. He further stated that there was no evidence that the kennel use adversely impacted the adjoining properties nor is it incompatible.

At this time, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. Hammack stated that the applicant has met the standards in part for a special permit. He then moved to grant the request in part, in accordance with the revised development conditions.

Mrs. Thonen expressed concern that there be adequate means to wash and sanitize the equipment.

Mr. Hammack added an additional condition: The two-vat sink in the barn which is required to wash and sanitize equipment shall be connected to an approved sewage disposal system within 60 days which would include a septic system.

Ms. Belofsky advised the Board the standard condition included in all special permits in reference to the requirement for site plan approval has been inadvertently omitted. Mr. Hammack then added this condition.

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. The applicant shall comply with all relevant health department regulations and guidelines.
5. The maximum number of animals on site shall be 53.
6. The maximum number of client visits per week shall be four (4).
7. No sign shall be erected on the property.
8. Waste material collected from the kennels, if not removed from the property, shall be covered to prevent storm water runoff in the water shed streams.
9. No exterior lighting of the kennel shall be permitted for use after dark other than security lighting. Security lighting, if used, shall be directed on site with no light projecting off the property.
10. A waiver of the dustless surface requirement shall be granted for the parking areas. These areas shall be maintained in accordance with the standard practices approved by the Director, Department of Environmental Management, which shall include but not be limited to the following:
  - A. Travel speeds in the parking areas shall be limited to 10 mph or less.
  - B. During dry periods, application of water or calcium chloride shall be made in order to control dust.
  - C. Routine maintenance shall be performed to prevent surface unevenness, wear-through or subsoil exposure. Resurfacing shall be conducted when stone becomes thin.

- D. Runoff shall be channeled away from and around the parking areas.
  - E. The property owner shall perform periodic inspections to monitor dust conditions, drainage functions, compaction and migration of stone surface.
12. This waiver of the dustless surface requirement is approved for a period of one (1) year.
  13. Existing vegetation shall fulfill the screening requirement and the existing fencing shall fulfill the barrier requirement.
  14. The two-vat sink in the barn which is required to wash and sanitize equipment shall be connected to an approved sewage disposal system within 60 days which would include a septic system.

Mrs. Thonen seconded the motion.

The motion carried by a vote of 4-1 with Chairman Smith voting nay; Mr. Hyland not present for the vote; Mr. DiGiulian absent from the meeting.

Chairman Smith and Mr. Ribble expressed the opinion that the Board did not have the authority to tell the Health Department to not pursue action on violations for any period of time. Therefore, Mr. Ribble moved to reconsider the motion.

Mrs. Thonen seconded the motion which passed by a vote of 4-1 with Mr. Hammack voting nay; Mr. Hyland not present for the vote; Mr. DiGiulian absent from the meeting.

Katie Barr, the applicant, appeared before the Board and explained how she cleaned the dogs.

Following a lengthy discussion among the Board, Mr. Hammack moved to grant the application in part subject to further revised development conditions.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-S-019 by KATIE H. BARR, under Section 3-C03 of the Zoning Ordinance to allow a kennel and waiver of dustless surface requirement, on property located at 7121 Bull Run P.O. Road, Tax Map Reference 64-1((1))36, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 13, 1987; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-C and WSPOD.
3. The area of the lot is 28.403 acres of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-903 and 8-915 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall

require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. The applicant shall comply with all relevant health department regulations and guidelines.
5. The maximum number of animals on site shall be 53.
6. The maximum number of client visits per week shall be four (4).
7. No sign shall be erected on the property.
8. Waste material collected from the kennels, if not removed from the property, shall be covered to prevent storm water runoff in the water shed streams.
9. No exterior lighting of the kennel shall be permitted for use after dark other than security lighting. Security lighting, if used, shall be directed on site with no light projecting off the property.
10. A waiver of the dustless surface requirement shall be granted for the parking areas. These areas shall be maintained in accordance with the standard practices approved by the Director, Department of Environmental Management, which shall include but not be limited to the following:
  - A. Travel speeds in the parking areas shall be limited to 10 mph or less.
  - B. During dry periods, application of water or calcium chloride shall be made in order to control dust.
  - C. Routine maintenance shall be performed to prevent surface unevenness, wear-through or subsoil exposure. Resurfacing shall be conducted when stone becomes thin.
  - D. Runoff shall be channeled away from and around the parking areas.
  - E. The property owner shall perform periodic inspections to monitor dust conditions, drainage functions, compaction and migration of stone surface.
12. This waiver of the dustless surface requirement is approved for a period of one (1) year.
13. Existing vegetation shall fulfill the screening requirement and the existing fencing shall fulfill the barrier requirement.
14. The applicant shall comply with all applicable sanitary requirements set forth in Chapter 41 of the Fairfax County Code, prior to the issuance of the permit.

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

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

Mr. Ribble seconded the motion.

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

97

Page 97, October 13, 1987, (Tapes 4 and 5), (Katie H. Barr, SP 87-S-019, continued from Page 96)

Chairman Smith pointed out the applicant is still operating in violation. Mrs. Thonen moved to request a ruling from the County Attorney on whether or not the Board's action is legal.

Mr. Ribble seconded the motion which passed by a vote of 5-0 with Mr. Hyland not present for the vote; Mr. DiGiulian absent from the meeting.

Chairman Smith informed the applicant's representative that the applicant did not have a special use permit according to the Resolution.

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Page 97, October 13, 1987, (Tape 5), After Agenda Item 1:

Request for Additional Time  
Rebecca Ann Crump  
SP 84-S-079

Mrs. Thonen moved to grant the request for additional time as recommended by staff. The new expiration date shall be July 16, 1988.

Mr. Ribble seconded the motion which passed by a vote of 4-0 with Messrs. Hammack and Hyland not present for the vote; Mr. DiGiulian absent from the meeting.

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Page 97, October 13, 1987, (Tape 5), After Agenda Item 2:

Out-of-Turn Hearing Request  
Jeffrey Scott Lewis  
VC 87-P-128

Mrs. Thonen moved to grant the request with the new public hearing date being December 8, 1987.

Mr. Ribble seconded the motion which passed by a vote of 3-1 with Chairman Smith voting nay; Messrs. Hammack and Hyland not present for the vote; Mr. DiGiulian absent from the meeting.

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Page 97, October 13, 1987, (Tape 5), After Agenda Item 3:

Out-of-Turn Hearing Request  
Katherine Randall  
VC 87-D-131

Mrs. Thonen moved to deny the request.

Mrs. Day seconded the motion which passed by a vote of 4-0 with Messrs. Hammack and Hyland not present for the vote; Mr. DiGiulian absent from the meeting.

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Page 97, October 13, 1987, (Tape 5), After Agenda Item 4:

Out-of-Turn Hearing Request  
James Powers T/A Precision Tune  
VC 87-M-127

Mrs. Day moved to deny the request.

Mr. Ribble seconded the motion which passed by a vote of 4-0 with Messrs. Hammack and Hyland not present for the vote; Mr. DiGiulian absent from the meeting.

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Page 97, October 13, 1987, (Tape 5), After Agenda Item 5:

Approval of Resolutions for October 6, 1987

Following a clarification from staff, Chairman Smith stated that concerning the Calvary Church of the Nazarene, SP 87-M-036, that the Board had voted to not require a service drive and with regard to the substitute motion, Chairman Smith had voted nay.

98

Page 98, October 13, 1987, (Tape 5), Resolutions:

Mrs. Thonen moved to approve Resolutions as presented.

Mrs. Day seconded the motion which passed by a vote of 4-0 with Messrs. Hammack and Hyland not present for the vote; Mr. DiGiulian absent from the meeting.

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Page 98, October 13, 1987, (Tape 5), After Agenda Item 6:

Ms. Kelsey advised the Board that staff had received a letter from some citizens requesting a deferral of the SMC Learning Center scheduled for October 20, 1987. She added that the applicant did not concur but questioned whether or not the Board might issue an intent to defer.

Chairman Smith advised staff to not bring these kinds of requests before the Board unless there was unanimous consent between the citizens and the applicant.

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As there was no other business to come before the Board, the meeting was adjourned at 5:06 P.M.

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

Daniel Smith  
Daniel Smith, Chairman  
Board of Zoning Appeals

SUBMITTED: December 15, 1987

APPROVED: January 5, 1988

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

Chairman Smith called the meeting to order at 7:47 P.M. Mrs. Day led the prayer.

Mr. Hammack made a motion that the Board go into Executive Session in order to discuss legal matters. Mrs. Thonen seconded the motion which carried by a vote of 4-0 with Messrs. DiGiulian and Hyland not present for the vote; Mr. Ribble absent from the meeting.

"

Page 99, October 20, 1987, (Tape 1),

Reconsideration of Mary Allen Appeal

Randy Minchew, attorney with the law firm of Hazel, Thomas, Fiske, Beckhorn & Hanes, represented Alex Rouhani, the property owner of the subject lot which was the subject of the Appeal heard on October 20, 1987. He argued that the only issue which was before the Board was whether or not the rear portion of the subject lot was floodplain. He stated that according to the Zoning Ordinance a floodplain must consist of 70 acres or more which drains across a piece of property and this property does not meet those restrictions.

Mr. Hammack stated that he had been the maker of the motion to uphold the Mary Allen Appeal. He added that his motion had been based upon the fact that the area had been designated as floodplain in 1979 and that the Code had been changed in 1985. He stated that he believed that property owners should be able to rely upon what is shown on the Master Plan and any modifications should not be retroactive.

Mrs. Thonen agreed with Mr. Hammack's comments and pointed out that in April 1987 the Board had upheld the Zoning Administrator's determination that this property did consist of floodplain.

The Board took no action to reconsider its decision.

"

Page 99, October 20, 1987, (Tape 1), Scheduled case of:

8:00 P.M. SMC LEARNING CENTERS LIMITED PARTNERSHIP (Originally submitted as U. S. Home Corporation), SP 87-S-037, application under Sect. 3-803 of the Zoning Ordinance to allow a child care center, located at Old Centreville Road and Singleton's Way, on approximately 1.25 acres of land, zoned R-8, Springfield District, Tax Map Reference 65-2((1))pt. 15A. (DEFERRED FROM 7/21/87 TO ALLOW TIME TO RESOLVE OUTSTANDING ISSUES WITH STAFF AND CITIZENS)

Kevin Guinaw, Staff Coordinator, informed the Board an amended affidavit had not been received by the County Attorney's office by the stipulated deadline nor had it been formally reviewed by the County Attorney's office. Mr. Guinaw added that therefore this case needed to be deferred and suggested a date and time of October 27, 1987 at 10:45 A.M.

Chairman Smith polled the audience to determine if there was anyone present who was interested in this case.

John Cahill, attorney with the law firm of Hazel, Thomas, Fiske, Beckhorn & Hanes, 3110 Fairview Park Drive, Fairfax, Virginia, objected to the deferral as he believed that the affidavit was in order. He stated that someone in the County Attorney's office had reviewed the affidavit but it was not the person who had initially reviewed the affidavit and requested the revisions.

Chairman Smith called the two citizens who were present to address this application to come forward. Preston Mulford and Beverly Mulford, 6101 Old Centreville Road, Centreville, Virginia, stated that he and his wife were the adjacent property owners. He stated that this wife presently operates a nursery school on their property. Mr. Mulford objected to the deferral as he and his wife had been present at the July 21, 1987 public hearing with 20 witnesses and at that time a deferral was granted to the applicant. He stated that he had requested a deferral by way of letter to staff two weeks, he has been waiting for 1 hour and 30 minutes to take part in this application. He stated that he believed that he had been treated unfairly regarding this case and requested that the Board deny this application. He requested that this be scheduled for a night meeting.

Mrs. Thonen asked staff for the date of the Board's next scheduled night meeting. Mr. Guinaw replied that it was scheduled for November 17, 1987 with an appeal and two special permit applications. Chairman Smith pointed out that the Board had agreed that four cases was as many as the Board could hear at a night meeting.

Mrs. Thonen made a motion to defer this case to November 17, 1987 at 8:40 P.M. Mr. Hammack seconded the motion which carried by a vote of 4-0 with Messrs. DiGiulian and Hyland not present for the vote; Mr. Ribble absent from the meeting.

Mr. Cahill agreed with this date and time.

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Page 100, October 20, 1987, (Tapes 1 and 2), Scheduled case of:

8:20 P.M. CEDAR CREST COUNTRY CLUB, SP 87-S-049, application under Sects. 3-G03 and 8-915 of the Zoning Ordinance to allow commercial golf course and recreational ground and waiver of the dustless surface, located at 16850 Sudley Road, on approximately 812.4 acres of land, zoned R-C(WS), Springfield District, Tax Map Reference 52-3((1))1, 42-4((1))9, 52-2((1))4, and 52-1((1))1 and 2. (DEFERRED FROM 7/21/87 FOR ADDITIONAL INFORMATION)

Lori Greenlief, Staff Coordinator, presented the staff report. She stated that the property is located in the westernmost part of Fairfax County adjacent to Prince William County and Loudoun County lines and on the west side of Bull Run Post Office Road. The applicant owns an additional 665 acres of land in Loudoun County and approximately 92 acres in Prince William County.

Mrs. Greenlief stated that the applicant was before the Board in 1984 requesting approval of a Special Permit at which time some of the structures and uses requested were approved and some were denied. The applicant failed to obtain valid site plan approval prior to the 18 month expiration and the Zoning Administrator determined that the Special Permit expired. Therefore, the applicant is now requesting reapproval of those structures as well as approval of some proposed structures and of several structures which have been built since 1984 without Special Permit or Building Permit approval. She added that notices of violation have been issued on several of the existing structures.

She continued by stating the applicant currently operates a country club with 700 members which is the number that he was limited to in 1984. In addition, he leases several picnic shelters to companies for annual picnics which the applicant states has an average attendance of 300 people.

Mrs. Greenlief pointed out that the applicant is requesting approval to increase the membership of the club from 700 to 1,500 with the capacity to serve 3,000 people on special occasions which is defined as weekly. It is staff's opinion that a commercial golf course and recreation ground can work on this site if the appropriate regulations and ordinances are followed.

She stated that staff reviewed the proposed use to determine its compatibility with the Comprehensive Plan and it was staff's conclusion that some of the uses are compatible and some are not. She pointed out that pages 12 through 15 of the Staff Report contains a list of staff's recommendations.

The Land along the river on the applicant's site is also an Environmental Quality Corridor (EQC) and is worthy of preservation. Staff has major concerns with the softball fields, a gazebo, a pond, a road, and two dams in Bull Run River which the applicant has already constructed because these uses have already drastically altered the EQC.

Mrs. Greenlief stated that staff does not believe the expansion of the membership and services will be in harmony with the Comprehensive Plan for the surrounding area nor will Bull Run Road Post Office be able to accommodate the additional traffic. She added that the Health Department has made a determination that the existing septic capacity limits the site to 700 people per day which is what staff is recommending. Mrs. Greenlief noted that development condition #17 lists the structures for which staff is recommending approval and development condition #18 lists the structures for which staff is recommending denial.

In response to questions from Mr. Hammack, Mrs. Greenlief replied that some of the structures were inadvertently left out of the conditions and clarified that the referenced golf course was Number 15 on the plat; staff is recommending approval of four existing and three proposed gazebos; staff is recommending approval of picnic shelters Numbers 9 and 32, and 17 and 56, which is a combined cookhouse and storage area; and, under development condition #18 staff is recommending denial of picnic shelters Numbers 8 and 10.

Harold Miller, 11715 Bowman Green Drive, Reston, Virginia, attorney for the applicant, highlighted points in the staff report with which he did not agree. He stated that it was noted in the staff report that Horace Jones of the Health Department had indicated that he could not recommend an increase in the capacity. Mr. Miller requested that the increase in capacity be approved subject to the Health Department approval of the permit thus eliminating the applicant having to come back to the Board. Regarding the delation



of the nine hole golf course, the gazebos, and requested recreational facilities, Mr. Miller stated that he did not believe these uses would adversely affect the environment and therefore could not agree with staff's recommendation. He addressed the issue of violations by stating that the applicant has worked with the County to resolve these violations and has voluntarily posted a \$10,000 bond.

As there were no speakers in support of this application, Chairman Smith called for speakers in opposition to the request and the following came forward.

Roland Swann, Superintendent of the Manassas National Battlefield Park, P.O. Box 1830, Manassas, Virginia, commended staff and supported their recommendation regarding this application. He stated that Manassas Battlefield Park abuts the applicant's property and the Park is concerned that the development on the applicant's property will affect the natural setting of the Battlefield. He requested that the Board not grant the applicant permission to further develop his land until the past violations have been cleared.

Martha Hendley, 5704 Featherbed Lane, Manassas, Virginia, told the Board that at the last public hearing the applicant had promised to close the existing ford on Bull Run River. She stated that no barrier has been erected on the side of the country club to prevent traffic from passing over the ford and in addition to the existing gate on Prince William side is frequently being left open. Mrs. Hendley pointed out that many structures that were denied by the Board in 1984 have been constructed and that the applicant still has not complied with many of the development conditions placed on that special permit.

Jane Wilson, 5649 Sudley Road, Manassas, Virginia, came forward and voiced her frustration with the applicant's attempts to blatantly ignore the restrictions placed on his existing special permit.

Dr. William T. Spence, 6011 Bull Run Post Road, Manassas, Virginia, came forward and told the Board that he has lived in that location for 30 years and is concerned with the ongoing development on the applicant's site. Dr. Spence expressed concern as to the size of the proposed pond in the northern corner of the site.

Mr. Miller relinquished one minute of his rebuttal time in order to allow a speaker to address the Board in support of this application. James M. Fox, Route 6, Bull Run Post Office Road, Manassas, Virginia, stated that he had lived in that location for 25 years and pointed out that the applicant has made vast road improvements.

During his rebuttal, Mr. Miller reiterated his earlier remarks by stating that the applicant has tried to correct the outstanding violations and would continue to work with staff to resolve any issues.

In response to questions from the Board regarding the size of the proposed pond, Mr. Miller replied that it will only be two acres.

Mrs. Greenleaf informed the Board that Joe Bakos, with the Code Enforcement Branch of the Department of Environmental Management, was present to respond to questions regarding the activity associated with the illegal filling and grading, if the Board so desired.

Mr. Bakos responded to questions from the Board by stating that the length of the existing pond has been increased to at least three times its original size. He added that the applicant has made an effort to alleviate the dumping and filling activity on the property. He pointed out that there is an outstanding criminal summons that the Sheriff's department has not been unable to serve.

Chairman Smith asked the applicant's attorney if his client would accept such a summons. Mr. Miller replied that it was his understanding that all legal action was stayed pending the applicant bringing outstanding issues into compliance. Mr. Bakos informed that Board that this agreement had been made with the applicant's attorney.

Mr. Hyland clarified for the citizens who were present that criminal action had been withheld pending a resolution of the other issues and the summons would be served if the applicant did not comply with the restrictions.

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

Mr. Hammack stated that it was his inclination to deny the Special Permit as he had never seen such a disruptable record nor such a disregard of development conditions. He added that he had read the staff report carefully and that it was his belief that staff had tried to deal with this application fairly and therefore he would support staff's recommendation with some modifications. Mr. Hammack then made a motion to grant-in-part SP 87-S-049 subject to several changes in the development conditions which he enumerated.

Mrs. Day seconded the motion. Mr. DiGiulian made a substitute motion to defer decision on this application for 60 days in order to obtain additional information from the Health Department regarding the septic field capacity. Chairman Smith agreed and added that he would support the substitute motion.

Mr. Hammack stated that this case had been deferred in order to obtain this information and that he was not certain that another deferral would guarantee that this information would be available.

Mr. Hyland seconded the substitute motion for purposes of discussion. He stated that he had never seen the site and expressed an interest in visiting the site prior to the next public hearing.

Mrs. Thonen stated that she would agree with the deferral but added that she did want to see the violations corrected prior to the applicant coming back before to the Board.

As there were no further discussion, Chairman Smith called for the vote. The substitute motion carried by a vote of 5-1 with Mr. Ribble absent from the meeting. Mr. Hammack's original motion was not carried forward.

Mrs. Greenleaf suggested a public hearing date of December 15, 1987 at 9:00 A.M. and hearing no objection the Board so moved.

Mr. Hyland added that he believed that perhaps some of the citizens would like to visit the site at the same time as the Board.

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JACK BAKER APPEALS, A 87-V-008 and A 87-V-009

Chairman Smith pointed out that the Board was in receipt of a letter from the appellant's attorney requesting a deferral of A 87-V-008 and A 87-V-009. John Cahill, Hazel, Beckhorn and Hanes, 4084 University Drive, Fairfax, Virginia, came forward and informed the Board that he had discussed this request with the Zoning Administrator and they were in agreement. He stated that he had been told by staff that there was an opening at 9:00 A.M. on the agenda for next week if the Board desired to schedule the appeal at this time.

Mr. Hyland stated that he could only support a deferral if the citizens who were present voiced no objection. He suggested that due to the vast number of citizens present that it would be more appropriate to schedule this case for a night meeting.

Following further discussion, Mr. Hyland made a motion to defer action on this request to October 27, 1987 at 9:00 A.M. in order for staff to determine when the Board Room would be available for a special meeting. Mr. DiGiulian seconded the motion which carried by a vote of 6-0 with Mr. Ribble absent from the meeting.

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Additional Time for VC 86-M-011  
Eddie and Norma Bellett

Mr. DiGiulian made a motion to grant the applicant in VC 86-M-011 an additional six months to commence construction making the new expiration date May 20, 1988. Mr. Hammack seconded the motion which carried by a vote of 6-0 with Mr. Ribble absent from the meeting.

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Approval of Minutes

Mr. Hammack made a motion to approve the Minutes of July 23, 1987 as submitted. Mrs. Day and Mr. DiGiulian seconded the motion which carried by a vote of 6-0 with Mr. Ribble absent from the meeting.

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Approval of October 13, 1987 Resolutions

Mr. Hammack made a motion to defer the adoption of the Katie Barr, SP 87-S-019, resolution until October 27, 1987 in order to allow time for staff to review the development conditions for editorial revisions.

Mrs. Thonen made a motion to accept the resolutions as submitted with the noted corrections. Mr. Hammack seconded the motion which carried by a vote of 6-0 with Mr. Ribble absent from the meeting.

Mrs. Day stated that a letter had been received from an adjoining property owner who objecting to a condition which had been placed on the Elementary Montessori School of Oakton, SPA 81-C-054-1. Therefore, she made a motion to reconsider the Board's action in SPA 81-C-054-1. Mr. DiGiulian seconded the motion which carried by a vote of 6-0 with Mr. Ribble absent from the meeting.

Mrs. Day made the following amendment to development condition #5:

Delete -- "A 4 foot fence shall be placed along the eastern side of the evergreen buffer adjacent to Lots 4 and 6 opposite the play area."

Following a discussion among the Board members and staff regarding the suggested amendment, Mr. DiGiulian seconded the motion which carried by a vote of 6-0 with Mr. Ribble absent from the meeting.

Lori Greenlief, Staff Coordinator, informed the Board that Ms. Kelsey, Branch Chief, had advised that perhaps the 8-day time limitation should be instituted due to the Board changing the wording of a condition. Chairman Smith voiced his agreement and hearing no objection the Board so moved.

Mrs. Thonen moved to adopt the resolution from October 13, 1987 excluding the resolution for Elementary Montessori School of Oakton. Mr. DiGiulian seconded the motion which carried by a vote of 6-0 with Mr. Ribble absent from the meeting.

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Chairman Smith pointed out the he would not be able to attend the Virginia Association of Counties Conference and Mrs. Thonen had volunteered to represent the Board in his absence. Mr. Hammack so moved and the motion carried by a vote of 6-0 with Mr. Ribble absent from the meeting.

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As there was no other business to come before the Board, the meeting was adjourned at 11:10 P.M.

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

  
Daniel Smith, Chairman Board of Zoning Appeals

SUBMITTED: 2/9/88

APPROVED: 2/16/88

104

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

Chairman Smith opened the meeting at 9:25 A.M. and Mrs. Day led the prayer.

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Page 104, October 27, 1987, (Tape 1), Scheduled case of:

9:00 A.M. OSWALD AND MARLENE BACHER APPEAL, A 86-V-012, to appeal the Zoning Administrator's determination that a quick-service food store and fast food restaurant which have been established within the existing service station are in violation of the Zoning Ordinance, located 8570 Backlick Road, on approx. 30,325 square feet, Zoned I-6, Mount Vernon District, Tax Map 99-4(1)77. (TO BE HEARD CONCURRENT WITH RZ. DEF. FROM 3/10/87 AND 6/9/87)

Chairman Smith announced that the Board had received a letter from the applicant of A 86-V-012 requesting a deferral.

Staff suggested a date of January 12, 1988 and Mr. Hyland so moved. Mr. Hammack seconded the motion which passed unanimously with Mrs. Thonen and Mr. DiGiulian absent from the meeting.

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Page 104, October 27, 1987, (Tape 1), Scheduled case of:

9:00 A.M. JACK BAKER APPEAL, A 87-V-008, application under Sect. 18-301 of the Zoning Ordinance to appeal the Zoning Administrator's determination that the junk yard and towing service uses on the appellant's properties are not permitted as a non-conforming use, located at 9415 Richmond Highway and 8643 Richmond Highway, on approximately 152,425 square feet of land and 102,714 square feet of land, zoned R-1 and C-8, Mount Vernon District, Tax Map References 107-4(1)27 and 107-3(1)100. (DEFERRED FROM 9/29/87 & 10/6/87 & 10/20/87)

9:00 A.M. JACK BAKER APPEAL, A 87-V-009, application under Sect. 18-301 of the Zoning Ordinance to appeal the July 30, 1987 decision of the Zoning Administrator regarding application of stay provisions of Sect. 18-307, located at 9415 and 8643 Richmond Highway, Zoned R-1, C-8 on approximately 152,425 square feet of land and 102,714 square feet of land, Mount Vernon District, Tax Map Reference 107-4(1)27, 101-3(1)100. (DEFERRED FROM 9/29/87 & 10/6/87 & 10/20/87)

Chairman Smith reminded the Board that the above referenced applications had been deferred to today to allow staff time to determine a date for an evening meeting to accommodate the concerned citizens.

Staff suggested November 16, 1987 at 8:00 p.m. and there being no objection, it was so ordered.

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At 9:30 a.m. the Board went into Executive Session to discuss legal matters. The meeting was reconvened at 10:55 A.M.

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Page 104, October 27, 1987, (Tape 1), Scheduled case of:

9:30 A.M. FAIRFAX BAPTIST TEMPLE, SP 87-S-022, application under Sect. 3-103 of the Zoning Ordinance to allow church and related facilities, located at 10207 Burke Lake Road, on approx. 32.9 acres, zoned R-1, Springfield District, Tax Map 77-4(1)pt. 16 and 87-2(1)pt. 3. (DEFERRED FROM 6/9/87 AT APPLICANT'S REQUEST. DEFERRED FROM 7/21/87 UNTIL AFTER THE BOARD OF SUPERVISORS' PUBLIC HEARING ON THE SPECIAL EXCEPTION)

Chairman Smith announced that the Board was in receipt of a letter from the applicant in the above referenced application requesting a deferral.

Staff suggested a new public hearing date of January 26, 1988 at 9:00 A.M. and Mr. Hyland pointed out that the applicant was requesting a new date in February of 1988. Staff then suggested February 9, 1988 at 9:00 a.m. and Mr. Hyland so moved. Mr. Ribble seconded the motion which passed unanimously with Mr. Hammack not present for the vote; Mrs. Thonen and Mr. DiGiulian absent from the meeting.

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9:45 A.M. HURST G. BOWERS, VC 87-D-101, application under Sect. 18-401 of the Zoning Ordinance to allow building and garage additions to dwelling to 10.54 feet and 8.0 feet, respectively, from side lot lines (12 ft. min. side yard req. by Sect. 3-307), located at 1649 Birch Road, on approximately 14,767 square feet of land, zoned R-3, Dranesville District, Tax Map Reference 31-3((21))47.

Kevin Guinaw, Staff Coordinator, presented the staff report.

Hurst Bowers, 1649 Birch Road, McLean, Virginia, the applicant, appeared before the Board explained his request as outlined in the statement of justification submitted with the application. Mr. Bowers also stated that he concurred with the staff report.

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

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-D-101 by HURST G. BOWERS, under Section 18-401 of the Zoning Ordinance to allow building and garage additions to dwelling to 10.54 feet and 8.0 feet, respectively, from side lot lines, on property located at 1649 Birch Road, Tax Map Reference 31-3((21))47, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 27, 1987; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 14,767 square feet of land.

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

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

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

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

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

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.
4. The exterior of the additions shall be architecturally compatible with the existing building and shall be similar in color and materials.

Mr. Ribble seconded the motion.

The motion carried by a vote of 4-1 with Chairman Smith voting nay; Mrs. Thonen and Mr. DiGiulian absent from the meeting.

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

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Page 106, October 27, 1987, (Tape 1), Scheduled case of:

10:00 A.M. PULTE HOME CORPORATION, SP 87-L-054, application under Sect. 3-503 of the Zoning Ordinance to allow community recreational facilities, located on Bedrock Road (formerly King Henry Drive), on approximately 6.43 acres of land, zoned R-5, Lee District, Tax Map Reference 92-4(1)pt. 1.

Heidi Belofsky, Staff Coordinator, presented the staff report and advised the Board that staff was recommending approval of the request subject to the development conditions.

Alex Intermaggio with Haight, Tramonte and Siciliano, P.C. located at 8221 Old Courthouse Road, Vienna, Virginia, appeared before the Board as the applicant's representative and stated that he concurred with the staff report.

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

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-L-054 by PULTE HOME CORPORATION, under Section 3-503 of the Zoning Ordinance to allow community recreational facilities, on property located at King Henry Drive, Tax Map Reference 92-4(1)pt. 1, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 27, 1987; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-5.
3. The area of the lot is 6.43 acres of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 8-403 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only. However, upon conveyance of the parcel to the Woodstone Homeowners' Association, this approval will transfer to the homeowners' association and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. There shall be no lights nor any employees associated with this use.
6. The use of this facility shall be limited to daylight hours only.
7. Clearing and grading shall be limited as shown on the submitted plat. Existing vegetation shall be used to satisfy the required Transitional Screening 1. Additional plantings may be required between the tennis courts and the northern lot line at the discretion of the County Arborist to soften the visual impact of the chain link fence.
8. Provided the tennis courts are fenced, the barrier requirement shall be waived.
9. Eight (8) parking spaces shall be provided in the same location indicated on the plat.
10. Two (2) park benches shall be provided in the tot lot area and a bicycle rack shall be installed in the parking area.
11. The facility shall serve the 540 households of the Woodstone subdivision.
12. Upon completion of construction the facility shall be deeded to the Woodstone homeowners' association which shall be responsible for its maintenance.
13. A type I (asphalt) trail shall be provided in the location shown on the plat.
14. As shown on the plat, the forty five (45) foot wide strip of land along the southern border of the property necessary for public street purposes shall be dedicated to the Board of Supervisors in fee simple upon thirty (30) days notice.

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

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

Mr. Hyland seconded the motion.

The motion carried by a vote of 5-0 with Mrs. Thonen and Mr. DiGiulian absent from the meeting.

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

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Page 108, October 27, 1987, (Tape 1), Scheduled case of:

10:15 A.M. OLAM TIKVAH PRESCHOOL, INC., SPA 81-P-068-2, application under Sect. 3-103 of the Zoning Ordinance to amend S-81-P-068 for a nursery school to permit continued operation, located at 3800 Glenbrook Road, on approximately 4.5205 acres of land, zoned R-1, Providence District, Tax Map Reference 58-4((9))17, 17A, 17B, 18A, 18B.

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report and advised the Board that staff was recommending approval of the request subject to the development conditions.

Richard Stahl of 4304 Evergreen Lane, Annandale, Virginia, representative for the applicant, appeared before the Board and stated that the applicant concurred with the staff report.

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

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 81-P-068-2 by OLAM TIKVAH PRESCHOOL, INC., under Section 3-103 of the Zoning Ordinance to amend S 81-P-068 for a nursery school to permit continued operation, on property located at 3800 Glenbrook Road, Tax Map Reference 58-4((9))17, 17A, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 27, 1987; and

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

1. That the applicant has the permission of the Synagogue to utilize the property.
2. The present zoning is R-1.
3. The area of the lot is 4.5205 acres of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-303 and 8-305 of the Zoning Ordinance.

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

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



3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. Unless waived by the Director, Department of Environmental Management (DEM), a site plan shall be submitted for approval in accordance by the provisions of Article 17.
5. Transitional Screening 1 shall be provided along all lot lines. The existing trees may be used to satisfy this requirement to the satisfaction of the County Arborist.
6. Barrier F shall be provided along the southern and western property lines and waived along the northern and eastern property lines.
7. The play area shall be fenced as required by the Fairfax County Health Department.
8. The preschool shall be limited to a total enrollment of 75 children with no more than 40 on site at any one time.
9. The hours of operation shall be 9:00 a.m. to 3:15 p.m., Monday through Friday.
10. There shall be no more than six (6) employees on site any one time.
11. Eight (8) parking spaces shall be reserved for this use. All parking shall be on site.

These development conditions incorporate all applicable previous development conditions.

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

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

Mr. Ribble seconded the motion.

The motion carried by a vote of 5-0 with Mrs. Thonen and Mr. DiGiulian absent from the meeting.

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

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Page 109, October 27, 1987, (Tape 1), Scheduled case of:

10:35 A.M. WILLIAM AND GWEN KING, VC 87-C-106, application under Sect. 18-401 of the Zoning Ordinance to allow partially constructed detached garage to be completed in a front yard (accessory structure or use not permitted in any front yard by Sect. 10-104), located at 10815 Cross School Road, on approximately 21,368 square feet, zoned PRC, Centreville District, Tax Map Reference 27-1(3)8. (DEFERRED FROM 10/13/87)

Scott Snyder of Miller and Bucholtz, 12755 Friendship Lane, Herndon, Virginia, representative of the applicant, appeared before the Board and stated that Harold Miller, the applicant's attorney was ill and therefore requested a deferral.

Staff suggested a date of December 8, 1987 at 9:00 a.m. There being no objection, it was so ordered.

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Page 110, October 27, 1987, (Tape 1), After Agenda Item #1:

Request for Additional Time  
Vietnamese Buddhist Association  
SP 83-M-099

William Hansbarger of Fairfax, Virginia, representative for the applicant, appeared before the Board and explained that the applicant was having unforeseen delays in obtaining site plan approval.

Mr. Hyland moved to grant the request as recommended by staff. Mr. Hammack seconded the motion which passed unanimously with Mrs. Thonen and Mr. DiGiulian absent from the meeting.

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Page 110, October 27, 1987, (Tape 1), After Agenda Item #2:

Out-Of-Turn-Hearing-Request  
Greater Little Zion Baptist Church  
SP 87-D-074

Mr. Hyland moved to grant the request. Mrs. Day seconded the motion which passed unanimously with Mrs. Thonen and Mr. DiGiulian absent from the meeting.

The new public hearing date is December 15, 1987 at 9:15 a.m.

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Page 110, October 27, 1987, (Tape 1), After Agenda Item #3:

Out-Of-Turn-Hearing-Request  
Westgroup, Inc.  
SP 87-D-074

Mr. Hyland moved to grant the request. Mrs. Day seconded the motion which passed unanimously with Mrs. Thonen and Mr. DiGiulian absent from the meeting.

The new public hearing date is December 15, 1987.

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Page 110, October 27, 1987, (Tape 1), After Agenda Item #4:

Out-Of-Turn-Hearing-Request  
College Town Associates  
SP 87-A-068

Chairman Smith announced that the Board was in receipt of a letter from Supervisor Audrey Moore requesting an out-of-turn-hearing for the applicant. Chairman Smith pointed out the need for child care in the County.

Ms. Belofsky, Staff Coordinator, advised the Board that the applicant had also requested and been granted an expedited hearing by the Board of Supervisors for a special exception by the applicant for a child care center. She further stated that the Board of Supervisors had been unable to hold a public hearing on the application because the applicant had not submitted the required information.

Chairman Smith stated that should the BZA grant an out-of-turn-hearing hearing for this application, and the applicant does not provide the necessary information to staff, the Board will not go forward with the hearing.

Mr. Hyland moved to grant the request. Mr. Hammack seconded the motion which passed by a vote of 4-1 with Mr. Ribble voting nay; Mrs. Thonen and Mr. DiGiulian absent from the meeting.

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Page 110, October 27, 1987, (Tape 1), After Agenda Item #5:

Resolution  
McLean Children's Academy, Inc.  
SPR 82-D-083-1

Mr. Hammack announced that he had received a letter from the applicant of SPR 82-D-083-1 requesting clarification of condition 14. Following a discussion among the Board, Mr. Hammack requested a verbatim transcript of the motion.

Mr. Hyland moved to defer action on the approval of this item until the Board could review the transcript. There being no objection, it was so ordered.

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Adoption of Amended Resolution  
Raymond C. and Carol Schupp  
VC 87-D-014

Claudia Hamblin-Katnik, Staff Coordinator, advised the Board that there had been a public hearing on the above referenced application on April 21, 1987 and the Board had granted the variance request. She added that it was the Board's intent to approve the request to allow construction of dwelling on proposed Lot 3, 140 ft. from I-495 R.O.W. However, staff inadvertently left this portion of the request out of the introductory paragraph of the Resolution. Therefore, it is necessary for the Board to adopt the amended Resolution in order for the applicant to obtain site plan approval.

Mrs. Day moved to adopt the amended Resolution for VC 87-D-014. Mr. Hammack seconded the motion which passed unanimously with Mrs. Thonen and Mr. DiGiulian absent from the meeting.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-D-014 by RAYMOND C. AND CAROL R. SCHUPP, under Section 18-401 of the Zoning Ordinance to allow subdivision into 4 lots, proposed lot 2 having width of 9 ft. and to allow construction of dwelling on proposed lot 3, 140 ft. from I-495 R.O.W., on property located at 7406 Old Dominion Drive, Tax Map Reference 21-3(1)40A, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 21, 1987; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 4.63 acres of land.

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

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

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

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

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

1. This variance is approved for the subdivision shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date \* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. Mitigation measures must be provided to achieve interior noise levels no greater than 45 dBA Ldn.
4. Dedication and construction of a Type II 6 foot asphalt trail, within a 10' easement along Old Dominion Drive, shall be provided.
5. The recorded subdivision plat shall delineate the boundaries of the Environmental Quality Corridor (EQC), as such term is defined in the language of the Comprehensive Plan. It should also include those areas within the floodplain. The exact location of these lines shall be determined at the time of subdivision plan review when accurate topographic and engineering data are available. In addition, a restrictive covenant shall be recorded in the deed of dedication and subdivision which shall state with respect to proposed Lots 1, 2, 3, and 4:

"There shall be no clearing of any vegetation except for dead or dying trees or shrubs, no grading and no structures of any kind, except a fence within this Environmental Quality Corridor area."

A grading plan shall be reviewed and approved by the Director, DEM prior to construction for conformance with this condition.

6. All of the footprints of the houses shown on the plat attached to the application shall be rearranged on the respective sites to meet all minimum setback requirements and a new subdivision plat showing the proper setbacks shall be submitted prior to any construction being commenced.
7. A right turn deceleration land shall be provided along Old Dominion Drive in conformance with VDOT standards.

Mr. DiGiulian seconded the motion which passed by a vote of 5-2 with Mrs. Day and Chairman Smith voting nay.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on April 29, 1987. This date shall be deemed to be the final approval date of this variance. This amended Resolution was adopted on October 27, 1987, therefore this date shall be deemed to be the final approval date.

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Page 112, October 27, 1987, (Tape 1), After Agenda Item #7

Approval of Minutes  
September 10 and 15, 1987

Mr. Hyland moved that the Minutes for September 10 and 15, 1987 as submitted.

Mrs. Day seconded the motion which passed unanimously with Mrs. Thonen and Mr. DiGiulian absent from the meeting.

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Reconsideration of Katie Barr  
SP 87-S-019

Mr. Hammack reminded the Board that the approval of the Resolution had been deferred to allow time to clarify the language of the development conditions. Mr. Hammack moved to reconsider the initial Resolution for SP 87-S-019. Mrs. Day seconded the motion which passed 5-0 with Mrs. Thonen and Mr. DiGiulian absent from the meeting.

The Board discussed the modified conditions as proposed by Mr. Hammack:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. The applicant shall comply with all relevant Health Department regulations and guidelines, especially those sanitary requirements set forth in Chapter 41 of the Fairfax County Code. The applicant shall specifically connect the two vat sink which is used to wash and sanitize equipment to an approved sewage disposal system.
5. The maximum number of dogs on site shall be 53 until the applicant satisfies the BZA that she has enclosures, which are adequate in size and construction to accommodate the dogs.
6. The maximum number of client visits per week shall be four (4).
7. No sign shall be erected on the property.
8. Waste material collected from the kennels, if not removed from the property, shall be covered to prevent storm water runoff in the water shed streams.
9. No exterior lighting of the kennel shall be permitted for use after dark other than security lighting. Security lighting, if used, shall be directed on site with no light projecting off the property.
10. A waiver of the dustless surface requirement shall be granted for the parking areas. These areas shall be maintained in accordance with the standard practices approved by the Director, Department of Environmental Management, which shall include but not be limited to the following:
  - A. Travel speeds in the parking areas shall be limited to 10 mph or less.
  - B. During dry periods, application of water or calcium chloride shall be made in order to control dust.
  - C. Routine maintenance shall be performed to prevent surface unevenness, wear-through or subsoil exposure. Resurfacing shall be conducted when stone becomes thin.
  - D. Runoff shall be channeled away from and around the parking areas.
  - E. The property owner shall perform periodic inspections to monitor dust conditions, drainage functions, compaction and migration of stone surface.
11. Within 60 days of the approval date\* of this Special Permit, applicant shall apply for a site plan waiver, or the applicant shall apply for site plan approval and, thereafter, obtain approval of the site plan in accordance with Article 17 of the Zoning Ordinance.
12. This Special Permit Use and waiver of the dustless surface requirement is approved for a period of two (2) years from the approval date of this Special Permit at which time it shall automatically expire without notice unless the applicant applies for a renewal from the BZA prior to its expiration.

13. Existing vegetation shall fulfill the screening requirement and the existing fencing shall fulfill the barrier requirement.

The Board requested staff notify the applicant's representative of the Board's intent to take action on the modified development conditions on November 5, 1987 at 9:00 A.M.

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Page 114, October 27, 1987, (Tape 1), Discussion of VACO Meeting

The Board expressed concern that more time was needed to process the Board's request that a member attend the conference as there was difficulty in obtaining a reservation for the conference.

Mr. Hyland moved to request that approval be obtained in a timely manner to guarantee that a Board member's registration and reservation for next year's conference.

Mr. Ribble seconded the motion which passed unanimously with Mrs. Thonen and Mr. DiGiulian absent from the meeting.

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As there was no other business to come before the Board, the meeting was adjourned at 12:35 P.M.

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

Daniel Smith  
Daniel Smith, Chairman  
Board of Zoning Appeals

SUBMITTED: 2/2/88

APPROVED: 2/9/88

115

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Thursday, November 5, 1987. The following Board Members were present: Daniel Smith, Chairman; Ann Day; Gerald Hyland; John Ribble Mary Thonen, and Paul Hammack. John DiGiulian, Vice-Chairman was absent from the meeting.

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

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Mr. Ribble and the all of the Board members congratulated Mr. Hyland on being elected to the Board of Supervisors for the Mount Vernon District.

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Page 115, November 5, 1987, (Tape 1), Scheduled case of:

9:00 A.M. RUKTON HOMES APPEAL, A 87-S-005, application under Sect. 18-301 of the Zoning Ordinance to appeal the Zoning Administrator's decision that appellant's property is not a lot under the Zoning Ordinance, located at Averett Drive, on approximately 2.4138429 acres, zoned R-C, Springfield District, Tax Map 87-1((3))Outlot D. (DEFERRED FROM 9/10/87 AT APPELLANT'S REQUEST)

Ms. Jane Gwinn, Zoning Administrator, stated that Mr. Jack Connor, attorney for the applicant, has requested a deferral based upon his receiving orders to serve on military duty.

Mrs. Thonen made the motion to defer the appeal until February 2, 1988 at 9:00 a.m. and Mr. Ribble seconded the motion, which passed 5-0, with Mr. Hammack not present for the vote and Vice-Chairman DiGiulian absent for the vote.

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Page 115, November 5, 1987, (Tape 1), Scheduled case of:

KATIE H. BARR, SP 87-S-019, application under Sect. 3-C03 of the Zoning Ordinance to allow a kennel and a waiver of the dustless surface requirement, located at 7121 Bull Run Post Office Road, on approximately 28.403 acres, zoned R-C and WSP0D, Springfield District, Tax Map Reference 64-1((1))36.

Lori Greenlief stated that the Resolution on the application of Katie H. Barr was deferred until today for discussion.

Heidi Belofsky stated that Pat Taves, Assistant County Attorney, was available if the Board so desired for legal advice on this case. She also stated that the applicant and her attorney, Mr. Goldbecker, approved of the Board's proposed Resolution.

Chairman Smith requested that Mr. Taves be called for legal advice.

Mr. Ribble moved to grant the Resolution as submitted. Mrs. Thonen seconded the motion. Chairman Smith requested that Mr. Taves be called for legal advice. Mr. Ribble withdraw the motion and passed over the application until the Board met with Mr. Taves.

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Page 115, November 5, 1987, (Tape 1), Scheduled case of:

9:30 A.M. CENTRAL BAPTIST CHURCH, SP 87-C-042, application under Sects. 3-103 and 8-915 of the Zoning Ordinance to allow church and related facilities and waiver of the dustless surface, located at 2355 Hunter Mill Road, on approximately 5.0 acres, zoned R-1, Centreville District, Tax Map Reference 37-2((1))25. (DEFERRED FROM 9/22/87 AT APPLICANT'S REQUEST)

Lori Greenlief, Staff Coordinator, stated that the applicant had submitted a revised plan which staff had reviewed and was currently in the process of writing an addendum to staff report. Staff suggests a deferral date of December 8, 1987 at 11:40 a.m.

Mrs. Thonen opposed scheduling any more applications in December as the agendas were already full.

Mrs. Thonen moved to grant the request that SP 87-C-042 be deferred to December 8, 1987 at 11:40 a.m. with Mr. Hyland seconding the motion. The motion passed 5-0 with Mr. Hammack not present for the vote and Vice-Chairman DiGiulian absent from the meeting.

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DISCUSSION OF THE RESOLUTION OF KATIE BARR APPLICATION

Mr. Hyland moved that the Board go into Executive Session to discuss legal matters in connection with the Katie Barr case for ten minutes with Mrs. Thonen seconding the motion. The motion passed by a vote of 6-0 with Vice-Chairman DiGiulian absent for the vote. The Board recessed to go into Executive Session at 9:40 a.m. and reconvened at 10:30 a.m.

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RESOLUTION ON APPLICATION OF KATIE BARR

Mr. Hammack made a motion to reconsider the language of the Resolution, SP 87-S-019, that the Board discussed at the last meeting. Mr. Hammack also moved to defer the approval for six days to allow the attorney representing Mrs. Barr to review the change. Mr. Ribble seconded the motion which passed by a vote of 6-0 with Vice-Chairman DiGiulian absent from the meeting.

Mr. Hammack made the motion that the Board change the language in Development Condition #4 in SP 87-S-019 to read as follows: The applicant shall comply with all relevant Health Department regulations and guidelines, including but not limited to, all of the regulations set forth in Chapter 41 of the Fairfax County Code. The applicant shall specifically connect the two vat sink which is used to wash and sanitize equipment to an approved sewage disposal system.

4. The applicant shall comply with all relevant Health Department regulations and guidelines, including but not limited to, all of the regulations set forth in Chapter 41 of the Fairfax County Code. The applicant shall specifically connect the two vat sink which is used to wash and sanitize equipment to an approved sewage disposal system.

Mrs. Thonen seconded the motion and it passed by a vote of 6-0 with Vice-Chairman DiGiulian absent from the meeting.

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Page 116, November 5, 1987 (Tape 1), Scheduled case of:

9:40 A.M. HENRY A. THEMAK, JR., VC 87-A-103, application under Sect. 18-401 of the Zoning Ordinance to allow construction of dwelling to 30.5 feet from I-495 ROW line (200 ft. min. distance from ROW line required by Sect. 2-414), located at 5517 Heming Avenue, on approximately 14,529 square feet of land, zoned R-3, Annandale District, Tax Map Reference 80-1((1))17.

Weidi Belofsky, Staff Coordinator, presented the staff report. Ms. Belofsky noted that this type of application usually goes before the Board of Supervisors in conjunction with a Rezoning Application or Preferred Condition Amendment. The applicant has elected to go before the Board of Zoning Appeals to request a variance.

Ms. Belofsky stated that staff's concern with this application is that an undesirable precedent for future development along other principal highways, specifically the Dulles Airport Access Road which there is a large number of vacant properties. The applicant acquired this property after responding to an advertisement in the Washington Post Newspaper by the Virginia Department of Transportation for the sale of surplus land. VDOT represented that the subject property was a buildable lot.

Ms. Belofsky stated that if the application is granted the applicant has suggested that Development Condition #6A read as follows: The exterior walls shall have a laboratory sound transmission class of at least 39.

Mr. Hammack stated that he is concerned that VDOT would sell land for \$36,000 and Fairfax County would not allow it to be built upon. In answer to Mr. Hammack's question Ms. Belofsky stated that VDOT is not making any warranties that these are buildable lots. She further pointed out that usually an adjoining property owner would purchase the lot for a nominal sum of money to enlarge his own lot. Frequently these parcels are never sold and remain on the record as public land.

Henry Themak, 8635 Chapel Drive, Annandale, Virginia, the applicant, stated that he responded to the ad in the Washington Post and purchased the land as a buildable lot. There was no mention of the 200 foot setback.



Mr. Themak stated that the VDOT plat shows the parcel outside the Beltway right-of-way, separate lots, but the County plat showed the parcel was Beltway right-of-way. Mr. Themak had to meet with VDOT and the County to work out this problem. Mr. Themak pointed out that he was paying taxes on this parcel. He also stated that he meets all the requirements for a buildable lot except for the 200 foot setback for the district.

A petition was submitted for the record in support and there are a number of letters submitted for the record in opposition.

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

Mr. Hammack moved to grant VC 87-A-103 based on the applicant's testimony and because the applicant has satisfied the nine required standards for a variance; in particular, #2 and #6. Development Conditions 1 through 5 will remain the same with Development Condition #6A changed to read: The exterior walls of the dwelling shall be constructed to ensure a laboratory sound transmission class of at least 39.

Mr. Hammack further stated that the applicant can build a house that meets the noise attenuation requirement.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-A-103 by HENRY A. THEMAK, JR., under Section 18-401 of the Zoning Ordinance to allow construction of dwelling to 30.5 feet from I-495 ROW line, on property 5517 Heming Avenue located at Tax Map Reference 80-1((1))17, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 5, 1987; and

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

1. That the applicant is the co-owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 14,529 square feet of land.

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

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

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

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

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

1. This variance is approved for the location and the specific structure shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.
4. Clearing and grading shall be limited to those areas shown on the approved plat.
5. As delineated on the approved plat, the garage shall be located on the south side of the dwelling.
6. The following noise attenuation measure shall be implemented so as to minimize the adverse acoustical impact of I-495 on the site:
  - A. The exterior walls of the dwelling shall be constructed to ensure a laboratory sound transmission class of at least 39.
  - B. Doors and windows should have a laboratory sound transmission class of at least 28.
  - C. Adequate measures to seal and caulk between surfaces shall be provided.

Mr. Ribble seconded the motion and the motion carried by a vote of 4-2 with Mrs. Day and Chairman Smith voting nay and Mr. DiGiulian absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on November 13, 1987. This date shall be deemed to be the final approval date of this variance.

Following discussion among the Board concerning advertisements from VDOT it was suggested that they put some type of disclaimer in their advertisement that VDOT make no representation whether a lot it is selling is a buildable lot or not.

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Page 118, November 5, 1987, (Tape 1), Scheduled case of:

9:50 A.M. BDLK, INC., SP 87-M-056, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to the minimum yard requirement based on error in building location to allow building to remain 10.6 ft. from side lot line (12 ft. min. side yard required by Sect. 3-307), located at 9601 Chapel Lake Drive, on approx. 10,500 square feet of land, zoned R-3, Mason District, Tax Map Reference 60-4((28))6.

Heidi Belofsky, Staff Coordinator, presented the staff report. She stated that the applicant's written statement does not address how this error occurred. Telephone conversations with the applicant's agent indicate that this error was probably due to inaccurate staking by the survey team. Ms. Belofsky stated that it is staff's judgment that this application fulfills all the seven criteria necessary to allow a building in error to remain as there is no evidence that this applicant did not act in good faith and therefore staff recommends approval for the modification of 1.4 feet from the side yard requirement.

Randy Kees, 6419 Finesta Court, Burke, Virginia, the representative from BDLK for the applicant, stated that the error was in his original computations. Mr. Kees then contacted the Fergusons who own the house and explained the situation and agreed to file this application. The address of the property in the agenda is incorrect. The correct address is 4103 Cottage Lane.

Ellen Ferguson, 4103 Cottage Lane, Annandale, Virginia, the owner of the property stated that the address was advertised correctly.

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

Mrs. Thonen moved to grant SP 87-M-056 based on the representative for the applicant's testimony and that the error is small and that the applicant meets the requirements of the mistake section for a Special Permit.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Mrs. Thonen made the following motion:

WHEREAS, Application No. SP 87-M-056 by BDLK, Inc. under Section 8-901 of the Fairfax County Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow building to remain 10.6 feet from side lot line, on property located at 4103 Cottage Lane, Tax map reference 60-4((28))6, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on November 5, 1987; and,

WHEREAS, the Board made the following conclusions of law:

1. The Board has determined that:
  - A. The error exceeds ten (10) percent of the measurement involved, and
  - B. The non-compliance was done in good faith, or through no fault of the property owner, or was the result of an error in the location of the building subsequent to the issuance of a Building Permit, if such was required, and
  - C. Such reduction will not impair the purpose and intent of this Ordinance, and
  - D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
  - E. It will not create an unsafe condition with respect to both other property and public streets, and
  - F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.
  - G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

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

1. This special permit is approved for the location and the dwelling shown on the plat included with this application and is not transferable to other land.
2. A new Building Permit shall be obtained showing the existing dwelling and the related yards.

Mr. Hammack seconded the motion.

The motion passed by a vote of 6-0, with Mr. DiGiulian absent from the meeting.

Page 120 November 5, 1987, (Tape 1), Scheduled case of:

10:00 A.M. EUGENIA MARSTERS/JOHN C. THATCHER, VC 87-P-105, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed Lot 19A having a lot width of 15.0 feet (70 ft. min. lot width required by Sect. 3-406), located at 2810 Woodlawn Avenue, on approximately 0.601 acres, zoned R-4, Providence District, Tax Map Reference 50-2((3))17 and 19.

Lori Greenlief, Staff Coordinator, presented the staff report and advised the Board that all of the other lots on this street are similar and staff feels that a precedent might be set by the granting of this variance.

John Thatcher, 2902 Rose Place, Falls Church, Virginia, agent for the applicant, stated that since the dwelling is placed over the existing lot line the second lot is not buildable and that is why they are requesting a subdivision in the proposed configuration. Mr. Thatcher submitted a petition from the homeowners which was made part of the record setting forth no objections.

Mrs. Thonen pointed out that staff noted that the applicant does not meet the three requirements for a pipestem lot.

Ms. Greenlief stated that a variance was granted in the vicinity in 1980 for a pipestem. The other three examples in the neighborhood were not pipestems but rather were access easements established in the 1950's.

Mark Booth, 2814 Woodlawn Avenue, Falls Church, Virginia, spoke in opposition. He read his letter into the record.

Following Mr. Hyland's question, Ms. Greenlief stated that copies of letters are made public and that staff keeps in contact with the applicant.

Ms. Greenlief commented that there is a single house on each 50' lot width, except for the one the applicant pointed out.

Don Marsters, son of the owner, stated that at the time the applicants bought the original lot they had no idea that the house was over the line.

Following questions from Mr. Hammack, Ms. Greenlief stated that if the applicant alters the common lot line between lots 17 and 19 the applicant must come in and request a lot width variance from the Board. She also stated that when the lot lines were created they were in conformance with zoning regulations.

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

Mrs. Day moved to grant VC 87-P-105 based on the applicant's testimony and because it has been stated that it is not possible for another such variance to be requested on this street therefore it would be the last one and would not set a precedent. The houses on the front lots along the street sit along the line and would not affect this house. The existing house was built in 1931 and they were not aware that it would be on the line, and it was done in good faith.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-P-105 by EUGENIA MARSTERS AND JOHN C. THATCHER, under Section 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, Proposed Lot 19A having a lot width of 15.0 feet, on property located at 2810 Woodlawn Avenue, Tax Map Reference 50-2((3))17 and 19, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 5, 1987; and

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

1. That the applicant is the owner of the land, and John C. Thatcher is the agent for the property owner.
2. The present zoning is R-4.
3. The area of the lot is 0.601 acres of land.

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

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

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

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

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

1. This variance is approved for the subdivision of two lot into two lots as shown on the plat submitted with this application.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless this subdivision has been recorded among the land records of Fairfax County, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. The driveway to the proposed lot shall be constructed in accordance with the Public Facilities Manual

Mr. Ribble seconded the motion which carried by a vote of 4-2 with Messrs. Hammack and Smith voting nay and Mr. DiGiulian absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on November 13, 1987. This date shall be deemed to be the final approval date of this variance.

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10:10 A.M. ERNEST L. HARRIS, JR., VC 87-A-107, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 7.92 feet from side lot line (12 ft. min. side yard required by Sect. 3-307), located at 8927 Orange Hunt Lane, on approximately 12,000 square feet of land, zoned R-3, Annandale District, Tax Map Reference 69-4((6))172.

Lori Greenlief, Staff Coordinator, presented staff report. Ms. Greenlief noted that the corner of the dwelling on adjacent lot 171 is located 16.9 feet from the shared lot line. She also stated that one letter was submitted from Carl Hoffman stating that he has no objection to this variance.

Ernest L. Harris, Jr., 8927 Orange Hunt Lane, Annandale, Virginia, the applicant stated that his justification for the variance is the exceptional narrowness and topographical conditions of his lot.

In response to Mr. Hammack's question, Mr. Harris stated that the materials used to build this shed would be identical to those of the house.

Following Mr. Hyland's question, Mr. Harris commented that the slope of the lot in the back is approximately a 3 or 4 degree slope.

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

Mr. Hyland made the motion to grant VC 87-A-107 based on the applicant's testimony; specifically, no objections from the abutting property owners, the lot is heavily wooded, and the slope on the back of the property.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-A-107 by ERNEST L. HARRIS, JR., under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 7.92 feet from side lot line, on property 8927 Orange Hunt Lane located at Tax Map Reference 69-4((6))172, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 5, 1987; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 12,000 square feet of land.

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

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

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

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

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

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

- 1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
- 2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
- 3. A Building Permit shall be obtained prior to any construction.

Mr. Ribble seconded the motion which carried by a vote of 4-2 with Messrs. Hammack and Smith voting nay and Mr. DiGiulian absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on November 13, 1987. This date shall be deemed to be the final approval date of this variance.

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The Board adjourned for lunch at 12:00 noon and reconvened at 1:00 p.m.

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Page 123 November 5, 1987, (Tape 2), Scheduled case of:

10:20 A.M. DANIEL H. SHANER, TRUSTEE, VC 87-S-102, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into a lot and a lot such that an existing building on proposed Lot 1 would be 9.5 feet from the rear lot line (20 ft. min. rear yard required by Sect. 4-507), located at 8316 Hooes Road, on approximately 11.74 acres of land, zoned C-5, PDH-3 and R-2, Springfield District, Tax Map Reference 89-3((1))25A, 25, 26.

Kevin Guinaw, Staff Coordinator, presented the staff report. He commented that the property was involved in a rezoning of a larger 42 acre parcel in 1986, which rezoned those 42 acres to PDH-3 category. Portions of lot 25 and 26 are included within that PDH-3 rezoning. Dedication for the Springfield By-Pass was proffered in the rezoning case. Mr. Guinaw suggested a second Development Condition to Appendix I that reads: Right-of-way to 45 feet from centerline on Hooes Road shall be dedicated and conveyed to the Board of Supervisors in fee simple. Temporary grading and construction easements shall be provided to facilitate future road improvements.

Grayson Hanes, 4840 University Drive, Fairfax, Virginia, attorney for the applicant, pointed out that the State and County would both benefit if this variance was granted. First of all, the applicant will dedicate 45 feet from centerline with the subdivision plat that the State will not have to pay for. Secondly, the amount of commercial property by this rezoning within the property has been reduced. Mr. Hanes further stated that the applicant met the Required Standards for a Variance, especially since the absence of a variance will create a hardship for his client. The subdivision that was approved by the Board of Supervisors could not be built, and that the taxpayers would end up paying for the acquisition of the 45 feet of land.

Nancy Jo Cramer, Paciulli, Simmons and Associates, 11130 Main Street, Fairfax, Virginia stated that at the time the contract purchaser was selling or buying the land for the rezoning case it was indicated that the dividing line was to be set on the existing R-2 C-5 zoning district line. The firm that contacted the Fairfax County Office of Mapping for a description of where that line occurred and was told that it was 200 feet back from what the alignment was on Hooes Road back in 1941 and parallel to it. It was then detected that the line was inaccurate.

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

Mr. Ribble moved to grant VC 87-S-102 based on the fact that the applicant has satisfied the nine requirements for a variance, specifically that there was an engineering error resulting in the Zoning District line being inaccurate which creates an extraordinary situation. In addition to the Development Conditions, Mr. Ribble added a condition #2 which reads as follows: Right of way to 45' from centerline on Hooes Road shall be dedicated and conveyed to the Board of Supervisors in fee simple. Temporary grading and construction easements shall be provided to facilitate future road improvements.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-S-102 by DANIEL H. SHANER, TRUSTEE, under Section 18-401 of the Zoning Ordinance to allow subdivision into a lot and a lot such that an existing building on proposed Lot 1 would be 9.5 feet from the rear lot line, on property located at 8316 Hooes Road, Tax Map Reference 89-3((1))25A, 25, 26, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 5, 1987; and

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

1. That the applicant is the owner of the land.
2. The present zoning is C-5, PDH-3 and R-2.
3. The area of the lot is 11.74 acres of land.

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

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



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

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

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

1. This variance is approved for the location and the specific structure shown on the plat included with this application and is not transferable to other land.
2. Right-of-way to 45 feet from centerline on Hooes Road shall be dedicated and conveyed to the Board of Supervisors in fee simple. Temporary grading and construction easements shall be provided to facilitate future road improvements.

Mr. Hammack seconded the motion which carried by a vote of 6-0 with Mr. DiGiulian absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on November 13, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 125, November 5, 1987, (Tape 2), Scheduled case of:

10:30 A.M. JOHN J. GOSCIA/MINNIE M. WILLINGHAM, VC 87-P-108, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed lot 12B having width of 6 ft. (150 ft. min. lot width required by Sect. 3-106), located at 3900 Glenbrook Road, on approximately 2.031 acres of land, zoned R-1, Providence District, Tax Map Reference 58-4((9))12.

Kevin Guinaw, Staff Coordinator, presented the staff report and noted that this application is identical to the application which was before the Board in September of 1986. Mr. Guinaw pointed out that the application is not in compliance with the Office of Comprehensive Planning's guidelines for evaluating pipestem lots and that the granting of this variance would set a precedent for other similar situated lots in the area. Staff has concluded that this application is not in compliance with the standards specified in paragraphs 2, 4, 5 or 6 of Sect. 18-404, that is it does not have any exceptional or extraordinary condition that the applicant has not demonstrated an undue hardship and that the applicant currently does have reasonable use of the land.

Nancy Gibb, with the law firm of Mackall, Mackall, Walker and Siter, 4031 Chainbridge Road, Fairfax, Virginia, attorney for the applicant, stated that Mrs. Willingham wants to sell her rear lot because she is older, widowed, on a limited income and unable to take care of it. Sunnyhill Subdivision is an old subdivision that has been on record since 1948, consisting of 28 lots with 2 acres. Of those 28 lots, 19 have been subdivided into 1 acre lot. Ms. Gibb stated that the staff report raised many problems and she would address each one of them. First of all, the Comprehensive Plan calls for R-2 zoning of this area and it seems to her that this property is the perfect solution to keeping the density low. Secondly, the Comprehensive Plan calls for maintaining the vegetation and the applicant will be happy to work with the Arborist to do that. Lastly, the applicant has fourteen letters of support in the record.

Norman Nice, 9106 Glenbrook Road, Fairfax, Virginia, President of Mantua Citizens Association, spoke in support of the application. Mr. Nice stated that Mr. Coscia has lived in the area since he was a child and he would make a nice addition to the citizenship of the Mantua area. He stated that no precedent would be set in this area.

In conclusion, Mr. Guinaw clarified three points made in staff's position. Number 1, Sunny Hill Subdivision is an old subdivision but a lot of the narrow lots in the area on Glenbrook Road were subdivided in the 1950's prior to the existence of the present Ordinance. The required lot width at that time was 100 feet, not 150 feet. Number 2, the subdivision of lots 22, 23 and 24 were accomplished without a variance. Number 3, it is staff's position that the financial hardship however serious, was not a hardship related to the use of the land.

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

Mr. Hammack made the motion to grant VC 87-P-108 based on the applicant's testimony and the fact that the applicant had satisfied the nine required standards for a variance; in particular, the lot is large and the depth is much deeper than the width and that it would not prohibit unreasonable use of the land.

Mr. Hammack noted that last year he participated in the vote when the application was before the Board which denied this variance. He stated that the two things that caused him to change his mind was the fact that there was a resubdivision of three lots across the street from the property which makes this property the last large original lot that has not been resubdivided and the fact that the Comprehensive Plan shows that this property is zoned R-2 to R-3 and it could be subject to a rezoning.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-P-108 by JOHN J. COSCIA/MINNIE M. WILLINGHAM, under Section 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed lot 12B having width of 6 feet, on property 3900 Glenbrook Road located at Tax Map Reference 58-4((9))12, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 5, 1987; and

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

1. That the applicants are the contract purchaser and the owner of the land, respectively
2. The present zoning is R-1.
3. The area of the lot is 2.031 acres of land.

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

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

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

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

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

1. This variance is approved for the subdivision of one lot into two (2) lots as shown on the plat submitted with this application.

- 2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless this subdivision has been recorded among the land records of Fairfax County, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
- 3. Only one (1) entrance to both lots shall be allowed from Glanbrook Road. The driveway easements shall be recorded with deeds to the property to ensure future access to these lots via a common driveway.
- 4. The driveway to the proposed lots shall be constructed in accordance with the Public Facilities Manual.
- 5. The applicant shall work with the County Arborist to determine the boundaries for tree clearance and shall develop a plan to preserve and protect existing trees. The plan shall be submitted to the County Arborist for approval, prior to the submission of a grading plan or the undertaking of any site clearance activity.

Mr. Ribble seconded the motion which carried by a vote of 5-1 with Messr. Smith voting nay and Mr. DiGiulian absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on November 13, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 127, November 5, 1987, (Tape 2), Scheduled case of:

10:40 A.M. NAYN AND OLGA CARAM, SP 87-L-055, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to min. yard requirements based on error in building location to allow additions to dwelling to remain 10.5 ft. from side lot line ( 12 ft. min. side yard required by Sect. 3-307), located at 7308 Bath Street, on approximately 10,720 square feet of land, zoned R-3, Lee District, Tax Map Reference 80-3((3))(34)26.

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

Wayn Caram, 7308 Bath Street, Springfield, Virginia, the applicant, stated that he met the required standards for a special permit.

Ms. Hamblin-Katnik noted that there were two letters of support of the application that will be made part of the record.

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

Mrs. Thonen moved to grant SP 87-L-055 based on the applicant's testimony and staff's recommendation that this error was done in good faith. Mrs. Thonen pointed out that granting of this special permit will not impair the intent and purpose of the Zoning Ordinance nor will be detrimental to the use or enjoyment of other property owners in the immediate vicinity, nor will it create an unsafe condition with respect to both other properties and public streets, and compliance with the setback requirements would cause unreasonable hardship on the owner.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Mrs. Thonen made the following motion:

WHEREAS, Application No. SP 87-L-055 by Wayn and Olga Caram under Section 8-901 of the Fairfax County Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow additions to dwelling to remain 10.5 feet from side lot line, on property located at 7308 Bath Street, tax map reference 80-3((2))(34)26, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on November 5, 1987; and,

WHEREAS, the Board made the following conclusions of law:

1. The Board has determined that:
  - A. The error exceeds ten (10) percent of the measurement involved, and
  - B. The non-compliance was done in good faith, or through no fault of the property owner, or was the result of an error in the location of the building subsequent to the issuance of a Building Permit, if such was required, and
  - C. Such reduction will not impair the purpose and intent of this Ordinance, and
  - D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
  - E. It will not create an unsafe condition with respect to both other property and public streets, and
  - F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.
  - G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

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

1. This approval is for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. A building permit for the extension of the laundry room and enclosure of carport shall be obtained prior to the continuance of construction.
3. The applicant shall plant and maintain a minimum of three six (6) foot evergreen trees along the side of the enclosure and extension and shall plant four (4) additional evergreen shrubs along the front of the enclosed carport.
4. The front of the enclosure shall be architecturally compatible with the existing dwelling.

Mr. Hammack seconded the motion.

The motion passed by a vote of 6-0 with Mr. DiGiulian absent from the meeting.

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Page 128, November 5, 1987, (Tape 2), Scheduled case of:

10:50 A.M. ALLEGRO INVESTMENT COMPANY, VC 87-D-104, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into eight (8) lots and an outlot, proposed Lots 5 and 6 having widths of 79.93 feet and 24.29 feet, respectively (150 ft. min. lot width required by Sect. 3-106), located at 10200 Georgetown Pike, on approximately 12.9752 acres of land, zoned R-1, Dranesville District, Tax Map Reference 12-2(91)9 and 10.

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

Charlie Runyon, Runyon, Dudley, Anderson, Assoc., Inc., 10560 Main Street, Suite 301, Fairfax, agent for the applicant, stated that the applicant could subdivide the property into 10 lots, drain the pond and have a direct connection to Georgetown Pike by right. However, the applicant desires a variance for a plan of 8 lots with a cul-de-sac, preserving the pond, and meeting the topographical constraints.

In answer to Mr. Hammack's question, Mr. Runyon stated that Parcel A will be used in one of three methods to develop the land. First of all, either divide the lot into four parcels, secondly, take proposed lots 6, 5 and 4 and extend them to the same boundary line, and thirdly to produce one dwelling unit on Parcel A.

Ms. Hamblin-Katnik concluded that since Georgetown Pike is the County's only Scenic By-Way it is extremely important to have the Scenic By-Way easements on this property, and it should be made a development condition if the Board approves this application.

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

Mrs. Day moved to deny VC 87-D-104 based on the topographic conditions of the property. The application does not meet the standards for a variance and does not comply with the Comprehensive Plan. Mrs. Day stated that this site can be redesigned with lot lines without a variance.

Mr. Hammack supported the motion. Mr. Hammack stated he wants to know how Parcel A of the outlot is going to be used.

Mr. Nyland moved for a substitute motion for VC 87-D-104 to defer for further information on how Parcel A will be used with Mr. Ribble seconding the motion. The motion failed by a vote of 2-4 with Chairman Smith, Mrs. Thonen, Mrs. Day and Mr. Hammack voting nay and Mr. DiGiulian absent from the meeting.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-D-104 by ALLEGRO INVESTMENT COMPANY, under Section 18-401 of the Zoning Ordinance to allow subdivision into eight (8) lots and an outlot, proposed Lots 5 and 6 having widths of 79.93 feet and 24.29 feet, on property located at 10200 Georgetown Pike, Tax Map Reference 12-2((1))9 and 10, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 5, 1987; and

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

1. That the applicant is the owner of the land
2. The present zoning is R-1.
3. The area of the lot is 12.9752 acres of land.

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

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

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

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

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

Mrs. Thonen seconded the motion.

The motion carried by a vote of 4-2 with Messrs. Ribble and Hyland voting nay and Mr. DiGiulian absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on November 13, 1987.

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11:00 A.M. VERNYE S. BARRETT, VC 87-M-116, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 10 feet from side lot line (15 ft. min. side yard required by Sect. 3-207), located at 6321 Lakeview Drive, on approximately 18,529 square feet of land, zoned R-2 and HC, Mason District, Tax Map Reference 61-3((14))23A. (OUT OF TURN HEARING GRANTED 9/22/87)

Heidi Belofsky, Staff Coordinator, presented the staff report. Ms. Belofsky noted that research of the records from Zoning Administration Division did not indicate that a substantial number of other variances have been granted in the area. Ms. Belofsky stated that if the application was granted, staff suggests that due to the proximity of the adjoining house on lot 24, architectural compatibility should be given serious consideration.

Patricia Clove, 1629 Taylor Avenue, Fort Washington, Maryland, representative of the applicant spoke in support of the application. Mrs. Clove explained the request as outlined in the statement of justification submitted with the application. She further stated that the addition was being requested to enable her and her husband to live with her handicapped parents. Mrs. Clove added that they have hired an architect who has worked on a handicap building so it will be architecturally pleasing.

David Drake, 6325 Lakeview Drive, Falls Church, Virginia, stated that he had no problems with the application as the applicant has stated that there will be cedar siding and the appropriate landscaping will be determined by the County Arborist.

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

Mr. Ribble moved to grant VC 87-M-116 based on the applicant's testimony, that the applicant met the standard requirements for a variance, and in particular that the lot is irregular shaped and narrow. Mr. Ribble stated that Development Conditions 1 through 3 would remain the same, #4 would change to read as follows: "The exterior of the addition shall be architecturally compatible with the existing dwelling and shall be similar in color and materials, utilizing red brick and/or wood siding as much as possible".

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-M-116 by VERNYE S. BARRETT, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 10 feet from side lot line, on property 6321 Lakeview Drive located at Tax Map Reference 61-3((14))23A, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 5, 1987; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-2 and RC.
3. The area of the lot is 18,529 square feet of land.

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

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

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

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

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

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.
4. The exterior of the addition shall be architecturally compatible with the existing dwelling and shall be similar in color and materials, utilizing red brick and/or wood siding as much as possible.
5. Landscape plantings shall be installed between the addition and the lot line to minimize any adverse visual impact. The type and size of the plantings shall be subject to the approval of the County Arborist.

Mr. Hammack seconded the motion.

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

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on November 13, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 132, November 5, 1987, (Tape 3), Scheduled case of:

11:15 A.M. RUTH K. LOBIANCO, SP 87-S-067, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow detached pool house to remain 15.2 feet from side lot line (20 ft. min. side yard required by Sects. 3-C07 and 10-104, located at 11320 Henderson Road, on approximately 47,709 square feet of land, zoned R-C and WSP0D, Springfield District, Tax Map Reference 95-2((3))2. (OUT OF TURN HEARING GRANTED 9/22/87)

Lori Greenlief, Staff Coordinator, presented the staff report.

Ruth K. LoBianco, 11320 Henderson Road, Fairfax Station, Virginia, the applicant stated that she has met all the requirements for a Special Permit. Mrs. LoBianco added that the pool house is detached from the house and that it is needed for storage.

In answer to Mr. Ribble's question, Ms. Greenlief stated that there are no guidelines for the size of detached structures, except for garages.

Mrs. Thonen stated that the building permit stated that pool house was supposed to be 20 feet high, not 25.5 feet high.

Ms. Greenlief stated that the height was not in question only the yard requirement.

Joyce Sandifer, 11318 Henderson Road, Fairfax Station, Virginia, spoke in opposition to the application. Ms. Sandifer stated the pool house measures 30 feet in height. Ms. Sandifer submitted pictures for the record. She stated that the builder is a firm which Mrs. LoBianco's daughter owns, TMK Associates. Ms. Sandifer submitted copies of letters she sent to Fairfax County's Department of Environmental Management and she also submitted a letter from Mr. James A. Rogers in opposition to the application.

Chairman Smith requested staff to get a report from Zoning Enforcement concerning the violations and the history of the structure and what the structure is being used for.

In answer to Mr. Hammack's questions, Ms. Sandifer stated that the structure has two bedrooms, no bathroom, no kitchen facilities, no lockers, and no showers.

Mr. Hammack moved to defer SP 87-S-067 to December 8, 1987 at 12:40 p.m. for additional information to include a history of when this was brought to the attention of Zoning Enforcement and what the actions were, if the structure is roughed in, in place, utilities for kitchen, the number of baths, a description of what the structure is going to be used for and the height and dimensions of the building.

The Board so ordered SP 87-S-067 to be deferred to December 8, 1987 at 12:40 p.m.

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Page 132, November 5, 1987, (Tape 3), After Agenda Item #2:

Request for an Out-of-Turn Hearing  
Reagan and Jack Greer  
VC 87-D-152

Mr. Hammack moved to deny the request for an out-of-turn hearing.

Mrs. Thonen seconded the motion which passed by a vote of 5-0 with Mr. Hyland not present for the vote and Mr. DiGiulian absent from the meeting.

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Page 132, November 5, 1987 (Tape 3), After Agenda Item #3:

Request for an Out-of-Turn Hearing  
Faith United Methodist Church  
SP 87-L-081

Mrs. Thonen moved to deny the request for an out-of-turn hearing.

Mr. Ribble seconded the motion which passed by a vote of 5-0 with Mr. Hyland not present for the vote and Mr. DiGiulian absent from the meeting.

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Page 133, November 5, 1987 (Tape 3), After Agenda Item #4:

Request for Intent of Deferral  
First Virginia Banks, Inc.  
A-87-P-004

Mrs. Thonen moved to grant the request for deferral of First Virginia Banks, Inc. to April 5, 1988 at 8:00 p.m. because it appears that a resolution to the matter may be forthcoming. Mrs. Thonen included in her motion not to accept any further deferrals on this application.

Mr. Ribble seconded the motion which passed by a vote of 5-0 with Mr. Hyland absent for the vote and Mr. DiGiulian absent from the meeting.

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Page 133, November 5, 1987 (Tape 3), Arledge Reconsideration

Following discussion from the Board concerning the Arledge Reconsideration, Ms. Greenlief stated that staff would have to contact Pat Taves and see what the correct procedure is.

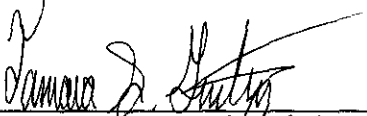
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Page 133, November 5, 1987 (Tape 3), Approval of Resolution for McLean Children's Academy

Mr. Hammack stated that staff had provided him with a transcript of Development Condition #14 of McLean Children's Academy application and that staff had failed to delete a portion which he had intended to be deleted. Mr. Hammack moved to change Development Condition #14 in McLean Children's Academy, SPR 82-D-83-1 to read: "That the term of the Special Permit shall be 5 (five) years", and also to defer the final approval for 6 additional days. Mr. Ribble seconded the motion and it passed by a vote of 5-0 with Mr. Hyland absent for the vote and Mr. DiGiulian absent from the meeting.

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As there was no other business to come before the Board, the meeting was adjourned at 3:40 P.M.

  
\_\_\_\_\_  
Tamara S. Gentry, Associate Clerk  
Board of Zoning Appeals

  
\_\_\_\_\_  
Daniel Smith, Chairman  
Board of Zoning Appeals

SUBMITTED: April 26, 1988

APPROVED: May 3, 1988

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

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

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Page 134, November 10, 1987, (Tape 1), Scheduled case of:

9:00 A.M. HERITAGE FOREST ASSOCIATES, SP 87-S-016, application under Sect. 3-803 of the Zoning Ordinance to allow community center and recreation facilities, located in the Heritage Estates Subdivision on approx. 3.82 acres, zoned R-8(W.S), Springfield District, Tax Map 65-2((1))pt. 23. (DEF. FROM 5/5, 5/19, 6/9 & 7/7/87, AND 7/10/87)

Lori Greenlief, Staff Coordinator, advised the Board that the County Attorney and the applicant were involved in negotiations and therefore, the applicant was requesting a deferral.

Bruce McKecknie of Falcons and Rosenfeld, Ltd., 10521 Judicial Drive, Fairfax, Virginia, appeared before the Board stated that the applicant was requesting a deferral to allow time to work with the County Attorney's Office to resolve remaining issues.

There being no objection, it was so ordered.

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Page 134, November 10, 1987, (Tape 1), Scheduled cases of:

9:30 A.M. GEORGE E. YOUNGER AND CARRIE FRUITT YOUNGER, VC 87-M-113, application under Sect. 18-401 of the Zoning Ordinance to allow construction of room addition and deck addition to dwelling to 14.16 ft. for the room, 9.5 ft. for the deck, from side lot line (20 ft. min. side yard for the room, 15.0 ft. min side yard for the deck, required by Sects. 3-107 and 2-412) located at 6562 Marlo Drive, on approximately 26,080 sq. ft. of land, zoned R-1, Mason District, Tax Map Reference 60-2((17))26.

9:30 A.M. GEORGE E. YOUNGER AND CARRIE FRUITT YOUNGER, SP 87-M-059, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to allow min. yard requirements based on error in building location to allow 9.1 ft. high storage shed to remain 0.2 ft. from side lot line (20 ft. min. side yard required by Sects. 3-107 and 10-104) located at 6562 Marlo Drive, on approximately 26,080 sq. ft. of land, zoned R-1, Mason District, Tax Map Reference 60-2((17))26 (To be heard in conjunction with VC 87-M-113)

Heidi Belofsky, Staff Coordinator, presented the staff report and advised the Board that staff could not substantiate or refute the applicant's statement that the error was made in good faith.

George Younger, 6562 Marlo Drive, the applicant, appeared before the Board and explained his request as outlined in the statement of justification submitted with the application. He added that the lot was created 20 years ago which was prior to the existing Zoning Ordinance. Mr. Younger also stated that the neighbors were in support of the request.

Following a question from Mrs. Thonen, Mr. Younger explained that he did not want to move the deck over because of the slope in the rear of the yard and because it would block the only light coming into the house from that side.

With regard to the Special Permit request, Mr. Younger stated that he had replaced the existing shed after it collapsed following a snow storm but was unaware of the height restrictions.

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

Prior to making the motion, Mrs. Thonen noted that the lot was created before the new standards and that it would be a hardship on the applicant to apply the current standards. She also pointed out the slope in the back of the property and then moved to grant the Variance Request subject to the development conditions.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-M-113 by GEORGE E. YOUNGER AND CARRIE FRUITT YOUNGER, under Section 18-401 of the Zoning Ordinance to allow construction of room addition and deck addition to dwelling to 14.16 ft. for the room, 9.5 ft. for the deck, from side lot line, on property located at 6562 Marlo Drive Tax Map Reference 60-2((17))26, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 10, 1987; and

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

1. That the applicants are the co-owners of the land.
2. The present zoning is R-1.
3. The area of the lot is 26,080 square feet of land.

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

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

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

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

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

1. This approval is for the location and the addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* unless construction has started and is diligently pursued, or unless a request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.

3. A Building Permit shall be obtained prior to any new construction associated with the additions.
4. The exterior of the addition and its roof shall be architecturally compatible with the existing dwelling and shall be similar in color, style and materials, utilizing white brick exterior and gray shingle roof.

Mr. DiGiulian seconded the motion.

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

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

Prior to making the motion, Mrs. Thonen pointed out that it was not possible to purchase a shed seven feet in height and that the error was made in good faith. She added that the applicant had the support of the neighbors and that the shed was well screened. She then moved to grant the request subject to the development conditions with the deletion of condition 2.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-M-059 by GEORGE E. YOUNGER AND CARRIE PRUITT YOUNGER, under Section 8-901 of the Zoning Ordinance to allow reduction to min. yard requirements based on error in building location to allow 9.1 ft. high storage shed to remain 0.2 ft. from side lot line, on property located at 6562 Marlo Drive, Tax Map Reference 60-2((17))26, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 10, 1987; and

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

1. That the applicants are the co-owners of the land.
2. The present zoning is R-1.
3. The area of the lot is 26,080 square feet of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-903 and 8-914 of the Zoning Ordinance.

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

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

Mr. DiGiulian seconded the motion.

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

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

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9:40 A.M. ARTHUR M. WEINSTEIN, VC 87-D-066, application under Sect. 18-401 of the Zoning Ordinance to allow two story addition to remain and to allow enclosure of first story for an attached garage 7.22 feet from side lot line (10 ft. min. side yard req. by Sect. 3-407), located at 2001 Wellfleet Court, on approximately 8,496 square feet of land, zoned R-4, Dranesville District, Tax Map Reference 40-2((27))43.

Lori Greenlief, Staff Coordinator, presented the staff report and advised the Board that this application was originally submitted as a request to enclose an existing carport. When it was discovered that the carport was built with a second story, the applicant was advised to amend the application. She added that on May 2, 1986, the applicant obtained a building permit to construct a carport. Ms. Greenlief further outlined the history of the application. 1) Both the building permit and the associated plat indicate that a nine foot side yard should be provided. 2) On June 26, 1986, the applicant obtained an amendment to the building permit for the carport to enlarge a storage area above the carport. The revised building permit indicates a ten foot side yard. The approved amended plat contains a note which states, "new proposed storage area highlighted in yellow to remain ten feet from side lot line". 3) Subsequent to the issuance of a building permit, the carport and second-story storage area were built. However as shown on the variance plat, the addition was built 7.22 feet from the side lot line.

Arthur Weinstein, 2001 Wellfleet Court, Falls Church, Virginia, appeared before the Board and explained his request as outlined in the statement of justification submitted with the application. He added that due to the topographic conditions the addition could not be located in the backyard and other homes in the neighborhood also had enclosed carports. He stated that the addition would improve his home and possibly increase the value of the property.

Following a question from Mr. Hyland, Ms. Greenlief explained that a storage area above the carport was considered an addition to the house.

Mr. Hammack stated that the building permit had been issued in error.

Mr. Weinstein advised the Board that he thought there was no problem in adding the storage addition.

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

Prior to making the motion, Mr. Hammack stated that the applicant had met the standards for a variance and noted the converging lot lines. He added that only one corner of the property required a variance and the enclosure of the carport would improve the area. Mr. Hammack then moved to grant the request subject to the development conditions.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-D-066 by ARTHUR M. WEINSTEIN, under Section 18-401 of the Zoning Ordinance to allow two story addition to remain and to allow enclosure of first story for an attached garage 7.22 ft. from side lot line, on property located at 2001 Wellfleet Court at Tax Map Reference 40-2((27))43, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 10, 1987; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-4.
3. The area of the lot is 8,496 square feet of land.

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

1. That the subject property was acquired in good faith.

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

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

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

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

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction. This new permit shall reflect the construction of both stories as enclosed additions and shall indicate the yard dimension as approved by this variance.

Mrs. Thonen seconded the motion.

The motion carried by a vote of 5-2 with Chairman Smith and Mrs. Thonen voting nay.

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

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9:50 A.M. STEPHEN F. AND MAUREEN A. HURST, VC 87-A-114, application under Sect. 18-401 of the Zoning Ordinance to allow enclosure of carport for a garage 9.9 ft. from side lot line such that side yards total 22.15 ft. (8 ft. min, 24 ft. total min side yard required by Sect. 3-207) located at 4715 Pickett Road, on approximately 14,323 sq. ft. of land, zoned R-2(C), Annandale District, Tax Map Reference 69-1((4))12.

Heidi Belofsky, Staff Coordinator, presented the staff report.

Stephen Hurst, 4715 Pickett Road, Fairfax, Virginia, the applicant, appeared before the Board and explained his request as outlined in the statement of justification, submitted with the application.

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

Prior to making the motion, Mr. DiGiulian stated that the applicant had met the nine standards for a variance and in particular 2D. He then moved to grant the request subject to the development conditions.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-A-114 by STEPHEN F. AND MAUREEN A. HURST, under Section 18-401 of the Zoning Ordinance to allow enclosure of carport for a garage 9.9 ft. from side lot line such that side yards total 22.15 ft., on property located 4715 Pickett Road Tax Map Reference 69-1((4))12, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 10, 1987; and

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

- 1. That the applicants are the co-owners of the land.
2. The present zoning is R-2(C).
3. The area of the lot is 14,323 square feet of land.

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

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

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

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

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

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

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

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date \* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.
4. The exterior of the addition shall be architecturally compatible with the existing dwelling and shall be similar in color and materials.

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

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

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Page 140, November 10, 1987, (Tape 1), Scheduled case of:

10:00 A.M. JOHN J. NEWMAN AND MARILYN L. NEWMAN, VC 87-A-112, application under Sect. 18-401 of the Zoning Ordinance to allow construction of enclosed addition to dwelling to 13 ft. from rear of lot line (25 ft. min. rear yard line required by Sect. 3-307), located at 5109 Kings Grove Court, on approximately 11,611 square feet of land, zoned R-3(C), Annandale District, Tax Map Reference 69-3(16)11.

Heidi Belofsky, Staff Coordinator, presented the staff report.

John Newman, 5109 Kings Grove Court, Burke, Virginia, the applicant, appeared before the Board and explained his request as outlined in the statement of justification submitted with the application.

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

Prior to making the motion, Mrs. Day noted the exceptional size and shape of the property and added that the addition would not be visible from the neighbor's home. She also noted that the applicant had an elderly relative living with him and they needed the addition to accommodate Mr. Newman's relative. She also stated that the enclosure was necessary because the bugs and gnats were a nuisance and the enclosure would enhance the quality of life. Mrs. Day then moved to grant the request subject to the development conditions.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-A-112 by JOHN J. NEWMAN AND MARILYN L. NEWMAN, under Section 18-401 of the Zoning Ordinance to allow construction of enclosed addition to dwelling to 13 ft. from rear of lot line, on property located at 5109 Kings Grove Court, Tax Map Reference 69-3(16)11, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:



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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 10, 1987; and

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

1. That the applicants are the owners of the land.
2. The present zoning is R-3(C).
3. The area of the lot is 11,611 square feet of land.

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

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

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

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

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

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date \* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.
4. The exterior of the addition and its roof shall be architecturally compatible with the existing dwelling and shall be similar in color, style, and materials.

Mr. DiGiulian seconded the motion which carried by a vote of 6-0 with Mr. Hammack not present for the vote.

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

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Page 142, November 10, 1987, (Tape 2), Scheduled case of:

10:10 A.M. TIMOTHY A. ULATOWSKI, VC 87-D-111, application under Sect 18-401 of the Zoning Ordinance to allow construction of enclosed addition to dwelling to 21 ft. from rear lot line (25 ft. min. rear yard required by Sect. 3-307), located at 1341 Rock Chapel Road, on approximately 9,613 sq. ft. of land, zoned R-3, Dranesville District, Tax Map Reference 5-4((4))48.

Lori Greenlief, Staff Coordinator, presented the staff report.

Timothy Ulatowski, 1341 Rock Chapel Road, Herndon, Virginia, the applicant, appeared before the Board and explained the request as outlined in the statement of justification submitted with the application. He noted the uniquely shaped lot.

Because no one wished to address this request, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. Hyland pointed out that the house was close to the rear lot line and there were no objections from the neighbors. He also stated that the use of the deck was impractical due to the insects and gnats. Mr. Hyland also pointed out that the request was for a slight variance and moved the grant the variance subject to the development conditions.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-D-111 by TIMOTHY A. ULATOWSKI, under Section 18-401 of the Zoning Ordinance to allow construction of enclosed addition to dwelling to 21 ft. from rear lot line, on property located at 1341 Rock Chapel Road, Tax Map Reference 5-4((4))48, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 10, 1987; and

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

1. That the applicant is the co-owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 9,613 square feet of land.

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

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

6. That:

- A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
- B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.

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

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

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

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

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

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

- 1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
- 2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
- 3. A Building Permit shall be obtained prior to any construction.

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

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

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10:20 A.M. VIRGINIA BJORN/D. JAY SNIDER & KATHY SNYDER, VC 87-D-109, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, one of which has width of 125.89 ft. and the other 136.09 ft. (200 ft. min. lot width required by Sect. 3-E06, located on Millwood Road, on approximately 4.66309 acres of land, zoned R-E, Dranesville District, Tax Map Reference 13-4(1)56.

Claudia Hamblin-Katnik, staff Coordinator, advised the Board that the applicant was requesting a withdrawal of the above referenced application.

Kurt Gleason, 7616 Willow Drive, Fairfax, Virginia, representative of the applicant, appeared before the Board and stated that the applicant was requesting a withdrawal of the variance request due to the concerns of the neighbors.

Mrs. Day moved to accept withdrawal of the request without prejudice. Mr. DiGiulian seconded the motion which passed by a vote of 6-0; Mr. Hammack not present for the vote.

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Out-of-Turn Hearing Request, VC 87-C-154

William Smith, one of the applicants, appeared before the Board and requested the out-of-turn hearing as time had been lost during the decision on whether or not a variance was necessary in this case.

Mr. DiGiulian moved to grant the out-of-turn hearing for January 5, 1988. Mr. Hyland seconded the motion which passed unanimously with Mr. Hammack not present for the vote.

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Page 144, November 10, 1987, (Tape 2), After Agenda Item #2:

Additional Time  
St. Andrew Lutheran Church, SPA 79-S-351-2  
14640 Soucy Place  
54-1((6))1A, 2A, 3A, 4A, 5A, 6A, 7A, 8A, and 9A

Mrs. Thonen moved to grant the request for additional time for nine months.

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

The new expiration date will be August 7, 1988.

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Page 144, November 10, 1987, (Tape 2), After Agenda Item #3:

Mrs. Thonen moved to adopt the Resolutions as submitted.

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

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Page 144, November 10, 1987, (Tape 2), After Agenda Item #4:

Intent to defer VC 87-C-110 and SPA 79-C-091  
Dr. Roehr

Mrs. Thonen moved to defer decision until December 8, 1987 on the above referenced applications to allow the Planning Commission time to hold a public hearing.

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

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Page 144, November 10, 1987, (Tape 2), After Agenda Item #5:

Lori Greenlief, Acting Branch Chief, BZASB, advised the Board that the Stafford County Board of Zoning Appeals would be attending their November 17, 1987 meeting to observe the operation of the Fairfax BZA.

Mr. Hyland suggested that BZA arrive early to meet with the members from Stafford County and to which the Board agreed.

The Board requested staff to notify the Stafford BZA of the Board's intent.

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

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

Daniel Smith  
Daniel Smith, Chairman  
Board of Zoning Appeals

SUBMITTED: 12/15/87

APPROVED: 1/5/88

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The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Monday, November 16, 1987. The following Board Members were present: Chairman Daniel Smith; Ann Day; Mary Thonen; John DiGiulian; Paul Hammack; Gerald Hyland; and John Ribble.

Chairman Smith called the meeting to order at 8:17 P.M. Mrs. Day led the prayer.

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Page 146, November 16, 1987, (Tape 1).

Mr. Hammack made a motion to go into Executive Sessions in order to discuss legal matters regarding Chancery No. 9572, Robert Arledge.

Following the Executive Sessions, Mr. Hammack made a motion to rehear SP 85-D-062, Mr. and Mrs. Robert C. Arledge/Plaseid & Associates, consistent with the Court Order dated December 15, 1987.

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Page 146, November 16, 1987, (Tapes 1 and 2), Scheduled case of:

8:00 P.M. JACK BAKER APPEAL, A 87-V-008, application under Sect. 18-301 of the Zoning Ordinance to appeal the Zoning Administrator's determination that the junk yard and towing service uses on the appellant's properties are not permitted as a nonconforming use, located at 9415 Richmond Highway and 8643 Richmond Highway, on approximately 152,425 square feet of land and 102,714 square feet of land, zoned R-1 and C-8, Mount Vernon District, Tax Map References 107-4((1))27 and 107-3((1))100. (DEFERRED FROM 9/29/87, 10/6/87, 10/20/87 AND 10/27/87)

8:00 P.M. JACK BAKER APPEAL, A 87-V-009, application under Sect. 18-301 of the Zoning Ordinance to appeal the July 30, 1987 decision of the Zoning Administrator regarding application of stay provisions of Sect. 18-307, located at 9415 and 8643 Richmond Highway, Zoned R-1, C-8 on approximately 152,425 square feet of land and 102,714 square feet of land, Mount Vernon District, Tax Map Reference 107-4((1))27, 101-3((1))100. (DEFERRED FROM 9/29/87, 10/6/87, 10/20/87 AND 10/27/87)

(A verbatim copy of this case can be found in the file.)

Jane Gwinn, Zoning Administrator, stated that it was if was her determination that the appellant's use of a towing service and junkyards located at two separate sites on Richmond Highway were not permitted as nonconforming uses. She references her staff report for a more detailed analysis of her determination.

The first site is 9415 and 9419 Richmond Highway which contain approximately 4.4 acres of land and contain a dwelling and vehicle storage with R-1 zoning on both lots since March 1, 1941, the date of the first Zoning Ordinance.

The other site is 8643 Richmond Highway which contains four different structures one of which was originally the repair garage and is now the office for a towing service. The remainder of the lot is being used for vehicle storage and is currently zoned C-8.

In closing, Ms. Gwinn stated that her decision regarding these sites was made in response to a request from the County for bids for towing contracts. When she had advised the appellant's attorney of her findings he requested that her decision be stayed pending the outcome of the Board's decision based upon his interpretation of Sect. 18-307 of the Zoning Ordinance. However, she did not concur with his interpretation, therefore an Appeal was filed. Ms. Gwinn informed the Board that she had aerial photographs of the two sites if the Board wished to view them.

In response to questions from the Board regarding the aerial photographs, Ms. Gwinn explained that the photographs were from 1937 through 1960 with a gap between 1953 and 1960. She added that the photographs contained no evidence of vehicle storage.

Chairman Smith called for the representative of the Appellants. John Cahill, attorney with Hazel, Thomas, Fiske, Beckhorn & Hanes, 4084 University Drive, Fairfax, Virginia, came forward to represent the Appellants. Mr. Cahill stated this was an unusually complicated case and therefore there were many citizens present who would present factual testimony regarding these two sites. He requested that Mr. Grayson Hanes, a partner in his law firm also be allowed to speak to the Board.

Mr. Cahill began his presentation by explaining that there were two Appeals before the Board tonight. He stated that prior to the adoption of the first Zoning Ordinance the appellant and his father, Corbin Baker, operated a towing and storage yard at the property identified as 9415 and 9417 Richmond Highway and has without interruption since that time. He added that he did not believe that Ms. Gwinn had presented aerial photographs that would substantiate her findings that the use had not existed prior to 1941. Mr. Cahill stated that he believed that the Board could reply on photographic evidence to refute sworn testimony.

He pointed out that there have been a number of permits for both properties dating back to the 1950's, one specifically for 9415 Richmond Highway which indicates that it is a nonconforming use.

Mrs. Thonen stated that she had cars repaired at the Ingleside property but had not seen cars being stored at the site at any time she had been there. Mr. Hyland asked Mr. Cahill to tell the Board over what two periods of time that the nonconforming use did not exist. Mr. Cahill explained that this would be brought out in the citizens testimony as staff had not presented documents to show otherwise.

A discussion took place among the Board and Mr. Cahill regarding the types of permits that had been issued to the Appellants and whether or not they were issued in error.

Prior to proceeding with the citizen testimony, the Board and Mr. Cahill viewed the aerial photographs submitted by Ms. Gwinn.

Chairman Smith called for speakers in support of the Appellants and the following came forward: Susan Brassell, 451 Hope Road, Stafford, Virginia; Margaret Hanimack, 14104 Lindendale Road, Woodbridge, Virginia, represented Benjamin Ettleman of Davis Industries; Harold Shepherd, 7510 Devries Drive, Lorton, Virginia; Kyle Beach, 8801 LaGrange Street, Lorton, Virginia; William Hicks, 10236 Gunston Road, Lorton, Virginia; Carlton Hicks, 417 Sterling Street, Staunton, Virginia; William D. Leatherland, 8212 Telegraph Road, Lorton, Virginia; Arthur L. Ward, 6825 Ridgeway Drive, Springfield, Virginia; Terry L. Shreve, 9180 Richmond Highway, Ft. Belvoir, Virginia; Joseph O'Connor, 10709 Gunston Road, Lorton, Virginia; H. W. Jenkins, 5116 Birch Lane, Annandale, Virginia; Louise Wease, 9208 Wildwood Street, Lorton, Virginia; Morris Arrington, Box 7964, Fredericksburg, Virginia; Charles Hicks, 14917 Minnieville Road, Manassas, Virginia; and, Eugene Harrington, Route 2, Box 1160, Stafford, Virginia.

The citizen testimony was based on their belief that the Bakers were performing a great service to the County and that many of them had been on the sites and had seen cars being stored on the site at various times.

Jack Baker, co-appellant, came forward and told the Board that he was the owner of the property at 9415 Richmond Highway where he operates a garage known as Little Detroit, which is located at 9643 Richmond Highway. Mr. Baker stated that his father started this business in 1938 and there has always been vehicles stored at the sites. He added that he began saving his money when he was very young to purchase the property but could not remember exactly when the deed actually changed names.

At the close of Mr. Baker's remarks, Mr. Hanes came forward and stated that he had met Mr. Baker in 1971 at which time the County acquired the Lower Potomac Treatment Plan behind the Baker property and obtained an easement in order to raise the level of the stream one foot on to his property. He added that it was unfair that the County has always issued permits to the Bakers for this type of use and now wishes to classify it as illegal. He asked the Board to overrule the Zoning Administrator's determination.

As there were no further speakers in support to the Appellant, Chairman Smith called for speakers in support of the Zoning Administrator's position and the following came forward: Melvin L. Yuhas, 8725 Folkstone Lane, Alexandria, Virginia; Joyce Andres, 8619 Gatheshead Road, Alexandria, Virginia, President of the Mount Vernon Manor Civic Association; and, James E. Anderholm, 8802 Northern Spruce Lane, Alexandria, Virginia.

The citizens testified that it was not their intent to preclude Mr. Baker from making a living but did not believe this type of use should be allowed to continue so close to a residential area. They would just like to see the area cleaned up and be more in keeping with the residential neighborhoods.

Ms. Gwinn requested a five minute recess before making her closing remarks.

Mr. Cahill informed the Board that Mrs. Lorriane Baker, co-appellant, had requested to address the Board.

Lorriane Baker, 8604 Lukens Lane, Alexandria, Virginia, came forward and stated that they had purchased the property in 1945, and therefore could not say what the property was used for prior to that time. She added that cars were not stored there for a long time period as they were sold for the money.

Following Mrs. Baker's comments, the Board took a ten minute recess at 10:45 P.M. The Board reconvened at 10:58 P.M. and Ms. Gwinn made her closing comments. She added that if there had been nonconforming rights to store wrecked vehicles on the property that the use has changed considerably. She stated that it was her belief that there had been a considerable change in the storage, nature and character of the storage of junk vehicles on the property.

In response to questions from the Board, Karen Harwood, Assistant County Attorney, responded by stating that the Board should weigh all the oral testimony, the staff report, and the aerial photographs prior to making its decision. She pointed out that the information contained in the staff report and the photographs is what the Zoning Administrator had used in making her determination.

During a discussion among the Board members regarding the number of cars that were perhaps stored on the site at any one time, Mr. Baker came forward and stated that it was difficult to determine an exact number, as cars were coming and going constantly from the site.

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

Mr. Hammack stated that it was his belief that there had been testimony presented to show that the property located at 9415 and 9419 Richmond Highway had been used as a towing service and junkyard prior to 1941 and therefore is a nonconforming use. With regard to 8643 Richmond Highway, he stated that he did not believe this is a nonconforming use and that the co-appellant had testified that the property had not been obtained until 1945. He also added that he did not find the aerial photographs to be conclusive.

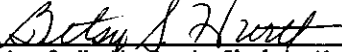
Therefore, Mr. Hammack made a motion that the opinion of the Zoning Administrator in A 87-V-008 be sustained with respect to her determination that the property located at 8643 Richmond Highway for towing services and junkyards is not permitted as a nonconforming use. Further, Mr. Hammack stated that the Zoning Administrator be overruled with respect to her determination that the use of the properties at 9415 and 9419 Richmond Highway are not permitted as a nonconforming use.

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

Following a discussion concerning Mr. Hammack's comments regarding A 87-V-009, Mr. Hyland made a motion to uphold the Zoning Administrator's determination in A 87-V-009. Mr. DiGiulian seconded the motion which carried by a vote of 6-1 with Mr. Hammack voting nay.

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As there was no other business to come before the Board, the meeting was adjourned at 11:45 P.M.

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

  
Daniel Smith, Chairman Board of Zoning Appeals

SUBMITTED: 2/9/88

APPROVED: 2/16/88



The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, November 17, 1987. The following Board Members were present: Daniel Smith, Chairman; Ann Day; Gerald Hyland; Paul Hammack; John Ribble and Mary Thonen. John DiGiulian, Vice-Chairman was absent from the meeting.

Chairman Smith opened the meeting at 8:12 P.M. and Mrs. Day led the prayer.

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Page 149, November 17, 1987, (Tape 1), Scheduled case of:

8:00 P.M. FIRST VIRGINIA BANK APPEALS, A 87-P-004, under Sect. 18-301 of the Zoning Ordinance to appeal the Zoning Administrator's denial of sign permit applications for three (3) signs, based on Par. 1 of Sect. 12-203, located at 6400 Arlington Boulevard, on approximately 94,732 square feet of land, zoned PDC, Providence District, Tax Map Reference 51-3(1)1E. (DEFERRED FROM 9/3/87 AT APPLICANT'S REQUEST)

Chairman Smith announced that there was a request from the appellant for a deferral. Staff suggested April 5, 1988 at 8:00 p.m

Mrs. Thonen moved to defer the application to April 5, 1988 at 8:00 p.m.

Mrs. Day seconded the motion which passed unanimously with Messrs. Ribble and Hyland not present for the vote; Mr. DiGiulian absent from the meeting.

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Page 149, November 17, 1987, (Tape 1), Scheduled case of:

8:15 P.M. ROBERT L. TRAVERS, SP 87-S-062, application under Sect. 8-901 of the Zoning Ordinance to allow additional sign height in shopping center, located at 9570 Burke Road, on approximately 2.4529 acres of land, zoned C-6, Springfield District, Tax Map Reference 78-1(1)37.

Kevin Guinaw, Staff Coordinator, presented the staff report and advised the Board that staff was recommending approval of SP 87-S-062 subject to the development conditions contained in the staff report.

Bernard Fagelson, P.O. Box 297, Alexandria, Virginia, representative for the applicant, appeared before the Board and stated that the applicant was in complete accord with the staff report.

Peter Murphy, Planning Commissioner for the Springfield District, appeared before the Board in support of the request. Mr. Murphy advised the Board that he was also representing Elaine McConnell, Supervisor, Springfield District and read into the record a letter from Ms. McConnell supporting the request. Mr. Murphy explained that the relocation of Burke Lake Road divided the Burke Village Shopping Center in two. He added that the new roadway is elevated over the Southern Railroad tracks adjacent to the center, creating severe visibility problems for the businesses in Phase II. Therefore, Mr. Murphy stated that in an effort to alleviate the lack of visibility, he and Ms. McConnell were supporting the applicant's request for a variance.

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

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

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-S-062 by ROBERT L. TRAVERS, under Section 8-901 of the Zoning Ordinance to allow additional sign height in shopping center, on property located at 9570 Burke Road, Tax Map Reference 78-1(1)37, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 17, 1987; and

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

1. That the applicant is the owner of the land.
2. The present zoning is C-6.
3. The area of the lot is 2.4529 acres of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-903 and 8-912 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. The maximum height of the freestanding sign approved shall be 44 feet, including the foundation, pole and sign. The maximum size of the sign shall be 6 X 13 feet or 78 square feet.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Sign Permit in accordance with Article 12 of the Zoning Ordinance.

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

Mr. Ribble seconded the motion.

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

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on November 17, 1987. This date shall be deemed to be the final approval date of this special permit.

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As there was time before the next scheduled agenda item, the Board took action on the after agenda items.

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Page 150, November 17, 1987, (Tape 1), After Agenda Item #1:

Request for an Out-of-Turn Hearing  
Community Church of God  
SPA 83-P-028-2

Mrs. Thonen moved to deny the request for an out-of-turn hearing.

Mr. Ribble seconded the motion which passed by a vote of 4-1 with Chairman Smith voting nay; Mr. Hyland not present for the vote; Mr. DiGiulian absent from the meeting.

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Page 150, November 17, 1987, (Tape 1), After Agenda Item #2:

Request for Additional Time  
The Islamic Center, SP 85-S-005

Mrs. Thonen moved to grant the request for additional time for another 12 months.

Mr. Ribble seconded the motion which passed unanimously with Mr. Hyland not present for the vote; Mr. DiGiulian absent from the meeting. The new expiration date is November 1, 1988.

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Approval of Resolutions  
November 10, 1987

Mrs. Thonen moved approval of the Resolutions for November 10, 1987 as submitted.

Mr. Ribble seconded the motion which passed unanimously with Mr. Hyland not present for the vote; Mr. DiGiulian absent from the meeting.

"

Approval of Resolutions  
November 17, 1987

As the next scheduled meeting of the BZA is not until December 1, 1987 and the Resolutions for this evening's meeting would not become final until that time, Mrs. Thonen moved that all decisions tonight would become final tonight.

Mrs. Day seconded the motion which passed unanimously with Mr. Hyland not present for the vote; Mr. DiGiulian absent from the meeting.

"

8:30 P.M. LIVING SAVIOR LUTHERAN CHURCH, SPA 86-S-023-1, application under Sect. 3-103 of the Zoning Ordinance to amend SP 86-S-023 for nursery school, church and related facilities to permit additional land area, increased enrollment, seating capacity, building area and parking, located at 5540 Ox Road, on approximately 8.011 acres of land, zoned R-C, Springfield District, Tax Map Reference 68-3((1))50, 50A.

Kevin Guinaw, Staff Coordinator, advised the Board that the subject application had been deferred to allow the applicant time to resolve outstanding transportation issues. He added that since the time of deferral, the applicant has revised the subject application to increase enrollment of the proposed nursery school, seating and building area. He added that VDOT had approved a median cut on Route 123 and that the transportation issues were now resolved. Mr. Guinaw stated that staff was recommending approval of this application for Phase I only, subject to the development conditions contained in the staff report.

Norman Hammer, 447 Carlisle Drive, Herndon, Virginia, representative for the applicant, appeared before the Board and stated that he concurred with the staff report with the following exceptions: With regard to condition 7, Mr. Hammer requested transitional screening 1 instead of 3. Condition 9, the applicant would prefer the landscape plan not come before the BZA. Condition 15, for purposes of clarification remove the words "by the year 1990 or earlier".

Chairman Smith called for speakers and John Gilbert, President, Barton Place Homeowners Association of 5514 Sandy Folly Court, Fairfax Station, Virginia, Mel Ray, 11124 Flora Lee Drive, Fairfax Station, Virginia, Richard Nickels, 11122 Flora Lee Drive, Fairfax Station, Virginia, John Murphy 1126 Flora Lee Drive, Fairfax Station, Virginia, and George Lane, 1118 Flora Lee Drive, Fairfax Station, Virginia, appeared before the Board and expressed concern that Transitional Screening 3 be provided.

In rebuttal, Mr. Hammer stated that the applicant was willing to provide transitional screening 3 along lots 3 and 4.

In closing, Mr. Guinaw suggested the revisions to the following conditions:

7. Transitional Screening 3 shall be provided along the entire southern lot line, and along the western lot line adjacent to lots 4 and 5. Along the remaining portions of all other lot lines Transitional Screening 1 shall be provided. An Additional 25 feet of undisturbed open space shall be provided adjacent to the Transitional Screening 1 plantings. Existing vegetation shall be used where possible and supplemented as determined by the County Arborist.
9. A landscape plan shall be submitted for review and approval by the Office of Comprehensive Planning, the County Arborist prior to final special permit approval. The plan shall include delineation of limits of clearing, tree preservation, transitional screening, foundation plantings and interior parking lot landscaping.
15. A service drive shall be provided from the site entrance to the northern property line when there is a connecting service drive to the north.

The following were additional conditions suggested:

- 28. The hours of operation for the nursery school shall be from 8:00 A.M. to 5:00 P.M., Monday thru Friday.
- 29. There shall be a maximum of 11 employees associated with the nursery school use.

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

Prior to making the motion, Mrs. Thonen noted that the request was for Phase I only and that the applicant had met the standards for a special permit. Mrs. Thonen moved to grant the request subject to the development conditions as revised by staff.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 86-S-023-1 by LIVING SAVIOR LUTHERAN CHURCH, under Section 3-103 of the Zoning Ordinance to amend SP 86-S-023 for nursery school, church and related facilities to permit additional land area and parking, on property located at 5540 Ox Road, Tax Map Reference 68-3((1))50, 50A, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 17, 1987; and

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

- 1. That the applicant is the owner of the land.
- 2. The present zoning is R-C.
- 3. The area of the lot is 8.011 acres of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-303 and 8-305 of the Zoning Ordinance.

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

These conditions incorporate all applicable conditions from the previous approval under this special permit.

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
- 2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
- 3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
- 4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
- 5. The seating capacity of the main worship shall not exceed 200.

6. There shall be 104 parking spaces provided.
7. Transitional Screening 3 shall be provided along the entire southern lot line, and along the western lot line adjacent to lots 4 and 5. Along the remaining portions of all other lot lines Transitional Screening 1 shall be provided. An Additional 25 feet of undisturbed open space shall be provided adjacent to the Transitional Screening 1 plantings. Existing vegetation shall be used where possible and supplemented as determined by the County Arborist.
8. Interior parking lot landscaping shall be provided in accordance with Article 13.
9. A landscape plan shall be submitted for review and approval by the Office of Comprehensive Planning, the County Arborist prior to final special permit approval. The plan shall include delineation of limits of clearing, tree preservation, transitional screening, foundation plantings and interior parking lot landscaping.
10. The site entrance shall be constructed to meet Virginia Department of Transportation (VDOT) design and sight distance standards.
11. A crossover shall be provided within the Route 123 median in accordance with VDOT specifications.
12. A left turn lane within the Route 123 median shall be provided in accordance with VDOT specifications.
13. A right turn lane into the site entrance shall be provided in accordance with VDOT specifications.
14. A standard shoulder along the site's Route 123 frontage shall be provided.
15. A service drive shall be provided from the site entrance to the northern property line when there is a connecting service drive to the north.
16. Best Management Practices (BMP) designed to protect the Occoquan Watershed as determined by the Director, Department of Environmental Management shall be provided.
17. A wooden stockade fence (Barrier type F) shall be provided along the entire southern boundary and along the western boundary in the area which runs from the southern boundary to the cul-de-sac shown on the special permit plan.
18. An outdoor recreation area shall be provided in accordance with Sect. 8-305.
19. Parking lot lighting, if installed, shall be the low intensity type, on standards not to exceed twelve (12) feet in height and shielded in a manner that would prevent light or glare from projecting onto adjacent properties.
20. Signs shall be permitted in accordance with Article 12, Signs.
21. There shall be a maximum daily enrollment of ninety-nine (99) children in the nursery school.
22. Right-of-way for future road improvements, as determined by the Director at the time of site plan review, shall be dedicated. Temporary grading and construction easements shall be provided to facilitate future road improvements.
23. Access to the site shall be provided from Ox Road. No access to the site shall be provided from Fourstairs Court.
24. This approval is for Phase I only and does not include future additions or future parking shown on the special permit plat.
25. No outside public speakers or public address systems shall be permitted.
26. The westernmost circular travelway shall be redesigned to eliminate vehicular turning movement conflicts and potential stacking problems.
27. Revised plats shall be submitted to the BZA prior to final approval.
28. The hours of operation for the nursery school shall be from 8:00 A.M. to 5:00 P.M., Monday thru Friday.

29. There shall be a maximum of 11 employees associated with the nursery school use.

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

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

Mr. Ribble seconded the motion.

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

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on November 17, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 154, November 17, 1987, (Tape 2), Scheduled case of:

8:40 P.M. SMC LEARNING CENTERS LIMITED PARTNERSHIP (Originally submitted as U. S. Home Corporation), SP 87-S-037, application under Sect. 3-803 of the Zoning Ordinance to allow a child care center, located at Old Centreville Road and Singleton's Way, on approximately 1.25 acres of land, zoned R-8, Springfield District, Tax Map Reference 65-2(1)pt. 15A. (DEFERRED FROM 7/21/87 AND 10/20/87 TO ALLOW TIME TO RESOLVE OUTSTANDING ISSUES WITH STAFF AND CITIZENS)

Kevin Guinaw, Staff Coordinator, advised the Board that the subject application had been deferred to allow the applicant time to work out issues raised by staff. He presented the staff report and stated that the outstanding issues had been resolved and staff was recommending approval of the request.

John Cahill of Fairfax, Virginia, attorney, representing the applicant, appeared before the Board and stated that the applicant concurred with the staff report with the exception of development condition 12. He added that 25 feet of transitional screening was already being provided and a stockade fence would be undesirable. He suggested a chain link fence and a split rail fence to run adjacent and parallel to the chain link fence for aesthetics.

Following a question from Mr. Hyland, Mr. Guinaw explained that staff was requesting a stockade fence to provide a sound and visual barrier between this use and the adjacent properties.

Chairman Smith called for speakers and Beverly and Preston Mulford of 6101 Old Centreville Road, Centreville, Virginia, owners and operators of a daycare and nursery school, appeared before the Board in opposition to the request. They expressed concern about traffic and the lack of an adequate buffer between the properties. Mr. Mulford expressed the opinion that there was very little difference between the earlier application by the applicant which staff recommended denial and the present application staff was now recommending approval.

Following a question from Mr. Hammack, Mr. Guinaw explained how staff made its recommendation to limit the number of students. It was based upon the issue of land use intensity, that is, the way the building was situated, the lack of screening on the site and its compatibility with the existing and future residential areas. It was also based on the reference to the guideline in the Ordinance of locating a child care facility on a local street. Although Singleton's Grove is classified as a "collector" it is carrying low traffic volumes and staff considered it to be a local street. The change in staff's recommendation to allow an increase in the enrollment was based on quality screening of the facility, the location of the facility on the site, and the reduction in the size of the building thus the facility was made to be more compatible and the perceived intensity was reduced. Mr. Guinaw added that the number of vehicular trips generated would be reduced because of combined trips by residents of the Singleton's Grove Subdivision and pedestrian access from the subdivision, therefore the difference between 75 students and 99 students was not considered to be significant. He added that the transportation analysis must be put into the context of the overall analysis of this application.

In rebuttal, Mr. Cahill advised the Board that he had met with the citizens and had resolved most of their concerns. He added that additional landscaping was being provided, the number of students for the subject property satisfies the Zoning Ordinance requirements. Mr. Cahill also pointed out that the adjacent properties were C-8 and R-8 and that there was a critical need for day care in Fairfax County. In conclusion, Mr. Cahill stated that the proposal was in harmony with the Comprehensive Plan.

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

Prior to making the motion, Mrs. Day pointed out the proposal would serve the employed parents in a growing area. She added that the size of the building had been reduced and located in the center of the site. Mrs. Day noted that additional screening had been added and that access would be on Singleton's Way not Centreville Road. Mrs. Day stated that the applicant had met the standards for a special permit and moved to grant the request subject to the revised development conditions.

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THE MOTION TO GRANT FAILED

COURTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-S-037 by SMC LEARNING CENTERS LIMITED PARTWERSHIP, under Section 3-803 of the Zoning Ordinance to allow a child care center, on property located at Old Centreville Road and Singleton's Way, Tax Map Reference 65-2(1)pt. 15A, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 17, 1987; and

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

1. That the applicant is the contract purchaser.
2. The present zoning is R-8.
3. The area of the lot is 1.25 acres of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-303 and 8-305 of the Zoning Ordinance.

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

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

3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The maximum daily enrollment shall be 99 students.
6. Dedication of right-of-way on Old Centreville Road shall be provided as determined by the Director, Department of Environmental Management (DEM) at the time of Site Plan Review.
7. Twenty-one (21) parking spaces shall be provided on site. Adequate turnaround area shall be provided as determined by the Director of DEM.
8. Hours of operation shall be from 6:30 a.m. to 7:00 p.m., Monday through Friday.
9. The maximum number of employees on site at any one time shall be ten (10).
10. Transitional Screening 1 shall be provided on the northern, eastern, and southern lot lines. Along the southern boundary, this requirement shall be modified as shown on the special permit plat, subject to the final approval of the County Arborist. Along the western boundary, landscaping plantings shall be provided to minimize the visual impacts of the parking area and the use on Old Centreville Road.
11. The outdoor play area shall be fenced as required by the Health Department and shall be located outside the required transitional screening yards.
12. A chain link fence shall be constructed around the entire perimeter of the play area, and a split rail fence shall run adjacent to and parallel to the chain link fence. The barrier requirement shall be waived along the southern and western lot lines.
13. The design of the structure shall be architecturally compatible with the residential character of the area. The roof of the structure shall be earth tone in color.
14. Maximum building height shall be eighteen (18) feet.
15. A landscape plan shall be submitted for review and approval by the County Arborist. The plan shall include transitional screening, landscape plantings along the western boundary to screen the parking area and the building from Old Centreville Road, and foundation plantings.
16. Signs shall be permitted in accordance with Article 12, Signs.
17. Parking lot lighting, if installed, shall be the low intensity type, on standards not to exceed twelve (12) feet in height and shielded in a manner that would prevent light or glare from projecting onto adjacent properties.
18. Interior parking lot landscaping shall be provided in accordance with the provisions of Article 13.
19. Best Management Practices (BMPs) for stormwater management shall be provided as determined by the Director, Department of Environmental Management.

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

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



Mr. Hammack seconded the motion which FAILED by a vote of 3-2 with Mrs. Day, Mr. Hammack and Chairman Smith voting aye; Messrs. Hyland and Ribble voting nay; Mrs. Thonen not present for the vote; Mr. DiGiulian absent from the meeting.

At this time, Mr. Cahill requested the Board to reconsider the application at their next meeting.

Following a discussion among the Board Mr. Hyland moved the Board to reconsider its earlier action that it took in the meeting which would make actions taken by the Board this evening final and move the Board to reconsider that action so that the action in this case not be considered final this evening and would in fact be considered final at the next regularly scheduled Board meeting which is December 1, at which time Mr. Cahill could then make his request for reconsideration if he wants to do it.

Mrs. Day and Mr. Hammack seconded the motion which passed by a vote of 5-0 with Mrs. Thonen not present for the vote; Mr. DiGiulian absent from the meeting.

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

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

Daniel Smith  
Daniel Smith, Chairman  
Board of Zoning Appeals

SUBMITTED: December 15, 1987

APPROVED: January 5, 1988

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The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, December 1, 1987. The following Board Members were present: Chairman Daniel Smith; Ann Day; John DiGiulian; Paul Hammack; Gerald Hyland; John Ribble. Mary Thonen was absent from the meeting.

Chairman Smith called the meeting to order at 8:30 P.M. Mrs. Day led the prayer.

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Chairman Smith welcomed members of the Stafford County Board of Zoning Appeals who was present to observe.

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Page 158, December 1, 1987, (Tape 1), Scheduled case of:

8:00 P.M. DR. THOMAS S. ROEHR, SPA 79-C-091-1, application under Sect. 4-503 of the Zoning Ordinance to amend S-91-79 for a veterinary hospital to permit addition to existing building and to allow a real estate office within the existing building, located at 2703 Centreville Road, on approx. 19,049 square feet, zoned C-5 and R-1, Centreville District, Tax Map 25-1((1))23A. (DEF. FROM 7/7/87 & 9/22/87 - TO BE HEARD CONCURRENT WITH VC 87-C-110)

8:00 P.M. DR. THOMAS S. ROEHR, VC 87-C-110, application under Sect. 18-401 of the Zoning Ordinance to allow building for a Special Permit use to remain 24.3 ft. from front lot line (compliance with bulk regulations for the zoning district 40 ft. min. front yard, required by Sect. 8-903) located at 2703 Centreville Road, on approx. 19,049 square feet, zoned C-5, Centreville District, Tax Map 25-1((1))23A. (DEFERRED FROM 9/22/87 - TO BE HEARD CONCURRENT WITH SPA 79-C-091-1)

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report. She stated that the property to the south of this property has a public hearing pending for a Special Exception request which could affect these applications with regard to transportation issues. She noted that development condition #7 should be corrected "47.5 feet" rather than "60 feet".

Lance Garner, 10560 Main Street, Fairfax, Virginia, represented the applicant. He stated that he had not been aware that it was the Board's intent to defer decision in this matter until the Planning Commission had made a determination on the property to the south. He responded to the transportation issues by stating that the applicant preferred to access his property from Centreville Road. As the entrance way to the property would be located a substantial distance from the intersection, Mr. Gardner added that he did not believe this access would impact upon the intersection.

Mr. Gardner requested that development condition #9 be amended to read as follows: "At such time as the Palumbo/Veatch partnership property, identified as Fairfax County tax map parcel 25-1((1))24 and located to the immediate south of the Chantilly Hunt Animal Hospital property, is developed to a commercial use and constructs an entrance on Centreville Road to VDOT standards, the applicant will cease using its present entrance on Centreville Road and use the entrance on the Palumbo/Veatch partnership property as its sole means of access to Centreville Road via use of an interparcel access connection between the two properties."

Regarding the variance application, Mr. Gardner explained that due to a 30 foot easement previously dedicated to the Commonwealth the front yard is now only 24.3 feet therefore a variance of 15.7 feet is requested.

Chairman Smith called for speakers in support of the application and the following came forward.

J. Randall Minchew, attorney with Hazel, Thomas, Fiske, Beckhorn & Hanes, 4084 University Drive, Fairfax, Virginia, represented Palumbo and Veatch. He informed the Board that meetings had been held between his client and the applicant to discuss the requested variance and it was belief that the applicant had meet all the standards for a variance. He added that he does not agree with the access proposed by staff and suggested that perhaps Mr. Roehr could access his site onto Centreville Road until such time as Palumbo and Veatch has completed development of its site and then a joint access could be constructed.

E. Brooke McCauley, 3111 Hunt Road, Oakton, Virginia, came forward and spoke in support of both requests. He added that he would rather see the 4 foot concrete sidewalk be constructed as opposed to a 6 foot asphalt trail. He pointed out that to restrict the access onto West Ox Road was not feasible and agreed that all parcels should be pulled together.

Mr. Gardner came forward and responded to Ms. Mendelson's concerns by explaining that people would not be coming to the real estate office as the agents worked out of the office.

Chairman Smith questioned staff as to the proposed revisions to the development conditions. Mrs. Hamblin-Katnik replied that these changes could be addressed at the next public hearing following the Planning Commission's recommendation.

As there were no further speakers or comments, staff suggested a date and time for the next public hearing of December 8, 1987 at 12:50 p.m. and the Board so moved. Mr. Hammack also made a motion that the record be left open for additional information. Mr. DiGiulian seconded the motion which passed by a vote of 6-0 with Mrs. Thonen absent from the meeting.

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Page 159, December 1, 1987, (Tape 1), Scheduled case of:

8:20 P.M. ABNER LOUIS NOTKINS, VC 87-D-115, application under Sect. 18-401 of the Zoning Ordinance to allow construction of additions to dwelling to 29 feet from front lot line and 9.5 feet from side lot line (40 ft. min. front yard, 20 ft. min. side yard required by Sect. 3-107), located at 1179 Crest Lane, on approximately .8858 acres of land, zoned R-1, Dranesville District, Tax Map Reference 31-2((1))17.

Chairman Smith informed the Board that the applicant had submitted a letter requesting that he be allowed to withdraw his application and the Board so moved.

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Page 159, December 1, 1987, (Tape 1), Scheduled case of:

8:40 P.M. BDLK, INC., SP 87-S-061, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow dwelling to remain 12.6 feet from a street line of a corner lot (15 ft. min. distance from public street r.o.w. line required by Sect. 6-307), located at 9601 Chapel Lake Drive, on approximately 9,083 square feet of land, zoned PRC, Springfield District, Tax Map Reference 78-3((21))601.

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report. She stated that staff is recommending approval of this application subject to the development conditions contained in the staff report.

Andres I. Domeyko, 14101 Sullyfield Circle, Chantilly, Virginia, represented the applicant came forward and explained that this had been a measuring error. He agreed with staff's comments as set forth in the staff report.

As there were no speakers to address this application, Chairman Smith asked if staff had any additional comments.

Mrs. Hamblin-Katnik commented that the applicant would be requesting a variance in the future for an existing 6 foot high fence in the front yard which does not meet the requirements of the Zoning Ordinance.

There was no further discussion therefore Chairman Smith closed the public hearing.

Mr. DiGiulian moved to grant this application subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-S-061 by BDLK, INC., under Section 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow dwelling to remain 12.6 feet from a street line of a corner lot (15 ft. min. distance from public street r.o.w. line), on property located at 9601 Chapel Lake Drive, Tax Map Reference 78-3((21))601, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 1, 1987; and

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

1. That the applicant is the owner of the land.
2. The present zoning is PRC.
3. The area of the lot is 9,083 square feet of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-903 and 8-914 of the Zoning Ordinance.

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

1. This special permit is approved for the location and the dwelling shown on the plat included with this application and is not transferable to other land.
2. A new Building Permit shall be obtained showing the existing dwelling and the related yards.

Mrs. Day and Mr. Hammack seconded the motion which carried by a vote of 6-0 with Mrs. Thonen absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 9, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 160, December 1, 1987, (Tapes 1 and 2), Scheduled case of:

9:00 P.M. SOUTHVIEW BAPTIST CHURCH, SPA 80-C-111-2, application under Sect. 3-203 of the Zoning Ordinance to amend SP 80-C-111 for a church and related facilities to permit building and parking additions, continuance of two relocated trailers and addition of a third trailer, located at 2620 Reston Avenue, on approximately 4.244 acres of land, zoned R-2, Centreville District, Tax Map Reference 26-3(1)23.

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report. She added that staff does not agree with the addition of a third trailer due to the openness of the site, therefore staff is recommending approval of the applicant's request in part.

G. T. Ward, Ward Hall Associates, AIA, 12011 Lee Jackson Memorial Highway, Fairfax, Virginia, architect for the church, came forward to speak on behalf of the church and stated that construction will commence in mid-year 1988. He informed the Board that Neil Weinstein with Rinker-Detwiler and Associates would like to address the Board regarding the landscaping.

Neil A. Weinstein, Rinker-Detwiler and Associates, P.C., 10505 Judicial Drive, Fairfax, Virginia, displayed architectural drawings showing a conceptual landscape plan and stated that they had tried to mitigate the visual impact of the parking lot as much as possible. He added that the trailers have been relocated to a less obstructive position where they will be more sufficiently screened.

Mr. Ward came back to the podium to address the issue of the third trailer which staff is recommending denial and added that he did not understand staff's logic as there would be construction trailers on site during the construction process.

In response to questions from Chairman Smith, Mr. Ward replied that the trailers were a beige tone with dark brown tone. He agreed that when the trailers were relocated that they would be skirted in order to bring them into compliance with the Zoning Ordinance.

Jim Langham, 2620 Reston Avenue, Herndon, Virginia, pastor of the church came forward and stated that the third trailer was needed due to an expansion in the church membership and would only be needed until construction of the church was completed. Mr. Langham added that the church would do whatever necessary to resolve the citizens concerns.

Carlton Owen, 2979 Emerald Chase Drive, Herndon, Virginia, stated that the church agreed that the trail was a good idea but would like to construct at the same time the neighbors on either side of the subject property.

In response to a question from Chairman Smith, Mr. Ward replied that the church would provide the easement at this time and agree to construct at a future date.

Mrs. Hamblin-Katnik stated that she had discussed this with the Trails Planner and had been told that staff could not recommend delaying the construction of the trail.

Chairman Smith called for speakers in support of the application and the following came forward.

Pam Davis, 2727 Wrexham Court, Herndon, Virginia, stated she was formerly president of Fox Mill Estates Homes Association and presently serves on a committee for Development Awareness which keeps abreast of surrounding development. She stated that the association does not object to the addition of a third trailer and that the relocation of the two existing trailers will have a positive effect upon the appearance of the church. Ms. Davis agreed with staff's recommendations that the applicant be given only a two year extension and that the present landscaping is inadequate.

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

Michael Dillon, 2421 Wendell Holmes Road, Herndon, Virginia, which is directly opposite the proposed location for the trailers. He stated that he was not opposing the request but was concerned that there might not be a sufficient amount of screening between his property and the church.

Mrs. Hamblin-Katnik stated that staff had reviewed the landscaping plan and did not believe the plan was adequate along Reston Avenue or Lawyers Road and therefore the development conditions were written to try to correct this inadequacy.

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

Mrs. Day stated that she believed that the applicant had presented testimony showing compliance with the standards for a Special Permit and therefore made a motion to grant-in-part SPA 80-C-111-2 subject to the development conditions contained in the staff report with the following modifications.

Development Conditions Numbers 1 through 5 will remain the same.

Development Condition Number 6 modified as follows: "will be for a period of two (2) years and they shall be removed when the sanctuary is completed."

Development Conditions Numbers 7 through 19 will remain the same.

Development Condition Number 20 modified as follows: "A trail shall be constructed at the time the Fairfax County constructs its trail on the adjoining property."

Mr. Hyland seconded the motion and suggested an amendment which would reflect grant as opposed to grant-in-part and Mrs. Day agreed.

Mr. Hammack requested a clarification to development condition number 6 and suggested that perhaps the time limit of two (2) years was not a sufficient amount of time.

Mr. DiGiulian expressed concern that with the addition of development condition number 20 perhaps development conditions 17 and 18 should be modified.

Mrs. Day modified development conditions 17 and 18 as follows: "Trails shall be constructed at the time Fairfax County constructs the trail on adjacent property along Reston Avenue."

Following further discussion between the Board and staff, development condition number 6 was amended to reflect "three (3) years classroom trailers shall be permitted in the location indicated on the plat for a period of three (3) years from the date of the special permit approval or the issuance of a Non-Residential Use Permit, whichever comes first."

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 80-C-111-2 by SOUTHVIEW BAPTIST CHURCH, under Section 3-203 of the Zoning Ordinance to amend SP 80-C-111 for a church and related facilities to permit building and parking additions, continuance of two relocated trailers and addition a third trailer, on property located at 2620 Reston Avenue, Tax Map Reference 26-3(1)23, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 1, 1987; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-2.
3. The area of the lot is 4.244 acres of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 8-303 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The transitional screening requirement along the northern lot line adjacent to the fire station shall be modified in width and landscape materials to that shown on the plan. Landscaping shall be supplied to the satisfaction of the County Arborist to provide landscaping in keeping with the residential character of the area within the yard between the parking lot and the northern property line.

Significant supplemental landscape plantings shall be provided around the foundation of the buildings and within the areas requested for modified plantings (the area adjacent to Lawyers Road and Reston Avenue) in a manner that will reduce the visual impact of the proposed ultimate development of the site. The type, amount, and arrangement of such plantings shall be determined by the County Arborist at the time of site plan approval. The approval of this modification is not predicated on the Conceptual Landscape Plan submitted as justification for this request, as the plan is insufficient to justify the modification.

The barrier requirement shall be waived.

6. Use of the three (3) classroom trailers shall be permitted in the location indicated on the plat for a period of three (3) years from the date of the special permit approval or the issuance of a Non-Residential Use Permit, whichever comes first.
7. The maximum seating capacity in the main worship area shall not exceed three hundred and eighty (380).
8. A minimum of 101 parking spaces shall be provided. All parking shall be on site.
9. There shall be no limit on the number of employees.
10. Signs shall be permitted in accordance with Article 12 of the Zoning Ordinance.
11. The hours of operation shall be the normal hours for church operation.
12. Phased development of the site shall be permitted as represented on the plat submitted with this application.
13. Site plans for future phases of development shall be submitted to the Board of Zoning Appeals for review and approval prior to their approval by the Board of Zoning Appeals.
14. There shall be no entrances allowed along Reston Avenue.
15. All entrances shall meet VDOT standards.
16. Ancillary easements along Lawyers Road shall be provided to the satisfaction of the Department of Environmental Management.
17. A Type I, 8-foot asphalt trail within a 12-foot easement shall be provided within the Transcontinental Gas Pipeline Easement. Trails shall be constructed at the time Fairfax County constructs the trail on adjacent property along Reston Avenue.
18. A Type II, 6-foot bluestone trail within a 10-foot easement shall be provided within the Transcontinental Gas Pipeline Easement. Trails shall be constructed at the time Fairfax County constructs the trail within the easement of adjacent properties.
19. Light standards shall be no higher than twelve (12) feet. All lighting shall be provided in a manner that will prevent light from projecting beyond the property lines.

These development conditions bring forth all pertinent development conditions from prior approvals concerning Southview Baptist Church.

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

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

Mr. Hyland and Mr. Hammack seconded the motion which carried by a vote of 6-0 with Mrs. Thonen absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 9, 1987. This date shall be deemed to be the final approval date of this special permit.

**NOTE:** The applicant verbally committed to replacing the deciduous trees with evergreen trees between the temporary trailers and Lawyers Road.

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Reconsideration of SMC Learning Centers Limited Partnership, SP 87-S-037

John Cahill, attorney with the law firm of Hazel, Thomas, Fiske, Beckhorn & Hanes, 3110 Fairview Park Drive, Fairfax, Virginia, came forward and represented the applicant. He stated that it was his belief that there had been some confusion regarding transportation issues and therefore an independent transportation analysis which would provide the Board with backup information that had not been available at the public hearing.

In response to questions from the Board, Kevin Guinaw, Staff Coordinator, replied that the materials had been received by staff on November 30, 1987 and that staff had not changed its position. He added that staff's position had not changed from what it was at the time of the public hearing.

Following a discussion among the Board members, Chairman Smith polled the Board as to its intent to reconsider. Mr. Hyland stated that he had not changed his mind regarding the transportation issues and would not make a motion to reconsider. Mr. Ribble agreed with Mr. Hyland's comments and stated that he was not prepared to make a motion to reconsider. As a motion to reconsider was not made, the Board took no action.

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MARY S. ALLAN APPEAL, A 87-S-007

Chairman Smith told the Board that a Writ of Certiorari had been issued to the Board of Zoning Appeals in the Mary S. Allan, A 87-S-007. He stated that outside counsel would be necessary as the suit was being brought by the Zoning Administrator. Therefore, Mr. Hammack moved to request Brian McCormick to represent the Board with Mrs. Day seconding the motion which carried by a vote of 6-0. Mrs. Thonen was absent from the meeting.


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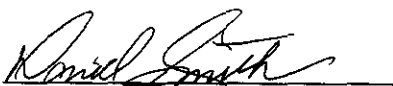
Mr. Hyland welcomed Jane Kelsey back after her illness and stated that the Board of Zoning Appeals Support Branch staff had performed admirably in her absence. He also noted that Claudia Hamblin-Katnik would be leaving the staff to join her husband in the spring and wished her well.

Ms. Kelsey congratulated Mr. Hyland on his being elected to the Board of Supervisors. Mrs. Day requested that staff arrange for a photograph to be taken at of the Board prior to Mr. Hyland's leaving.

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As there was no other business to come before the Board, the meeting was adjourned at 10:40 P.M.

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

  
Daniel Smith, Chairman  
Board of Zoning Appeals

SUBMITTED: 2/9/88

APPROVED: 2/16/88

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The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, December 8, 1987. The following Board Members were present: Daniel Smith, Chairman; Ann Day; Gerald Hyland; Paul Hammack; John Ribble. John DiGiulian, Vice-Chairman and Mary Thonen were absent from the meeting.

Chairman Smith opened the meeting at 9:29 A.M. and Mrs. Day led the prayer.

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At this time, Jane Kelsey, Chief, Board of Zoning Appeals Support Branch, (BZASB) introduced Kathy Reilly, a new Staff Coordinator for the Zoning Evaluation Division of the Office of Comprehensive Planning who will be working primarily for the BZASB.

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Page 165, December 8, 1987, (Tape 1), Scheduled case of:

9:00 A.M. WILLIAM AND GWEN KING, VC 87-C-106, application under Sect. 18-401 of the Zoning Ordinance to allow partially constructed detached garage to be completed in a front yard (accessory structure or use not permitted in any front yard by Sect. 10-104), located at 10815 Cross School Road, on approximately 21,368 square feet, zoned PRC, Centreville District, Tax Map Reference 27-1((3))8. (DEFERRED FROM 10/13/87 AND 10/27/87)

Claudia Hamblin-Katnik, Staff Coordinator, advised the Board that the above referenced application had been deferred to allow time for staff to provide additional information and Mr. Donald Smith, Branch Chief, Permit, Plan Review Branch was available to answer questions from the Board. Ms. Hamblin-Katnik provided a chronology of the events that took place concerning the application. She stated that in June of 1979 a grading plan was approved for construction of a detached dwelling and detached garage on the property. On October 15, 1979, the Board of Supervisors adopted an amendment which did not allow an accessory structure or use in any required front yard or any front yard on any lot containing 36,000 square feet or less. In December of 1979 the applicant received a second approval of a grading plan for the garage within the front yard except in a different location. Since the applicant did not construct the foundation and garage as shown on the original site plan approved in June of 1979 and the Zoning Ordinance was amended prior to the approval of the revised site plan in December of 1979, the subject garage could not be constructed in its proposed location. Ms. Hamblin-Katnik stated that the files further indicated that the applicant obtained a building permit, issued June of 1985 for construction of the foundation and garage and that issuance was based on the fact that the garage was shown on the approved preliminary site plan approved prior to the October 15, 1979 adoption of the Zoning Ordinance amendment. However, it was later determined the garage was not in accordance with the original site plan thus the building permit was issued in error.

Robert Vaughn with Miller, Bucholtz & Moorcones, P.C. located at 11715 Bowman Green Drive, Reston, Virginia, appeared before the Board and explained that the applicant thought he was constructing the garage in accordance with an approved site plan.

Chairman Smith called for speakers and Martin Jaron, 10713 Cross School Road, Reston, Virginia, appeared before the Board in opposition to the request. He stated that with the exception of one other house in the neighborhood none of the homes in the area had a garage in the front yard. He added that the garage would be visually obtrusive and since it was not constructed in conformance with the approved site plan, the applicant did not have vested rights.

Ms. Kelsey pointed out that if the garage were constructed in conformance with the approved site plan, the applicant would have "grandfather rights."

In rebuttal, Mr. Vaughn reiterated that in 1985 the applicant thought he could build in accordance with the December 1979 site plan.

In closing, Ms. Hamblin-Katnik stated that no other variances had been granted in the area.

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

Prior to making the motion, Mr. Hammack stated that the testimony presented had been confusing but that the applicant had made a mistake in building under a site plan that was not approved. He added that the BZA should permit an accessory structure in the front yard by way of a variance. Mr. Hammack concluded that the applicant had not met the standards for a variance and therefore moved to deny the request.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-C-106 by WILLIAM AND GWEN KING, under Section 18-401 of the Zoning Ordinance to allow partially constructed detached garage to be completed in a front yard, on property located at 10815 Cross School Road, Tax Map Reference 27-1(3)8, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 8, 1987; and

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

1. That the applicant is the owner of the land.
2. The present zoning is PRC.
3. The area of the lot is 21,368 square feet of land.

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

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

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

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

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

Mrs. Day seconded the motion which carried by a vote of 5-0 with Mrs. Thonen and Mr. DiGiulian absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 16, 1987.

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9:20 A.M. ADDISON AND MARY YEAMAN, JR., VC 87-A-119, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage and living space addition to dwelling to 8.1 feet from side lot line (12 ft. min. side yard required by Sect. 3-307), located at 5229 Southhampton Drive, on approximately 10,580 square feet of land, zoned R-3, Annandale District, Tax Map Reference 70-3((4))153.

Lori Greenlief, Staff Coordinator, presented the staff report.

Addison Yeaman, 5229 Southhampton Drive, Springfield, Virginia, the applicant, appeared before the Board and reviewed his statement of justification submitted with the application.

Following a question from Mr. Ribble, Mr. Yeaman stated that the lot did have exceptional topographical conditions and that there was no other place on the lot to locate the garage and addition.

In response to questions from Mrs. Day, Mr. Yeaman stated that he was parking his vehicles on the street and that it was hazardous when the weather was bad.

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

Prior to making the motion, Mrs. Day noted that there was open space to rear of the property, that the house did not have a basement and there were topographical problems. Mrs. Day further stated that the owner of lot 152 entered his property on the other side and that this neighbor did not have a window overlooking the proposed garage and addition. She added that the applicant had met the standards for a variance and moved to grant the request subject to the development conditions.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-A-119 by ADDISON AND MARY YEAMAN, JR., under Section 18-401 of the Zoning Ordinance to allow construction of garage and living space addition to dwelling to 8.1 feet from side lot line, on property located at 5229 Southhampton Drive, Tax Map Reference 70-3((4))153, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 8, 1987; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 10,580 square feet of land.

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

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

6. That:

A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or

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

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

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

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

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

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

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

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Ribble seconded the motion which carried by a vote of 4-0 with Chairman Smith not present for the vote; Mr. DiGiulian and Mrs. Thonen absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 16, 1987. This date shall be deemed to be the final approval date of this variance.

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At 11:10 A.M. the Board took a brief recess and reconvened the meeting at 11:25 A.M.

At this time, Gerald Hyland took over the meeting due to Chairman Smith's illness.

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Page 168, December 8, 1987, (Tape 2), Scheduled case of:

9:30 A.M. JOSEPH J. DZURA, VC 87-S-120, application under Sect. 18-401 of the Zoning Ordinance to allow construction of additions to dwelling to 3.8 ft. from side lot line such that side yards total 19.7 ft. (8 ft. min., 20 ft. total min. side yard required by Sect. 3-307) located at 9322 Kita Street, on approximately 8,454 square feet of land, zoned R-3 (C), Springfield District, Tax Map Reference 78-2((11))154.

Lori Greenlief, Staff Coordinator, presented the staff report.

Joseph Dzura, 9322 Kite Street, Burke, Virginia, the applicant, appeared before the Board and explained his request as outlined in the statement of justification submitted with the application.

Following a question from Mr. Hammack, Mr. Dzura explained that the additions could not be located in the back yard due to utility easements.

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

Prior to making the motion, Mr. Ribble stated that the applicant had met the standards for a variance and also noted the easements in the back yard which would prevent the garage from being built in the back. Mr. Ribble then moved to grant the request subject to the development conditions.

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Mrs. Day seconded the motion.

Mr. Hyland suggested the following amendment to the motion: That the applicant submit a plat showing the easements.

Mrs. Day and Mr. Ribble accepted the amendment.

Mr. Hammack expressed the opinion that the applicant may be able to build in the back yard thus requiring a smaller variance.

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THE MOTION TO GRANT FAILED  
COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-S-120 by JOSEPH J. DZURA, under Section 18-401 of the Zoning Ordinance to allow construction of additions to dwelling to 3.8 ft. from side lot line such that side yards total 19.7 ft., on property located at 9322 Kite Street, Tax Map Reference 78-2((11))154, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 8, 1987; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-3 (C).
3. The area of the lot is 8,454 square feet of land.

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

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

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

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

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

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

The motion which FAILED by a vote of 3-1 with Mr. Hammack voting nay; Chairman Smith not present for the vote; Mr. DiGiulian and Mrs. Thonen absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 16, 1987.

Following a question from Mr. Dzura, Mr. Hyland explained that he could request a waiver of the 12 month limitation on rehearing the application. Following Mr. Dzura's request, Mr. Ribble moved to waive the 12 month limitation on rehearing the application.

Mrs. Day seconded the motion which passed by a vote of 4-0 with Chairman Smith not present for the vote; Mrs. Thonen and Mr. DiGiulian absent from the meeting.

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9:55 A.M. GEORGE W. JR. AND AUDREY C. LOVERIDGE, VC 87-D-121, application under Sect. 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling to 18.0 feet from rear lot line (25 ft. min. rear yard required by Sect. 3-307), located at 6809 Weaver Avenue, on approximately 13,890 square feet of land, zoned R-3, Dranesville District, Tax Map Reference 30-4((17))125.

Lori Greenlief, Staff Coordinator, presented the staff report.

George Loveridge, 6809 Weaver Avenue, McLean, Virginia, the applicant, appeared before the Board and explained his request as outlined in the statement of justification submitted with the application.

Since there were no speakers to address the application, Acting Chairman Hyland closed the public hearing.

Prior to making the motion, Mr. Hammack stated that the applicant had met the 9 standards for a variance and moved to grant the request subject to the development conditions.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-D-121 by GEORGE W. JR. AND AUDREY C. LOVERIDGE, under Section 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling to 18.0 feet from rear lot line, on property located at 6809 Weaver Avenue, Tax Map Reference 30-4((17))125, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 8, 1987; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 13,890 square feet of land.

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

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

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

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

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

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Ribble seconded the motion which carried by a vote of 4-0 with Chairman Smith not present for the vote; Mr. DiGiulian and Mrs. Thonen absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 16, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 172 December 8, 1987, (Tape 2), Scheduled case of:

10:10 A.M. ELIZABETH M. WOLFSON, VC 87-A-117, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 15.2 feet from rear lot line (25 ft. min. rear yard required by Sect. 3-307), located at 9200 Burnette Drive, on approximately 9,118 square feet of land, zoned R-3(C), Annandale District, Tax Map Reference 69-4((15))13.

In Kevin Guinaw, Staff Coordinator's absence, Lori Greenlief advised the Board that there had been an error in advertisement of the application, therefore necessitating a deferral. She suggested a new date of January 12, 1988.

Mr. Ribble so moved. Mr. Hammack seconded the motion which passed by a vote of 4-0 with Chairman Smith not present for the vote; Mrs. Thonen and Mr. DiGiulian absent from the meeting.

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Page 174 December 8, 1987, (Tape 2), Scheduled case of:

10:25 A.M. JEFFREY SCOTT LEWIS, VC 87-P-128, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 8.8 feet from rear lot line (25 ft. min. rear yard required by Sect. 3-307), located at 8509 West Oak Place, on approximately 9,146 square feet of land, zoned R-3, Providence District, Tax Map Reference 39-1((26))28. (OUT OF TURN HEARING GRANTED)

Heidi Belofsky, Staff Coordinator, presented the staff report.

Jeffrey Lewis, 8509 West Oak Place, Vienna, Virginia, the applicant, appeared before the Board and explained his request as outlined in the statement of justification submitted with the application.

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

Prior to making the motion, Mrs. Day pointed out that the house had been built 40 years ago and that the owners needed to make repairs and update the property. She further noted the open space in the rear of the yard and the unusual shape of the lot. Mrs. Day then moved to grant the request subject to the development conditions.

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#### COUNTY OF FAIRFAX, VIRGINIA

#### VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-P-128 by JEFFREY SCOTT LEWIS, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling 8.8 ft. from rear lot line, on property located at 8509 West Oak Place, Tax Map Reference 39-1((26))28, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 8, 1987; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 9,146 square feet of land.

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

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;
  - F. An extraordinary situation or condition of the subject property, or
  - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.



3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.

4. That the strict application of this Ordinance would produce undue hardship.

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

6. That:

A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or

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

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

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

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

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

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

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

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Hammack seconded the motion which passed by a vote of 4-0 with Chairman Smith not present for the vote; Mr. DiGiulian and Mrs. Thonen absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 16, 1987. This date shall be deemed to be the final approval date of this variance.

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Page <sup>173</sup> 173 December 8, 1987, (Tape 2), Scheduled case of:

10:40 A.M. B. D. WINGERD AND LYNN M. WINGERD, VC 87-A-118, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling 0.3 feet from side lot line and 5.1 feet from the floodplain (15 ft. min. side yard required by Sect. 3-207 and 15 ft. min. yard from a floodplain required by Sect. 2-415), located at 4306 Braeburn Drive, on approximately 16,740 square feet of land, zoned R-2, Annandale District, Tax Map Reference 69-2((6))243.

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

B.D. Wingerd, 4306 Braeburn Drive, Fairfax, Virginia, the applicant, appeared before the Board and explained his request as outlined in the statement of justification submitted with the application. He further noted the unusual topography of the lot and the floodplain area in the rear of the lot. He added that there were no objections from the neighbors.

Acting Chairman Hyland called for speakers and Mr. Blagg, 4207 Kilbourne Drive, Fairfax, Virginia, appeared before the Board in support of the request. He stated that the garage would be an improvement to property.

Since there were no other speakers to address this issue, Acting Chairman Hyland closed the public hearing.

Prior to making the motion, Mr. Ribble stated that the applicant had not met the standards for a variance. He added that although the applicant suffered some hardship, it was not severe. Mr. Ribble also pointed out that the proposal was too close to the side lot line and therefore, moved to deny the request.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-A-118 by B.D. WINGERD AND LYNN M. WINGERD, under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling 0.3 ft. from side lot line and 5.1 ft. from the floodplain, on property located at 4306 Braeburn Drive, Tax Map Reference 69-2(6)243, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 8, 1987; and

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

1. That the applicants are the owners of the land.
2. The present zoning is R-2.
3. The area of the lot is 16,740 square feet of land.

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

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

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

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

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

Mr. Hammack seconded the motion.

The motion carried by a vote of 4-0 with Chairman Smith not present for the vote; Mr. DiGiulian and Mrs. Thonen absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 16, 1987.

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At 12:25 the Board recessed and reconvened at 12:35.

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Mr. Wingerd requested the Board reconsider their motion on his previous application to enclose his existing carport. Mr. Hyland explained that his request to reconsider the application is out of order and that his only option was to amend his application and come back to the Board and suggested that he request a 12 month limitation waiver. In turn, Mr. Wingerd requested a 12 month limitation waiver.

Mr. Hammack moved to waive the 12 month limitation in the application of B.D. Wingerd and Lynn M. Wingerd, VC 87-A-118. Mr. Ribble seconded the motion which passed by a vote of 4-0 with Chairman Smith absent for the vote and Mr. DiGiulian and Mrs. Thonen absent from the meeting.

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Page 175, December 8, 1987, (Tape 2), Scheduled case of:

11:00 A.M. BELLE HAVEN COUNTRY CLUB, INCORPORATED, SPA 82-V-093-2, application under Sect. 3-303 of the Zoning Ordinance to amend S-82-V-093 for country club to permit building additions to existing facilities, located at 6023 Fort Hunt Road, on approximately 156.7 acres of land, zoned R-3, Mount Vernon District, Tax Map Reference 83-4((1))5.

William Arnold, 10521 Judicial Drive, Fairfax, Virginia, agent for the applicant, requested a deferral in order to have more than 4 Board Members present; since the Code requires 4 affirmative votes for an application to be granted. Mr. Ribble as a member of the Board and a member of the Belle Haven Country Club stated that he would have to abstain therefore there would be only three Board members to hear the application.

Mr. Hammack moved to defer Belle Haven Country Club, Incorporated, SPA 82-V-093-2 to December 15, 1987 at 1:20 p.m. Mrs. Day seconded the motion which passed by a vote of 3-0 with Chairman Smith absent for the vote, Mr. DiGiulian and Mrs. Thonen absent from the meeting and Mr. Ribble abstaining.

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Page 175, December 8, 1987 (Tape 2), Scheduled case of:

11:20 A.M. SAINT MARK COPTIC ORTHODOX CHURCH, SP 87-C-064, application under Sect. 3-E03 of the Zoning Ordinance to allow church and related facilities, located at 2115 Hunter Mill Road, on approximately 2.8035 acres of land, zoned R-E, Centreville District, Tax Map Reference 27-4((1))pt. 22.

Lori Greenlief, Staff Coordinator, presented the staff report. Ms. Greenlief stated that there were 2 major issues associated with the application. One, from an environmental prospective is the existence of EQC on the property. An additional issue of major importance was a transportation issue. The site is located on two heavily traveled minor arterials. The construction of Old Lawyers Road to private street standards would entail the vacation of that road. The applicant would have to apply to have the road vacated and would have to obtain the appropriate easements from the Park Authority in order to construct that road. The applicant is providing Transitional Screening where it is required and has agreed to provide a trail running through the site. Staff recommends approval subject to the Development Conditions in Appendix 1. as staff believes the applicant has resolved the major issues associated with this application.

Keith Martin, Walsh, Colucci, Stackhouse, Emrich, Lubeley, Ltd., 950 North Glebe Road, Arlington, Virginia, agent for the applicant, stated that the applicant has met all of the requirements for a Special Permit and has resolved the issues presented by staff. Mr. Martin pointed out that the applicant has discussed the application with the neighboring citizens, Hunter Mill Defense League and the Hunter Valley Association. There were some questions concerning the overall height and the architectural materials that were going to be used and this was discussed with the citizens. Mr. Martin stated that the applicant agreed with the Development Conditions.

In answer to Mr. Hyland's question, Ms. Greenlief stated that on Page 2 of Appendix 1 of the staff report Condition #9 will read as follows: first and second sentences to remain the same, the sentence that begins, "However clearing and grading for the driveway shall not extend beyond 35' east of the driveway as shown on the plat dated December, 1987" . . . "Grading for the right turn taper shall be limited to that area southeast of the existing outfall.", the last sentence of condition #9 shall remain, "No structures of any kind, parking or stormwater management facilities shall be located within this easement".

Mary Wandzer, 7819 Windy Ridge Lane, Annandale, Virginia, spoke in support of the application. She stated that she believes that a church is the logical structure to build in this area.

Richard Milburn, 2200 Hunter Mill Road, Vienna, Virginia, stated that he did not object or disagree with the church nor does he stand against churches constructed in residential areas. He opposed the access to the church parking lot, questioned the safety and increased traffic, and the relocation of the access from Hunter Mill to Lawyers Road.

Walter Schele, representative of the Hunter Valley Association, stated that he was representing 125 families and that they were in opposition basically along the same lines as Mr. Schele. The following points were made in opposition: the traffic problem with Hunter Mill and Lawyers Roads, the noise factor, architectural not compatible with the surrounding area (structure does not blend in with the area), and this church is not a community church; the members are coming from Maryland, Washington, etc.

Connie Sisk, 2048 Angelica Way, Vienna, Virginia, spoke in opposition to the application for reasons of increased traffic and accidents.

Katie Embird, 2100 Wipplewill Road, Vienna, Virginia, spoke in opposition to the application for reasons of increased traffic. Ms. Embird submitted a petition from the people of Angelica Creek Farm for the record. She stated that the homeowners are trying to protect the Environmental Quality Corridor of Difficult Run.

Andrea Career, 10515 Wickens Road, Vienna, Virginia, spoke in opposition to the application for reasons of increased traffic, and that there are already a number of churches in the area.

Maria Kirkland, 10204 Old Hunt Road, Vienna, Virginia, spoke in opposition to the application. Ms. Kirkland represented over 143 property owners in the area of Lawyers Road who oppose the church application. She submitted a petition for the record. Ms. Kirkland also submitted a letter from the President of Glen Cannon Community Association. These petitioners oppose the application for the following reasons: impact of additional traffic on Hunter Mill and Lawyers Road, and egress and ingress at the most dangerous section on Lawyers Road.

Sheldon Nasser, 2046 Angelica Way, Vienna, Virginia, spoke in opposition to the church application for reasons concerning traffic problems and architectural compatibility of the church with the surrounding area; specifically, the 40 to 60 foot domes.

In rebuttal, Keith Martin stated that the main opposition in this application is traffic and the church is willing to work with this and make the best out of a difficult situation. Mr. Martin further stated that the church is an appropriate use in this area. If the citizens do not feel the church is architecturally compatible with the surrounding area, the church will work with the people to work out the problem.

Mr. Hammack stated that the application and the site were very difficult and in all his five years on the Board he could not remember hearing stronger testimony from local citizens concerning the dangerous intersections. Mr. Hammack moved to defer Saint Mark Coptic Orthodox Church, SP 87-C-064, to December 15, 1987 at 1:40 p.m. for decision only. He wanted to view the site and look at the intersection to put the testimony from citizens into perspective and also to give the church proper consideration. Mr. Hyland supported the motion to defer and stated that he would feel more comfortable with the application if he took a look at the site. Mr. Hyland stated that he wanted comments from the Office of Transportation in reference to the comments made from both the applicant and the people who oppose the application. Mr. Ribble stated that he would also like to see the Police Report. Mrs. Day seconded the motion which unanimously passed by a vote of 4-0 with Chairman Smith absent for the vote and Mr. DiGiulian and Mrs. Day absent from the meeting.

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At 1:40 p.m. the Board recessed and reconvened at 2:10 p.m.

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11:40 A.M. CENTRAL BAPTIST CHURCH, SP 87-C-042, application under Sects. 3-103 and 8-915 of the Zoning Ordinance to allow church and related facilities and waiver of the dustless surface, located at 2355 Hunter Mill Road, on approximately 5.0 acres of land, zoned R-1, Centreville District, Tax Map Reference 37-2(1)25.

Lori Greenlief, Staff Coordinator, presented the staff report. Ms. Greenlief stated that staff had three major areas of concern. First of all, from an environmental perspective there is EQC on this property. The applicant has modified their plat to try to avoid the EQC. The second area of concern is transportation and access to the site. The roadway has to be improved to at least private road standards. Also a major area of concern is from a land use perspective of allowing this type of use on a shared driveway and tucked as it is into the residential neighborhood. Thus, it is staff's opinion that the intensity of this proposal is not appropriate and the use does not meet Standards 1, 3 and 4 for a Special Permit. Staff therefore recommends denial of this application. Ms. Greenlief noted that there are two letters of opposition in the record.

In answer to Mr. Myland's question, Ms. Greenlief stated that the orientation of the earlier church application was located on two minor arterials and the orientation of this church given its location on a pipestem, in staff's opinion is tucked back into this neighborhood.

Otis Goodwin, 2353 Hunter Mill Road, Vienna, Virginia, agent for the application stated that the applicant has demonstrated for over five years that there is a community desire for their church in this area, that the applicant is an asset to the spiritual, moral and physical needs of the area, that the applicant must develop a permanent location if they are to optimize themselves, and that the applicant has acquired a site that is substantially buffered in relation to private dwellings. Mr. Goodwin stated that the application is in harmony with the neighborhood. Mr. Goodwin further stated that the church radically modified their plat to accommodate the EQC.

Steve Reynolds, 6032 West Born Place, Centreville, Virginia, Pastor for the church, pointed out that the people in the area have mandated that a church of this nature be a part of the community.

The following people spoke in support of the application: Richard Dingman, 312 Westview Court, Vienna, Virginia; Jack Moore, 228 Cedar Lane, Vienna, Virginia; David Barton, 502 North Alder Street, Sterling, Virginia; and Jesse Smith, 2922 Jermantown Road, Oakton, Virginia. The people speaking in support of this application believe that the church is an appropriate use in this area.

The following people spoke in opposition of the application: Mercedes Cloetz, 2208 Trott Avenue, Vienna; Robert Montague, 1007 King Street, Alexandria; Susan Davis, 10204 Garrett Street, Vienna; Massie Gorbani, 10202 Garrett Street, Vienna; Kenneth Simmons, 2333 Trott Avenue, Vienna; Irene White, 2204 Trott Avenue, Vienna; Walter Schley, 10409 Hunter Mill Road, Vienna; and Gene Aman, 704 Archer Court, Herndon, Virginia. The following problems were raised in opposition to the application: enough churches in the neighborhood already; violation of the EQC; noise and traffic problems; lack of access to public water; and that two large churches in the same neighborhood would increase traffic significantly. A petition was submitted by Ms. Davis with over 100 signatures from Little Vienna Estates and Kemper Park in opposition to the church application. The concern was brought up as whether or not the church has permission to use this property without a Special Permit.

In rebuttal, Otis Goodwin stated that the church is using the facilities now in the form of three offices. He claimed that at the time the church purchased the property they were given verbal permission by the Board of Zoning Appeals to use this property until they were denied or granted a Special Permit Use. Mr. Goodwin stated that the church was willing to try and work out the problems raised by the citizens. Mr. Goodwin further stated that the church property is on County water and they will have to bring in a larger main from Hunter Mill Road to their property. Mr. Goodwin stated that the church planned on proper screening between the church and property owners.

Ms. Kelsey, Chief, Special Permit and Variance Branch, stated that no one in her office had given the applicant permission to use the property without a special permit since it was not within her branch's jurisdiction to do so.

Since there were no other speakers in support or opposition, Acting Chairman Myland closed the public hearing.

Mrs. Day moved to deny the application of SP 87-C-042, Central Baptist Church, based on her belief that the use would have an adverse affect on the neighborhood. Mrs. Day stated the fact that two churches on Sunday morning with ingress and egress really was the major factor against the application.

Mr. Hammack stated that he would support the motion for the reasons set forth by staff in its report. In particular, the ingress and egress over an easement and that it is not harmonious with the neighborhood. Mr. Hammack further commented that the application did not satisfy #4 in the general standards that requires that the proposed use shall be such that the pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with existing or anticipated traffic. Mr. Hammack also stated that the application did not satisfy general standard #3 that it be harmonious and will not adversely affect other houses in the neighborhood or other properties in the neighborhood.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-C-042 by CENTRAL BAPTIST CHURCH, under Sections 3-103 and 8-915 of the Zoning Ordinance to allow church and related facilities and waiver of the dustless surface, on property located at 2355 Hunter Mill Road, Tax Map Reference 37-2((1))25, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 8, 1987; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 5.0 acres of land.

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

THAT the applicant has not presented testimony indicating compliance with the general standards for Special Permit Uses and the additional standards for this use as contained in Sections 8-903 and 8-915 of the Zoning Ordinance.

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

Mr. Hammack seconded the motion.

The motion carried by a vote of 3-1 with Acting Chairman Hyland voting nay and Mr. DiGiulian, Chairman Smith and Mrs. Thonen absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 16, 1987.

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Acting Chairman Hyland stated that at this moment the Board has lost their quorum; two members are ill and Mr. Hammack had to leave and would return in a half an hour. The Board recessed for 30 minutes and reconvened at 3:24 p.m.

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Page 178, December 8, 1987 (Tape 4), Scheduled case of:

12:00 Noon CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS - ANNANDALE VIRGINIA STAKE, SP 87-S-065, application under Sect. 3-103 of the Zoning Ordinance to allow a church and related facilities, located in South Run Subdivision, Section I, on approximately 168,916 square feet of land, zoned R-1, WSP0D, Springfield District, Tax Map Reference 88-3((6))F.

Ms. Belofsky stated that the applicant is requesting a deferral, and the applicant's agent has authorized her to arrange the date.

Mr. Ribble made the motion to defer Church of Jesus Christ of Latter Day Saints - Annandale Virginia Stake, SP 87-S-065 to February 16, 1988 at 9:00 a.m. for staff to review the revised plats. Mr. Hammack seconded the motion which passed by a vote of 4-0 with Chairman Smith absent for the vote and Mr. DiGiulian and Mrs. Thonen absent from the meeting.

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12:20 P.M. COLVIN RUN PET-OTEL, INC., SP 87-D-060, application under Sect. 3-103 of the Zoning Ordinance to allow continuation without term of a kennel as permitted by S-81-D-072, expired, with addition of portable fenced exercise area, located at 10127 Colvin Run Road, on approximately 5.279 acres of land, zoned R-1, Dranesville District, Tax Map Reference 12-4((1))pt. 30.

Kevin Guinaw, Staff Coordinator, presented the staff report. Mr. Guinaw noted that the staff analysis of the application has been outlined in four issues. Number one staff recommends in addition to the vegetation that is existing that Transitional Screening be provided along the boundaries. Secondly, the entrance way that was originally shown on the plat was 14 feet in width, this was an error in the original plats and the width is 29 feet, the requirement is 30 feet. Thirdly, Sect. 8-608, Additional Standards for Kennels, requires that outdoor runs be located 100 feet from any property line, and staff has made a condition for the outdoor runs to be redesigned to meet the 100 foot setback. Staff recommends approval of this application subject to the Development Conditions. Staff also recommends continuation without term. Mr. Guinaw noted that there was an omission in the Development Conditions on Condition #12. Condition #12 shall read as follows: Hours of operation shall be from 8:00 a.m. to 6:00 p.m., Monday through Saturday, and 12:00 to 3:00 p.m. on Sunday.

Jim Morrison, 10127 Colvin Run Road, Great Falls, Virginia, applicant submitted several letters in support. Mr. Morrison requested that the Board grant the application in accordance with the application and staff recommendation.

In answer to Mr. Hammack's question, Mr. Morrison stated that he agreed with all the Development Conditions.

Douglas McCloud, 10530 Rose Haven Street, Fairfax, Virginia, Realtor for Capitol Homes, spoke in opposition to the application. Mr. McCloud stated that the use was not in harmony with the neighborhood.

Steve Parnell, 6520 Old Chesterbrooke Road, McLean, Virginia, spoke in opposition to the application. Mr. Parnell stated that his main concern was the noise from the kennel.

In rebuttal Jim Morrison stated that this kennel has been in operation for 15 years and to rebuild would cost approximately \$800,000 on a square foot basis. To deny this application would be devastating economically. Mr. Morrison further stated that they were considering different methods for the sound problem (soundproof building), but that unless they are granted the Special Permit for a long period of time they cannot put a large amount of money into the noise problem.

In answer to Mr. Hyland's question, Mr. Morrison stated that he had a 50 year lease with a 50 year renewal.

Since there were no other speakers in support or opposition, Acting Chairman Nyland closed the public hearing.

Mr. Ribble moved to grant SP 87-D-060, Colvin Run Pet-Otel, Inc. based on the applicant's testimony and that the application meets the standards for a Special Permit. Mr. Ribble changed Development Condition #12 as follows: Hours of operation shall be from 8:00 a.m. to 6:00 p.m., Monday through Saturday, and 12:00 to 3:00 p.m. on Sunday.

Mrs. Day seconded the motion. Mr. Hammack proposed an amendment to the motion to include Development Condition #13 to read as follows: This permit is granted for a period of five (5) years. Mr. Ribble accepted the amendment to his motion which unanimously passed by a vote of 4-0, with Chairman Smith absent for the vote and Mr. DiGiulian and Mrs. Thonen absent from the meeting.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-D-060 by COLVIN RUN PET-OTEL, INC., under Section 3-103 of the Zoning Ordinance to allow continuation without term of a kennel as permitted by S-81-D-072, on property located at 10127 Colvin Run Road, Tax Map Reference 12-4((1))pt. 30, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 8, 1987; and

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

1. That the applicant is the lessee.
2. The present zoning is R-1.
3. The area of the lot is 5.279 acres of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-603 and 8-608 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The maximum number of animals at the facility at any one time shall not exceed 250.
6. The additional outdoor fenced area shall be redesigned and relocated to provide a minimum setback of 100 feet along the northern boundary line of the application property.
7. Temporary runs shall be permitted within the outdoor fenced area as shown north of the kennel structure on the approved special permit plat. Any reconfiguration of portable fences shall not extend beyond the perimeter of the area shown on the plat.
8. A minimum of ten (10) parking spaces shall be provided for this use.
9. Transitional Screening 1 shall be provided along the northern boundary of the application property between the drainage easement and the entrance driveway. Transitional Screening 1 shall be provided along the southern boundary of the application property between the edge of existing trees and the eastern lot line. Existing trees along the western, southern and eastern boundaries of the application property shall be maintained and shall satisfy the requirement for Transitional Screening 1 along these lot lines. The barrier requirement shall be waived, provided all outside runs are fenced.
10. The site entrance shall be designed and constructed to meet VDOT standards.
11. Revised plats shall be submitted to the Board of Zoning Appeals prior to final approval of this special permit.
12. Hours of operation shall be from 8:00 a.m. to 6:00 p.m., Monday through Saturday, and noon to 3:00 p.m. on Sunday.
13. This permit is granted for a period of five (5) years.



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

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

Mrs. Day seconded the motion which carried by a vote of 4-0 with Chairman Smith, Mr. DiGiulian and Mrs. Thonen absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 16, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 181, December 8, 1987, (Tape 4), Scheduled Case Of:

12:40 P.M. RUTH K. LOBIANCO, SP 87-S-067, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow detached pool house to remain 15.2 feet from side lot line (20 ft. min. side yard required by Sects. 3-C07 and 10-104, located at 11320 Henderson Road, on approximately 47,709 square feet of land, zoned R-C and WSP0D, Springfield District, Tax Map Reference 95-2((3))2. (OUT OF TURN HEARING GRANTED 9/22/87. DEFERRED FROM 11/5/87)

Lori Greenlief, Staff Coordinator, presented the staff report. The Board had previously deferred this application to enable staff to do further research and respond to the Board's questions regarding the description of the interior of the structure, the height of the structure and obtain a response on the part of the County on the complaints regarding this structure.

Mr. Hyland brought up the fact that there were only four Board members present and he was not at the meeting when the LoBianco application was heard which would leave only three voting Board members. Mr. Ribble suggested that the Board defer the case since Mr. Hyland felt uncomfortable with it. Following discussion of deferrals and which Board members could vote it was decided that even though Mr. Hyland was not present at the first hearing of the LoBianco case he would vote unless the applicant requested otherwise. The Board decided to hear the application over again.

Lori Greenlief, Staff Coordinator, presented the staff report. Ms. Greenlief submitted a chronology of events to the Board. Based on information given at the last hearing and the chronology of events, staff would like to leave the determination of the resolution of the application up to the Board.

In answer to Mr. Hammack's question, Ms. Greenlief stated that the Building Inspector went out to measure the height of the building as directed by the Board.

Ruth K. LoBianco, 11320 Henderson Road, Fairfax Station, Virginia, applicant stated that she has no association with TMK Associates and the house is hers alone. Mrs. LoBianco further stated that she is very concerned with the vindictiveness of her neighbors, Mr. and Mrs. Sandifer.

In answer to Mr. Hammack's question, Mrs. LoBianco stated that her daughter helped with the construction of the building and TMK had nothing to do with the building.

Maria Kirschner, 11320 Henderson Road, Fairfax Station, Virginia, the applicant's daughter, stated that BDLK were the engineers for the project.

In answer to Mr. Hyland's question, Ms. Kirschner stated that the County had made an error in their permit with regard to the side lot lines.

Maria Kirschner stated that some TMK employees were used to help construct the building. Ms. Kirschner stated that there were three issues before the Board. One of the issues is the side set back line, and she received her permit from the County that stated that the structure should be built 15 feet from the side lot lines. Secondly, concerning the height of the building there are two ways to measure the height; to the peak or to the center of the roof height and that measurement is 20 feet. Thirdly, the cost estimation to complete the building is \$15,000.

Cindy Hatley, Senior Legislative Assistant to Elaine McConnell, read a letter from Supervisor McConnell into the record.

Sarah Williams, 12417 Henderson Road, Fairfax Station, Virginia, spoke in opposition to the application. Ms. Williams asked Lee Walker, a realtor, to look at the LoBianco property and see if this property would devalue the property of the Sandifers and Ms. Williams felt that the LoBianco property would devalue the Sandifers property.

Joy Sandifer, 11318 Henderson Road, Fairfax Station, Virginia, gave a background report in reference to the LoBianco case. She stated that on October 2, 1987 a stop work order from the County was issued. Mrs. Sandifer stated that there was work performed on the building after the stop work order was issued. Mrs. Sandifer submitted pictures for the record.

Ms. Greenleaf corrected a statement she made at the beginning of the hearing, she had stated that the property was zoned R-1 and it is actually zoned R-C.

In rebuttal, Marie Kirschner, stated that her mother, Ruth K. LoBianco, did not mind a deferral of this case until some of the details were checked out. Ms. Kirschner stated that they acted in good faith.

Since there were no other speakers in support or opposition, Acting Chairman Hyland closed the public hearing.

Mr. Hammack moved to deny SP 87-S-067, Ruth K. LoBianco, based on the fact that the application did not satisfy standards 2 or 3 under Sect. 8-006. Mr. Hammack also stated that the applicant completed construction of a building when the County had issued a stop work order. Mr. Hammack also felt that it would be detrimental to the surrounding area.

Mr. Ribble stated that it was a difficult decision; there is a lot of conflicting testimony, but he felt that the structure was built in good faith.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-S-067 by RUTH K. LOBIANCO, under Section 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow detached pool house to remain 15.2 feet from side lot line, on property located at 11320 Henderson Road, Tax Map Reference 95-2((3))2, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 8, 1987; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-C and WSPOD.
3. The area of the lot is 47,709 square feet of land.

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

THAT the applicant has not presented testimony indicating compliance with the general standards for Special Permit Uses and the additional standards for this use as contained in Sections 8-903 and 8-914 of the Zoning Ordinance.

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

Mrs. Day seconded the motion.

The motion carried by a vote of 3-1 with Mr. Ribble voting nay and Chairman Smith, Mr. DiGiulian and Mrs. Thonen absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 16, 1987.

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12:50 P.M. DR. THOMAS S. ROEHR, SPA 79-C-091-1, application under Sect. 4-503 of the Zoning Ordinance to amend S-91-79 for a veterinary hospital to permit addition to existing building and to allow a real estate office within the existing building, located at 2703 Centreville Road, on approx. 19,049 square feet, zoned C-5 and R-1, Centreville District, Tax Map 25-1((1))23A. (DEF. FROM 7/7/87 & 9/22/87, TO BE HEARD CONCURRENT WITH VC 87-C-110)

12:50 P.M. DR. THOMAS S. ROEHR, VC 87-C-110, application under Sect. 18-401 of the Zoning Ordinance to allow building for a Special Permit use to remain 24.3 ft. from front lot line (compliance with bulk regulations for the zoning district 40 ft. min. front yard, required by Sect. 8-903) located at 2703 Centreville Road, on approx. 19,049 square feet, zoned C-5, Centreville District, Tax Map 25-1((1))23A. (DEFERRED FROM 9/22/87 - TO BE HEARD CONCURRENT WITH SPA 79-C-091-1)

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report. This application was heard before the Planning Commission on December 2, 1987 and she submitted a memo from the Planning Commission. Ms. Katnik suggested that the Board reference the second page of the memo and further stated that the applicant has worked with staff concerning the Special Permit and Special Exception and has also worked with other adjacent properties in order to provide interparcel access for all the properties. The point that Ms. Katnik made was that it was the Planning Commission's understanding that the Revised Development Conditions now reflect the Planning Commission's approval.

If the Board approves the Variance, the building should be 21.8 feet from the property line. Staff is recommending approval based upon the Revised Development Conditions. Ms. Hamblin-Katnik explained that the applicant is now not in agreement with the Development Conditions.

Lance Gardiner, 10560 Main Street, Fairfax, Virginia, attorney for the applicant, stated that there is some confusion concerning the Development Conditions. At the Planning Commission meeting he had stated that they were in favor of the interparcel access for the Palumbo/Veatch property.

Ms. Hamblin-Katnik, Staff Coordinator, clarified that the options discussed at the Planning Commission were as shown on the map. There were only two options.

Mr. Gardiner, agent for the applicant explained that at the Planning Commission he never stated that he was in favor of the interparcel access from West Ox Road across Dr. Roehr's property and out into the Palumbo/Veatch property.

In answer to Mr. Hyland's question, Mr. Gardiner stated that his applicant and Palumbo/Veatch people made an agreement that Dr. Roehr would take his access from the front part, entering from Centreville Road and go across and into the front of Dr. Roehr's property, and then he would close his access to Centreville Road.

Ms. Hamblin-Katnik, for the record, wanted to make it clear that they had a Pre-Board meeting and a Post-Board meeting and the discussion concerned the interparcel access and the Development Conditions that were specifically ironed out. Mr. Thillman specifically stated that these conditions would be applicable to Dr. Roehr's property.

Brook McCauley, 3111 Hunt Road, Oakton, Virginia, spoke in support of the application. Mr. McCauley stated that he had no problem with the use and expansion of this application. Mr. McCauley agreed with the Special Permit Development conditions as revised 12/8/87, except for condition #5. He stated that instead of a six foot asphalt trail there be a four foot concrete sidewalk within the easement.

Since there were no other speakers in support or opposition, Acting Chairman Hyland closed the public hearing.

Mr. Hammack moved to grant SPA 79-C-091-1, of Dr. Thomas S. Roehr, based on the applicant's testimony that the application is in compliance with the standards for a Special Permit. Mr. Hammack changed the Development Conditions (12/8/87) as follows: conditions #1 through #4 remain the same, condition #5 shall read: "Dedication and construction of a six (6) foot, Type I, asphalt trail or a four (4) foot concrete sidewalk shall be required on the east side of Centreville Road. The exact location and type shall be determined at the time of site plan review". Development Conditions #6 through #8 shall remain the same and Development Condition #9 shall read: "A travel aisle for the purpose of interparcel access with a public access easement to the adjacent southern parcels 24 and 25 shall be provided along the western half of the southern boundary to align with the access aisle on that property. If necessary, the proposed parking lot and/or the southern boundary of the special permit plat shall be redesigned to align with and/or accommodate the travel aisle which shall be shared with the adjoining property. At such time that interparcel access is provided by the parcel to the south (parcel 24 and/or parcel 25), the access to Centreville Road from parcel 23A shall be closed and southern access provided parcel 23A shall be from parcel 24 and/or 25, depending upon placement of the final access point for the property". The remaining Development Conditions will remain the same.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 79-C-091-1 by DR. THOMAS S. ROEHR, under Section 4-503 of the Zoning Ordinance to amend S-91-79 for a veterinary hospital to permit addition to existing building and to allow a real estate office within the existing building, on property located at 2703 Centreville Road, Tax Map Reference 25-1(1)23A, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 8, 1987; and

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

1. That the applicant is the owner of the land.
2. The present zoning is C-5.
3. The area of the lot is 18,149 square feet of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-903 and 8-911 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. Dedication and construction of a six (6) foot, Type I, asphalt trail or a 4 foot concrete sidewalk shall be required on the east side of Centreville Road. The exact location and type shall be determined at the time of site plan review.
6. There shall be seventeen (17) parking spaces provided. All parking shall be on site. Two (2) spaces may be removed in order to provide interparcal access when required.
7. Right-of-way to forty-seven and a half (47.5) feet from centerline of Centreville Road necessary for road widening shall be dedicated for public street purposes and shall convey to the Board of Supervisors in fee simple.
8. Temporary grading and construction easements shall be provided to facilitate future construction along Centreville Road.

9. A travel aisle for the purpose of interparcel access with a public access easement to the adjacent southern parcels 24 and 25 shall be provided along the western half of the southern boundary to align with the access aisle on that property. If necessary, the proposed parking lot and/or the southern boundary of the special permit plat shall be redesigned to align with and/or accommodate the travel aisle which shall be shared with the adjoining property. At such time that interparcel access is provided by the parcel to the south (parcel 24 and/or parcel 25), the access to Centreville Road from parcel 23A shall be closed and southern access provided parcel 23A shall be from parcel 24 and/or 25, depending upon placement of the final access point for the property.
10. There shall be no more than three (3) employees associated with the veterinary clinic on site at any one time.
11. There shall be no more than two (2) employees associated with the realty office on site at any one time.
12. The applicant shall comply with all Health Department regulations pursuant to Sect. 8-911, Additional Standards for Veterinary Hospitals.
13. Transitional Screening 1 to the east and south of the subject property shall be waived adjacent to the 900 square feet R-1 property.

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

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

Mr. Ribble seconded the motion which carried by a vote of 4-0 with Chairman Smith, Mr. DiGiulian and Mrs. Thonen absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 16, 1987. This date shall be deemed to be the final approval date of this special permit.

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Mr. Hammack moved to grant VC 87-C-110, Dr. Thomas S. Roehr based on the applicant's testimony and that the application met the nine standards of a variance, specifically, this variance is required because of the taking for additional right-of-way for Centreville Road through no fault of the applicant.

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#### COUNTY OF FAIRFAX, VIRGINIA

#### VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-C-110 by DR. THOMAS S. ROEHR, under Section 18-401 of the Zoning Ordinance to allow building for a Special Permit use to remain 21.8 feet from front lot line, on property located at 2703 Centreville Road, Tax Map Reference 25-1((1))23A, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 8, 1987; and

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

1. That the applicant is the owner of the land.
2. The present zoning is C-5.
3. The area of the lot is 18,149 square feet of land.

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

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

In addition, this variance is necessitated because of the taking for additional right of way for Centreville Road through no fault of the applicant.

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

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

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

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Ribble seconded the motion.

The motion carried by a vote of 4-0 with Chairman Smith, Mr. DiGiulian and Mrs. Thonen absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 16, 1987. This date shall be deemed to be the final approval date of this variance.

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Request for Out-of-Turn Hearing  
Valleybrook, Inc.  
SPA 72-M-048-1

Mr. Hammack moved to deny the request of an Out-of-Turn Hearing for Valleybrook, Inc.

Mr. Ribble seconded the motion which passed by a vote of 4-0 with Chairman Smith absent for the vote and Mr. DiGiulian and Mrs. Thonen absent from the meeting.

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Approval of Minutes from September 29, 1987

Mr. Hammack moved to approve the minutes from September 29, 1987 with Mr. Ribble seconding the motion which passed by a vote of 4-0 with Chairman Smith absent for the vote and Mr. DiGiulian and Mrs. Thonen absent from the meeting.

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Mr. Hammack moved to waive the 12 month limitation on the application of Abner Louis Watkins, VC 87-D-115 with Mr. Ribble seconding the motion which passed by a vote of 4-0 with Chairman Smith absent for the vote and Mr. DiGiulian and Mrs. Thonen absent from the meeting.

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Approval of Resolutions from December 1, 1987

Mr. Hammack moved to approve the Resolutions from December 1, 1987 with Mrs. Day seconding the motion which passed by a vote of 4-0 with Chairman Smith absent for the vote and Mr. DiGiulian and Mrs. Thonen absent from the meeting.

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In answer to Mr. Hammack's question, Ms. Kelsey stated that the Mark Lawrence case was a Home Professional Office that was off of an access road. Ms. Kelsey stated that Brian McCormick has been requested verbally to represent the Board and a memo has been sent to the County Executive asking for funds.

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In response to Mrs. Day's question, Ms. Kelsey stated that the letter concerning the Appletree school application was passed over accidentally, and the Board may address the letter next week, if it desires.

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Ms. Kelsey stated that the Financial Disclosure Forms are being revised by the Clerk to the Board of Supervisors. Ms. Hicks is checking on a daily basis to see if the forms have come in. They will be hand delivered to the Board when they arrive.

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As there was no other business to come before the Board, Mr. Ribble moved to adjourn the meeting with Mr. Hammack seconding the motion which unanimously passed by a vote of 4-0 with Chairman Smith absent for the vote and Mr. DiGiulian and Mrs. Thonen absent from the meeting. The Board noted that the meeting was adjourned at 6:50 p.m.

Tamara S. Gentry, Associate Clerk  
Board of Zoning Appeals

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

Daniel Smith, Chairman  
Board of Zoning Appeals

SUBMITTED: June 2, 1988

APPROVED: June 7, 1988

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The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, December 15, 1987. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; John Ribble; Gerald Hyland; Paul Hammack; Ann Day, and Mary Thonen.

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

Page 188, December 15, 1987 (Tape 1), Scheduled case of:

9:20 A.M. KENNETH M. JOHNSON, VC 87-C-122, application under Sect. 18-401 of the Zoning Ordinance to allow construction of enclosed porch addition to dwelling to 11.4 feet from rear lot line (25 ft. min. rear yard required by Sect. 3-307), located at 13242 Pleasant Glen Court, on approximately 8,707 square feet of land, zoned R-3(C), Centreville District, Tax Map Reference 25-3((9))328.

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

Kenneth M. Johnson, 13242 Pleasant Glen Court, Herndon, Virginia, applicant, stated that his justification for enclosing the patio is that there is a drainage field in the rear yard which attracts bugs. The neighbors had been contacted and there is no opposition to the variance.

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

Mrs. Thonen moved to grant the application of Kenneth M. Johnson, VC 87-C-122, based on the fact that it is a minimum variance, the deck backs up to the drainage area, and that it does not impact any of the neighbors.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-C-122 by KENNETH M. JOHNSON, under Section 18-401 of the Zoning Ordinance to allow construction of enclosed porch addition to dwelling to 11.4 feet from rear lot line, on property located at 13242 Pleasant Glen Court located at Tax Map Reference 25-3((9))328, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 15, 1987; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-3(C).
3. The area of the lot is 8,707 square feet of land.
4. That the property backs up to a drainage easement area and therefore will not impact any of the neighbors or be a detriment to adjacent properties.

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

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
  - A. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
7. That authorization of the variance will not be of substantial detriment to adjacent property.



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

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

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

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

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

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Hyland seconded the motion.

The motion unanimously carried by a vote of 7-0.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 15, 1987. This date shall be deemed to be the final approval date of this variance.

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Mr. Hyland made the motion for all Resolutions heard on this date, December 15, 1987, be approved and effective as of December 15, 1987. Mr. Hammack seconded the motion which passed unanimously by a vote of 7-0.

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Page <sup>189</sup>/<sub>189</sub>, December 15, 1987 (Tape 2), Scheduled case of:

9:35 A.M. PAUL D. PITTS, VC 87-V-124, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 7.96 feet from side lot line (12 feet min. side yard requirement by Sect. 3-307), located at 1705 Old Stage Road, on approximately 10,504 square feet of land, zoned R-3, Mount Vernon District, Tax Map Reference 102-4((12))(2)27.

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

Paul D. Pitts, 1705 Old Stage Road, Alexandria, Virginia, applicant, stated that he was requesting this variance in order to house his car and to have a suitable space for carrying on his avocation of wood work, furniture repair, etc. Mr. Pitts further stated that he met the requirements for a variance and that there was no opposition to his application and there was one letter of support in the file.

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

Mr. DiGiulian made the motion to grant the application of Paul D. Pitts, VC 87-V-124, based on the fact that the application meets all the requirements for a Variance, that there is an unusual condition in the location of the existing dwelling, and that it would deprive the user of reasonable use of land.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-V-124 by PAUL D. PITTS, under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 7.96 feet from side lot line, on property located at 1705 Old Stage Road at Tax Map Reference 102-4((12))(2)27, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 15, 1987; and

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

1. That the applicant is the co-owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 10,504 square feet of land.

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

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

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

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

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

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Ribble seconded the motion.

The motion unanimously carried by a vote of 7-0.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 15, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 191, December 15, 1987 (Tape 2), Scheduled case of:

9:50 A.M. JOHN A. BORNHANN, JR. AND PRISCILLA G. BORNHANN, VC 87-V-126, application under Sect. 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling to 1 foot and 4 inches from side lot line such that side yards total 10 feet and 4 inches (5 ft. min., 15 ft. total min. side yard required by Sects. 3-307 and 2-412), located at 1903 Sword Lane, on approximately 8,482 square feet of land, zoned R-3C, Mount Vernon District, Tax Map Reference 111-1((14))536.

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

John A. and Priscilla G. Bornmann, 1903 Sword Lane, Alexandria, Virginia, applicants, stated that their justification for this variance was based upon the fact that the houses in the neighborhood were built with a concrete pad to allow the homeowner to build a garage at a future date. Mrs. Bornmann commented that they had talked with the neighbors most immediately affected and they are in agreement with this variance.

In response to Mr. Hyland's question, Mr. Bornmann replied that he presently parks his car on the carport pad and would be requesting to enclose this pad.

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

Mrs. Day made the motion to grant the application of John A. and Priscilla G. Bornmann, VC 87-V-126, based on the fact that it has been stated that the concrete pad already exists, the applicant already parks his car on the pad, and that there are other carports and garages built in the surrounding area on lots that are narrow.

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#### COUNTY OF FAIRFAX, VIRGINIA

#### VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-V-126 by JOHN A. & PRISCILLA G. BORNHANN, under Section 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling to 1 foot and 4 inches from side lot line such that side yards total 10 feet and 4 inches, on property located at 1903 Sword Lane at Tax Map Reference 111-1((14))536, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 15, 1987; and

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

1. That the applicants are the owners of the land.
2. The present zoning is R-3(C).
3. The area of the lot is 8,482 square feet of land.

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

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;

- F. An extraordinary situation or condition of the subject property, or  
G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
  4. That the strict application of this Ordinance would produce undue hardship.
  5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
  6. That:
    - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
    - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
  7. That authorization of the variance will not be of substantial detriment to adjacent property.
  8. That the character of the zoning district will not be changed by the granting of the variance.
  9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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

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

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

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Hyland seconded the motion which carried by a vote of 5-2 with Chairman Smith and Mr. Hammack voting nay.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 15, 1987. This date shall be deemed to be the final approval date of this variance.

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The Board recessed at noon and reconvened at 12:15 p.m.

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Page 192, December 15, 1987 (Tape 2), Scheduled case of:

10:05 A.M. CHENG YENG HUNG & HSIU-MEI HUNG, VC 87-D-123, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 3.8 feet from side lot line (15 feet minimum side yard required by Sect. 3-207), located at 6322 Linway Terrace, on approximately 21,449 square feet of land, zoned R-2, Dranesville District, Tax Map Reference 31-3(1)155.

Lori Greenleaf, Staff Coordinator, presented the staff report.

Cheng Yang Hung, 5178 Hardy Drive, McLean, Virginia, applicant, stated that he acquired the property in good faith and believes he met the requirements for a variance. He further commented that this use would be in harmony with the neighborhood.

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

Mr. Ribble made the motion to grant VC 87-D-123, Cheng Yeng Hung and Hsiu-Mei Hung, based on the fact that the application meets the nine standards for a Variance, especially the exceptional narrowness of the lot and the peculiar shape of the lot.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-D-123 by CHENG YENG HUNG & HSIU-MEI HUNG, under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 3.8 feet from side lot line, on property located at 6322 Linway Terrace at Tax Map Reference 31-3(1)155, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 15, 1987; and

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

1. That the applicants are the owners of the land.
2. The present zoning is R-2.
3. The area of the lot is 21,449 square feet of land.

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

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

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

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

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

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. DiGiulian seconded the motion.

The motion carried by a vote of 5-2 with Chairman Smith and Mr. Hammack voting nay.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 15, 1987. This date shall be deemed to be the final approval date of this variance.

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In response to Mr. Hyland's question, Ms. Kelsey stated that the Ms. Hicks, Clerk to the Board of Zoning Appeals, has called the Clerk, to the Board of Supervisors, to get Disclosure forms and was told they were being revised. Ms. Hicks has stated that they are now ready and she will pick them up and deliver them to the Board today.

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Page 194, December 15, 1987 (Tapes 1 and 2), Scheduled case of:

9:00 A.M. CEDAR CREST COUNTRY CLUB, SP 87-S-049, application under Sects. 3-C03 and 8-915 of the Zoning Ordinance to allow commercial golf course and recreational ground and waiver of the dustless surface, located at 16850 Sudley Road, on approximately 812.4 acres of land, zoned R-C(WS), Springfield District, Tax Map Ref. 52-3((1))1, 42-4((1))9, 52-2((1))4, and 52-1((1))1 and 2. (DEFERRED FROM 7/21/87 AND 10/20/87 FOR ADDITIONAL INFORMATION)

Lori Greenlief, Staff Coordinator, presented the staff report. Ms. Greenlief stated that this application was deferred from October 20 to enable the Board to make a site visit of the property, and to enable the applicant to obtain information on additional septic capacity. Regarding the septic capacity, staff's understanding was that the design of the proposed system had yet to be submitted to the Health Department. This is necessary before approval for additional capacity can be complete. On October 20 results from perc tests were submitted to the County, however, the final design had not been submitted to the Health Department.

Harold Miller, 11715 Roger Bacon Drive, Reston, Virginia, agent for the applicant, stated that Mr. Jones from the County Health Department is satisfied that there is sufficient capacity to increase usership and his recommendation is that it be approved to increase to 1,000 subject to Health Department's review of final design.

Ms. Greenlief stated that there are other numerous concerns with this application besides the septic capacity problem. Ms. Greenlief summarized the main concerns of staff with this application into three areas; septic capacity, potential hazards from additional trips on Bull Run Post Office Road, and uses in the floodplain and EQC area.

In response to Mr. Hyland's question concerning uses in the floodplain, specifically, ballfields, Ms. Greenlief stated that staff regards ballfields as an active recreational use and has consistently recommended against any active uses in the floodplain, if there are other options for the location of use. She added that there appears to be ample room on the 800 acre site to relocate the ballfields.

Joe Bacos, Code Enforcement Coordinator, Code Enforcement Branch, Department of Environmental Management, Fairfax County, stated that the majority of the fill had been removed and graded into the site. He stated that the material that was in the floodplain near the north end of the property had been removed. A Special Exception is pending regarding the activities in the floodplain area. Mr. Bacos commented that approximately 2 acres of the area that has been graded is in the floodplain.

Discussion of how the area in the floodplain area will be used. If it is going to be used as an activity then it needs to be under a Special Permit. If there is going to be a Special Permit use, then there is a question of how to access that area, which will result in traffic on an old country road which is narrow and the shoulders are inadequate. The Board indicated that this issue changes the nature of this application if this site will be used for a fishing pond.

Eugene Hooper, 6415 Shady Lane, Falls Church, Virginia, applicant, responded to Mr. Hyland's concern with the use of the pond by stating that he has no intention of using the pond as a recreational facility, but a very passive use. Mr. Hooper stated that he will close the entrance near the pond so that people will not use this as recreational.

Ms. Greenlief stated that staff is recommending denial of certain structures on the property based on the Comprehensive Plan Recommendation for low density and intensity. Staff looked at what structures would be necessary to support a 700 member club and recommended denial of anything that would increase that intensity. Ms. Greenlief stated that there were omissions from the October 20, 1987 staff report, Development

Conditions. First of all, in Condition #17, 8th bullet, the existing 27-hole golf course (15), and 13th bullet, three existing and three proposed gazebos provided they are not leased as separate entities from the picnic shelters (30, 31, 49, 52, 69, 77). In addition, Ms. Greenlief added under Condition #17, a new bullet to add picnic shelters (9, 17, 32, 56). Under Condition #18, Ms. Greenlief added a new bullet, picnic shelters (8, 10). Ms. Greenlief also stated that the Board will have to modify Condition #13 in terms of the dates as this was written for the July hearing.

The Board indicated that the requested office space is the least objectionable item in the application and that it is a very logical request. Ms. Greenlief brought the Board's attention to the size of the structure, which is 5,000 square feet.

Mr. Horace Jones, Chief, Technical Services Section, Fairfax County Health Department, 10777 Main Street, Fairfax, Virginia, raised concern over the office building because sewage capacity and hook-up have to be considered. Mr. Jones stated that the Health Department would not in any way consider more than a maximum of 1,000 a day based upon the submission of an adequate design.

Mr. Miller requested a 1,000 capacity with an adequate design that the Health Department would have to approve. Secondly, on the issue of soil erosion activities, the applicant met with the County Attorney and posted a \$10,000 bond with the County to resolve the soil erosion problem. Mr. Miller pointed out that staff recommended approval of the nine hole golf course two years ago and are now recommending denial. Mr. Miller request the Board to allow the recreational facilities in the floodplain; the softball diamonds (11, 62), nine hole golf course (74), football field (50), two volleyball courts (48), paddle boats (64), and one existing gazebo. Mr. Miller also requested the approval of a maintenance building (72, 65), repair shed (70), and storage facility for picnic supplies (78). Mr. Miller requested the Board approve the one gazebo of which staff is recommending denial. Mr. Miller requested approval of the bridge that crosses into the Prince William County and is asking Fairfax County to approve this subject to obtaining all other permits needed, Federal, State or Local. Staff is recommending against a site plan waiver, and Mr. Miller stated that every other application they have had was granted a site plan waiver and urges the Board to do so. Mr. Miller also asked that they not be required to dedicate any trails across the golfing area, and trails that are dedicated be on the north or south end. He requested that dedication be deferred until they connect to adjoining trails.

In response to Mr. Hyland's question, Mr. Miller stated that the twelve month waiver would be to request approval for the bridge, and the pond to be used for fishing.

The Board discussed the Noise Ordinance that controls noise on site. Mr. Hyland wanted to know the greatest number of people on site at any one time. Mr. Miller answered 2,500. Mr. Hyland stated that under staff's recommendation, no more than 700 people can be on site at any one time. If Board accepted the Health Department's recommendation it would then permit 1,000 on site. The Special Events could not occur.

Jane Wilson, 5649 Sudley Road, Manassas, Virginia, spoke in opposition to the application. Ms. Wilson stated that she was in opposition to Mr. Hooper or anyone driving over the river and damaging the Environmental quality of the river. Ms. Wilson stated that many loads of gravel have been put in the river to dam it and make it fordable.

Mr. Hyland stated that the Board should be concerned about the river and questioned whether it was legal to dam the river Crossing the stream in conjunction with the use is in the purview of this Board, because it concerns access to the use. Mr. Hyland suggest the bridge be approved provided the with necessary permits are obtained.

Ms. Greenlief stated that the applicant had not supplied staff with a traffic study as to where the cars using the bridge would come from and where they would go. Ms. Greenlief stated that she left the bridge off the Development Conditions accidentally, and that it is number 67 on the plat.

Roland Swain, P. O. Box 1830, Superintendent, Manassas National Battlefield Park, Manassas, Virginia, stated that he supported staff's recommendation in this application. Mr. Swain's concern is the Park Boundary of 100 acres of Cedar Crest Country Club. In January 1985, Mr. Hooper received a letter from the National Park Service requesting permission to appraise this portion of Cedar Crest Country Club. On October 2, 1985, he received another letter and October 11, 1985 he received a third letter. Mr. Hooper did not respond to any of these letters. Mr. Swain stated that the 100 acres, which is in the floodplain area, is the only protection for that land. Mr. Swain is concerned about preserving the river. Mr. Swain submitted a letter to the Board from the Virginia Marine Resources Commission, dated November 4, 1985, which refers to unauthorized actions in the streambed.

In response to this letter from the Virginia Marine Resources Commission, Mr. Hyland asked Mr. Miller if it was true that Mr. Hooper has agreed to remove the fill and go back and get the proper permits to construct the dam.

Eugene W. Hooper, 6415 Shady Lane, Falls Church, applicant, stated that somebody did come and look at the river and stated that there was nothing wrong. Mr. Hooper stated the dam has been there for 30 years, that he did not fill recently to make a new dam, and that he has put nothing in the stream.

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

Mr. Hammack made the motion to Grant In Part, SP 87-S-049, Cedar Crest Country Club, based on the applicant's testimony that the application meets the standards In Part for Special Permits, specifically, what staff has recommended with a few modifications. The modifications are for the following reasons; there is 812 acres that impacts the Occoquan Watershed and the Bull Run Regional Park. Mr. Hammack noted that in 1984 the Board went over the application and granted some of the uses and denied some of the uses. Since that time Mr. Hooper has ignored a number of those conditions and they have been cited for violation. Mr. Hooper has built certain structures, graded in the EQC area without permits to the extent that Fairfax County has had to file a suit to enjoin him from further construction. Specifically, for the request for 1,000 patrons a day, Code requires that he demonstrate compliance before the Board grants this use. Therefore, the motion will be to limit membership to 700 per day. Also, for the request of the bridge, appropriate permits must be obtained before the Board can grant this use. For these reasons, the reasons staff has stated and testimony from neighbors, Mr. Hammack supported the staff recommendation according to the Development Conditions dated October 12, 1987 with the following modifications. Development Condition 1 through 12 will remain the same. Development Condition #13 should change to April 21, 1988 to remove the structures that are not in compliance (two places). Development Conditions 14 through 16 remain the same. Development Condition 17; the first 7 bullets to remain the same, and bullet #8, the existing 27-hole golf course should be amended by adding (15), bullets 9, 10, 11 and 12 remain the same, what would be bullet 13 should be amended to read: three existing and three proposed gazebos provided they are not leased as separate entities from the picnic shelters (30, 31, 49, 52, 69 and 77), what would be bullet 14, 15, 16, 17, 18 will remain the same, and add two additional bullets, bullet #19 will add picnic shelters (9, 32, 17 and 56), and a bullet #20 will add the administration building (81), Mr. Hammack left out 4 bullets at the top of page 4 so what he calls 19 and 20 will go at the end of the bullets on condition #17. Condition #18, the first 9 bullets will remain the same, what would be bullet #10 (the administrative building) delete from #18, the next four bullets will remain the same and add a new bullet on condition #18 that picnic shelters (8, 10) will be denied and also the bridge (67) will be denied. The remainder of the Development Conditions will remain the same.

Mrs. Thonen seconded the motion.

Mr. Hyland asked if that included the ballfields in the floodplain. Ms. Greenlief stated that under Condition #17, there is a bullet that states that staff recommends approval of two additional softball fields provided they are not located in the EQC.

The Board discussed softball fields and the nine hole golf course being in the Floodplain. In regards to this discussion, Mr. DiGiulian stated that he has been involved in the placement of a number of softball, soccer and football fields for different communities throughout Fairfax County and they are all in the floodplain. Mr. DiGiulian supported the ballfields in the floodplain.

Mr. DiGiulian amended the motion to include the nine hole golf course (74), and the two existing ballfields (11) be allowed. Mr. Ribble seconded the amendment.

Mr. Hammack stated that he would support the ballfields (11), but not the nine hole golf course (74), because it would be disruptive to the EQC.

Ms. Greenlief asked for clarification on the nine hole golf course, if the Board so desires to approve this condition, then the condition in 1984 does request the study and review by DEM.

Discussion between Mr. Miller, the Board members, and Jane Kelsey, Chief, Special Permit and Variance Branch, concerning the permits, revoked by Department Environmental Management, and the fact that the Special Permit expired prior to the beginning of legal construction which was what initiated the application to be filed.

Mr. Hyland called for the question on the amendment. The amendment carried by a vote of 3-3 with Messrs. Hyland, Smith, and Hammack voting nay.



Mr. Hyland made an amendment to the motion on the floor that the nine hole golf course shall only be constructed provided the appropriate Environmental Assessments or reports are received indicating that the nine hole golf course is environmentally safe. Mrs. Thonen seconded the amendment to the motion on the floor. The amendment passed by a vote of 7-0.

Mr. Smith called for the vote on the main motion, which passed by a vote of 7-0.

Mrs. Thonen made the motion that the twelve month waiting period be waived. Mr. Hammack seconded the motion.

Mr. Hyland wanted clarification as to the items that could be brought back before the board at the twelve month limitation.

Mr. Hyland amended the motion to limit the reapplication within the twelve month period of time to four issues; septic field and increased capacity, possible use of a fishing pond, the construction of a bridge over the stream, and the nine hole golf course. Mr. Hammack seconded the motion. The amendment passed by a vote of 7-0.

Mr. Hyland called for the question on the main motion. The motion passed by a vote of 7-0.

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Page 197, December 15, 1987, (Tape 1), Scheduled case of:

10:20 A.M. EDWARD A. MARTIN, VC 87-L-125, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 5.0 feet from side lot line (12 feet min. side yard requirement by Sect. 3-307), located at 5708 Marble Archway, on approximately 13,656 square feet of land, zoned R-3, Lee District, Tax Map Reference 100-2((2))288.

Lori Greenlief, Staff Coordinator, presented the staff report.

Edward Martin, 5708 Marble Archway, Alexandria, Virginia, the applicant, told the Board that he would like to construct a 20 foot by 32 foot garage to protect his vehicles from the inclement weather.

Mr. Hyland questioned whether or not the applicant could locate the garage elsewhere in the yard. Mr. Martin explained that this is the only practical location as there is a pool in the back yard and a chimney on the side which juts out into the side yard on the other side of the house. He added that the garage would be attached but would be the same length as the existing house which would project a better design.

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

Mr. Hyland moved to grant VC 87-L-125 as he believed that the applicant had presented testimony showing compliance with the standards for a Variance, that this is the only practical location for the garage to be constructed, there are no objections from the neighbors. He moved approval subject to the development conditions contained in the staff report.

Mr. Hammack stated that he could not support the motion due to the size of the proposed structure.

Mrs. Thonen agreed with Mr. Hammack's comments but stated that she preferred the design as proposed by the applicant.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-L-125 by EDWARD A. MARTIN, under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 5.0 feet from side lot line, on property located at 5708 Marble Archway, Tax Map Reference 100-2((2))288, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 15, 1987; and

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

1. That the applicant is the co-owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 13,656 square feet of land.

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

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

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

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

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

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mrs. Thonen and Mr. Ribble seconded the motion which carried by a vote of 5-2 with Messrs. Hammack and Smith voting nay.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 15, 1987. This date shall be deemed to be the final approval date of this variance.

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10:35 A.M. JAMES B. POWERS, T/A PRECISION TUNE, VC 87-M-127, application under Sect. 18-401 of the Zoning Ordinance to allow a special exception use in an existing building on the rear lot line (20 ft. min rear yard req. by Sect. 4-607), located at 6345 Columbia Pike, on approximately 12,000 square feet of land, zoned C-6, Mason District, Tax Map Reference 61-3(1)16C. (RELATED TO SE 87-M-015).

Kevin Guinaw, Staff Coordinator, presented the staff report.

John "Bud" Testerman, attorney with the law firm of Hansbarger & Testerman, 10523 Main Street, Fairfax, Virginia, represented the applicant. He stated that the applicant had been granted a Special Exception by the Board of Supervisors on August 3, 1987 for a vehicle light service use. He added that the Board of Supervisors waived the barrier requirement, the minimum lot area and width, the required open space, the transitional screening requirement and the peripheral lot landscaping. Due to the Board of Supervisors not being able to waive the Variance, the applicant was before the Board of Zoning Appeals today in order to make such a request.

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

Mr. Hammack moved to grant VC 87-M-127 as he believed that the applicant had satisfied the nine standards for a Variance.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-M-127 by JAMES B. POWERS, T/A PRECISION TUNE, under Section 18-401 of the Zoning Ordinance to allow a special exception use in an existing building on the rear lot line, on property located at 6345 Columbia Pike, Tax Map Reference 61-3(1)16C, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 15, 1987; and

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

1. That the applicant is the co-owner of the land.
2. The present zoning is C-6.
3. The area of the lot is 12,000 square feet of land.

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

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

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

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

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

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

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

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

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

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

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

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 15, 1987. This date shall be deemed to be the final approval date of this variance.

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Chairman Smith explained to the citizens who were present that the Board would recess at the conclusion of the next scheduled case for approximately one half hour for lunch.

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Page 200, December 15, 1987, (Tape 3), Scheduled case of:

10:50 A.M. DONALD F. LIEU, SP 87-V-069, application under Sect. 3-403 of the Zoning Ordinance to allow home professional office, located at 5949 North Kings Highway, on approximately 6,500 square feet of land, zoned R-4, Mt. Vernon District, Tax Map Reference 83-3((9))(6)11.

Lori Greenleaf, Staff Coordinator, presented the staff report which recommended denial of this application.

Donald Lieu, 5949 North Kings Highway, Alexandria, Virginia, the applicant, came forward and requested permission to operate an optician office in his home as the building that he now occupies is being demolished. He explained that he has tried in vain to locate another building near his home that he could afford to rent.

Mrs. Day expressed concern over the hours that the applicant had requested, especially the Sunday hours, as this was a residential area.

Mr. Lieu explained that he would have very few clients as many clients would be family members and come in only one car.

As there were no speakers in support of this application, Chairman Smith called for speakers in opposition to the request and Violet Taylor, 2506 Fairhaven Avenue, Alexandria, Virginia, came forward. Mrs. Taylor stated that she was the Director of the Fairhaven Civic Association and a member of the Project Selection Committee. She pointed out that this subdivision has been designated as the Fairhaven Conservation District and is to remain as such until 1993. She further added that on December 10, 1987 the Board of the Civic Association met and voted unanimously to request that this application be denied.

During rebuttal, Mr. Lieu reiterated that he did not believe that this use would affect the neighborhood and submitted a letter in support from his next door neighbor.

Chairman Smith closed the public hearing.

Mrs. Thonen made a motion to deny this application as she did not believe that the applicant had presented testimony showing compliance with the standards for a Special Permit, that there is office space available for this type of use near his home, and that the area is designated as a conservation district.

Mr. Hammack stated that he would support the motion as he believed that the use operating on Saturday and Sundays would affect the character of the neighborhood.

Chairman Smith supported the motion and agreed with the comments of the other Board members.

Mr. Hyland stated that he could not support any request that would bring commercialization into a residential area.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-V-069 by DONALD LIEU, under Section 3-403 of the Zoning Ordinance to allow home professional office, on property located at 5949 North Kings Highway, Tax Map Reference 83-3(9)(6)11, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 15, 1987; and

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

- 1. That the applicant is the owner of the land.
- 2. The present zoning is R-4.
- 3. The area of the lot is 6,500 square feet of land.

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

THAT the applicant has not presented testimony indicating compliance with the general standards for Special Permit Uses and the additional standards for this use as contained in Sections 8-903 and 8-907 of the Zoning Ordinance.

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

Mrs. Day seconded the motion which carried by a vote of 7-0.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 15, 1987.

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The Board recessed for lunch at 1:07 P.M. and reconvened at 2:00 P.M.

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Page 201, December 15, 1988, (Tape 3), Scheduled case of:

11:10 A.M. GREATER LITTLE ZION BAPTIST CHURCH, SPA 86-A-007-1, application under Sects. 3-103 and 8-901 of the Zoning Ordinance to amend SP 86-A-007 for building and parking additions to existing church and related facilities, and modification of the dustless surface requirement, located at 10185 Zion Drive, on approximately 2.448 acres of land, zoned R-1, Annandale District, Tax Map Reference 68-4(1)42. (OTH GRANTED)

Kevin Guinaw, Staff Coordinator, presented the staff report. He pointed out that the staff analysis has shown that the application as submitted does not provide the following: 1) adequate screening along the front lot line; 2) does not satisfy General

Standard Number 2 regarding landscaping, screening, and barriers; and 3), that the impact of a large gravel parking area would adversely affect the use of the neighboring properties. In closing, Mr. Guinaw added that it is staff's judgment that the proposed use is not in compliance with the standards specified in Sects. 8-006 and 8-303 of the Zoning Ordinance and therefore staff recommends that the application be denied.

In response to questions from the Board, Mr. Guinaw explained that perhaps the applicant could better respond to questions with relationship to the elevations between the proposed site and the adjacent townhouses.

Robert Easter, architect from Kelso & Easter Architects and Land Design Consultants, Inc., 6911 Richmond Highway, Suite 325, Alexandria, Virginia, came forward to represent the church. Mr. Easter thanked Mr. Guinaw for his assistance during the processing of this application.

Mr. Easter explained that the church is dedicating from 20 to 60 feet of its land to the Department of Transportation for road improvements and without that dedication there would be the required land to complete the expansion with the desired number of parking spaces. He added that following meetings between the applicant and the Barton's Grove and the Glen Cove Community Homeowners Associations, the church decided to provide as much parking as possible as the site will not accommodate any future growth other than what is planned at this time. He presented slides and stated that due to the elevation of the church that he believed that the church would be adequately screened.

Judy Dryden, 5443 Safe Harbor Court, Fairfax, Virginia, came forward and submitted for the Board's information a copy of a cover letter to a petition for denial that she had received on December 9, 1987. She spoke in support of the church and stated that she did not believe that there would be a parking nor a noise problem generated by the expansion of the church and urged the Board to approve the request.

Alan Smith, 5408 Galley Court, Fairfax, Virginia, stated that he was outraged by the statements that were noted in the cover letter of the petition. He added that he had lived in the Glen Cove Subdivision for over eight years and during that time many of the townhouses have become rental units. Mr. Smith disagreed that the properties in the area would depreciate due to the expansion of the church and noted that the additional parking that the church is requesting will probably alleviate some of the present overflow parking and added that the church has been a good neighbor.

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

Shirley Lichter, 5407 Galley Court, Fairfax, Virginia, informed the Board that she was a real estate agent and that she had a rental property located adjacent to the church site. She stated that it is her belief that large structures located in residential neighborhoods affect the resale value of houses.

Mr. Hyland questioned Mrs. Lichter as to whether or not she had any documentation to substantiate that the properties surrounding the church would depreciate if the church was enlarged.

Mrs. Lichter replied that potential buyers take an overall look of an area in which they are interested and will more than likely not consider a property which is located close to such a large church. She stated that she would like to see the church reduce the size of the church but still provide additional parking.

Paul Cooney, 5405 Kennington Place, Fairfax, Virginia, representing the Barton's Grove Homeowners Association, stated that the association was not opposed to the church's expansion as long as staff's recommendations for the fence and transitional screening are implemented.

Esther Pryor, 5318 Windsor Hills Drive, Fairfax, Virginia, expressed concern with the additional traffic that will be generated from the expansion of the church.

During rebuttal, Mr. Easter disagreed that property values would be affected by the church and stated that the church is also concerned about the traffic congestion.

At this time Mr. Guinaw suggested a revision to development condition #5 by adding the words "and shall be provided on site."

There were no additional speakers or comments and Chairman Smith closed the public hearing.

Mr. DiGiulian made a motion to grant SPA 86-A-007-1 as he believed that the applicant had presented testimony showing compliance with the standards for a Special Permit and subject to the revised development conditions.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 86-A-007-1 by GREATER LITTLE ZION BAPTIST CHURCH, under Section 3-103 of the Zoning Ordinance to amend SP 86-A-007 for building and parking additions to existing church and related facilities, and modification of the dustless surface requirement, on property located at 10185 Zion Drive, Tax Map Reference 68-4((1))42, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 15, 1987; and

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

- 1. That the applicant is the owner of the land.
- 2. The present zoning is R-1.
- 3. The area of the lot is 2.448 acres of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 8-303 of the Zoning Ordinance.

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

These conditions incorporate all relevant conditions of the previous approval of this special permit use.

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
- 2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
- 3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
- 4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
- 5. The seating capacity of the main worship area shall not exceed 453 and a corresponding minimum of 114 parking spaces shall be provided. Maximum parking shall not exceed 125 spaces. All parking areas shall be paved and shall be provided on site.
- 6. Architecture of the proposed addition shall be in general conformance with the plans submitted with this special permit application.
- 7. Within sixty (60) days of written notice by VDOT, the applicant shall prepare plats and instruments to dedicate and convey right-of-way for the realignment of Zion Drive substantially as indicated on the special permit plat. The specific land area required will be determined by DEM and VDOT at the time of Site Plan review.
- 8. Temporary grading and construction easements shall be provided for the realignment of Zion Drive.

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9. Transitional Screening 1 shall be provided along the Southernly and Northwesternly lot lines. Existing vegetation shall be preserved and used to satisfy the transitional screening requirements where possible, provided it is supplemented where necessary to meet the Ordinance requirement. In addition to the Ordinance requirements for transitional screening, a continuous row of evergreen trees shall be planted along the receptor-side perimeter of the transitional screening yards on the southern and northwestern lot lines. The amount, type and specific variety of all supplemental plantings shall be determined by the County Arborist. The location and size of the planting area adjacent to Zion Drive shall be as shown on the plat submitted with the application. The number and type of plantings shall be as determined by the Fairfax County Arborist.
10. A board-on-board fence (Barrier Type F) shall be provided along the northwestern and southern boundaries and shall be located on the use-side of the required transitional screening yards. The barrier requirement along the front lot line shall be waived.
11. Interior parking lot landscaping shall be provided in accordance with Article 13.
12. A trail shall be provided along Zion Drive in accordance with the Countywide Trails Plan. The type and exact location of the trail shall be determined by DEM at the time of Site Plan review. An agreement may be executed at that time to defer construction of the trail until such time as a trail is provided on the adjacent property to the north.
13. Grading of the site shall be subject to the final approval of the Director of DEM at the time of Site Plan review in order to facilitate access between the proposed use and future improved Zion Drive. The site entrance shall be revised if necessary to be compatible with the future widening of Zion Drive.
14. Parking lot lighting, if installed, shall be the low intensity type, on standards not to exceed twelve (12) feet in height and shielded in a manner that would prevent light or glare from projecting onto adjacent properties.
15. No outside loudspeakers or public address systems shall be permitted.
16. The maximum height of the church building shall not exceed 30 feet.

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

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

Messrs. Hyland and Ribble seconded the motion which carried by a vote of 7-0.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 15, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 204, December 15, 1987, (Tapes 3 and 4), Scheduled case of:

11:30 A.M. FRANK W. VINH, SP 87-V-070, application under Sect. 3-303 of the Zoning Ordinance to allow place of worship, located at 9105 Backlick Road, on approximately 16,733 square feet of land, zoned R-3, Mt. Vernon District, Tax Map Reference 109-1((1))26A.

Lori Greenlief, Staff Coordinator, presented the staff report. She stated that staff is concerned with utilizing this particular residential lot for this type of use. Staff is particularly concerned with egress/ingress from the site, inadequate room for transitional screening, and with the gazebo being located in the front yard. Based upon these concerns, staff recommended denial of SP 87-V-070 as submitted.



Bernard Fagelson, with the law firm of Fagelson, Schonberger, Payne and Arthur, 401 Wythe Street, Alexandria, Virginia, pointed out that the Board had previously granted a Special Permit to the Buddhist Association and due to negative comments made by the resident monk the applicant withdrew from that association. He agreed that the site is small but that there has been no objection voiced to the applicant by the surrounding property owners. Mr. Fagelson stated that the applicant would comply with all development conditions as stipulated by the Board.

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

Mrs. Day made a motion to deny SP 87-V-070 as she believed that the size and height of the building would impact the neighborhood, that the paving prohibits necessary screening, that there are problems with entering and exiting the site, and that a gazebo is not allowed to be located in a front yard.

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

Mr. Ribble then made a motion to grant SP 87-V-070 as he believed that the applicant had presented testimony showing compliance with the standards for a Special Permit and subject to the development conditions being implemented. Mr. Hyland seconded the motion.

Mrs. Greenlief asked for a clarification of development condition number 10.

Mr. Ribble revised development condition number 10 as follows: "Landscaped plantings shall be provided in front of the building as shown on the special permit plat and around the entire perimeter of the structure. A brick or block wall, seven feet in height shall be provided along the southern lot line from the rear lot line forward to the front corner of the dwelling so as not to infringe on the front yard per Section 10-104 of the Zoning Ordinance."

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-V-070 by FRANK N. VINH, under Section 3-303 of the Zoning Ordinance to allow place of worship, on property located at 9105 Backlick Road, Tax Map Reference 109-1((1))26A, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 15, 1987; and

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

- 1. That the applicant represents the property owner, Buddhist Association of America.
- 2. The present zoning is R-3.
- 3. The area of the lot is 16,733 square feet of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 8-303 of the Zoning Ordinance.

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

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
- 2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to

apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The gazebo shall not be located in the front yard.
6. The maximum number of seats in the principle area of worship shall be 49 with a corresponding minimum and maximum of 13 parking spaces. All parking associated with this use shall be on-site. If parking must be removed to provide planted area in accordance with Condition 10, then the number of seats and parking spaces shall be proportionately removed.
8. A 4 foot wide, Type IV sidewalk within a 10 foot easement shall be provided on the site. The final determination of trail location and design will be made by the Department of Environmental Management in consultation with the County Trails Planner at the time of site plan review.
9. All parking spaces, travel aisles and driveways shall conform to the Public Facilities Manual standards for these facilities.
10. Landscaped plantings shall be provided in front of the building as shown on the special permit plat and around the entire perimeter of the structure. A brick or block wall, seven feet in height shall be provided along the southern lot line from the rear lot line forward to the front corner of the dwelling so as not to infringe on the front yard per Section 10-104 of the Zoning Ordinance.

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

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

Mr. Hyland seconded the motion which carried by a vote of 5-2 with Mrs. Day and Mr. Hammack voting nay.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 15, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 206, December 15, 1987, (Tape 4), Scheduled case of:

11:50 A.M. WESTGROUP, INC. AND TRINITY UNITED METHODIST CHURCH, SP 87-D-074, application under Sect. 3-203 of the Zoning Ordinance to allow additional site lighting for an existing church and related facilities and existing child care center, located at 1205 Dolley Madison Boulevard, on approximately 5.574954 acres of land, zoned R-2, Dranesville District, Tax Map Reference 30-2((32))A, 1, 5. (OTH GRANTED)

Jane Kelsey, Chief of the Board of Zoning Appeals, explained that Claudia Hamblin-Katnik was the Staff Coordinator on this application and as she could not be present today she was listening by telephone to respond to questions if needed.

Ms. Kelsey continued by stating that this application is to permit lights on an existing church site which is not now under Special Permit and pointed out the location of the lights on a viewgraph. She noted that the lights will be 30 feet in height with the exception of one which will be 15 feet. Staff is concerned with the height of the light standards and how this might adversely impact the surrounding neighbors.

The church is also requesting a child care center for 50 children and does have health department approval. Ms. Kelsey stated that staff is concerned over the close proximity of the play yard to the adjacent lot line and the inadequate screening, therefore staff is recommending relocating the play yard.

In closing, Ms. Kelsey stated that staff is recommending approval of this application subject to the development conditions contained in the staff report being implemented.

Tom Fleury, Vice President of Development Service for Westgroup, 1600 Anderson Road, McLean, Virginia, came forward to represent the applicant and informed the Board that he was accompanied by Dr. Edward King, representative of the Board of Trustees of Trinity United Methodist Church and Margaret Howell, an associate of Mr. Fleury. He brought the Board's attention to a December 11, 1987 letter which outlined the applicant's proposed revisions to the development conditions. He noted that approximately two years ago the church began a beautification and upgrading of its parking lot with Westgroup's assistance and the cooperation of the Zoning Administrator and the Department of Environmental Management. Following review of a rough grading plan, the church had to add a small water detention pond which is located in the corner of the lot following review of a rough grading plan.

Mr. Fleury noted that the important issue here is that the church has been operating without a Special Permit since 1952 and that this is the first request which might possibly impact the surrounding neighborhood. He added that the electrician had obtained an electrical permit in good faith to install the site lights. Upon a citizen inquiry, the applicant requested an interpretation from the Zoning Administrator on whether a Special Permit would be required for site lighting. The applicant received a letter from the Zoning Administrator dated August 4, 1987 which simply stated that due to the impact upon surrounding neighborhood a Special Permit would be required but did not reference the height limitation. In summary, Mr. Fleury stated that the church is concerned for the safety of its parishioners and requested that the church be allowed to install the light standards that were proposed.

In response to questions from the Board, Ms. Kelsey explained that staff had not conducted an inspection of the site at night as the lights were not operating at the present time. She added that there is not a lighting expert on staff but that staff has followed the 12 foot height limitation because based on experience staff believes that tall lighting standards project a commercial appearance and do project light and glare onto other properties.

The Board disagreed with the development condition number 11 which addressed the church providing a 6 foot asphalt trail.

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At 3:55 p.m. the Board recessed and reconvened at 4:03 p.m. and continued with the Westgroup, Inc. and Trinity United Methodist Church application.

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Chairman Smith called for speakers support of the request and hearing no reply called for speakers in opposition.

Esther Pryor, 5328 Windser Hills Drive, Fairfax, Virginia, President of the Ballantrae Civic Association, came forward and strongly opposed the light standards being requested by the church.

Ruth Koser, 1231 Buchanan Street, McLean, Virginia, told the Board that he lived adjacent to the church site and agreed with the 12 foot height limitation for the light standards.

In his rebuttal, Mr. Fleury stated that the only engineering solution would be to double the number of lights, reduce the height of the standards and use 175 watt bulbs. He noted that this would be an undue hardship on the church as the higher standards had already been purchased.

At this time Chairman Smith closed the public hearing.

Mr. Hyland made a motion to grant SP 87-D-074 as he believed that the applicant had presented testimony showing compliance with the standards for a Special Permit and subject to the development conditions contained in the staff report with the following revisions:

Delete development conditions numbers 4, 10, 11, and 12.

Revise development condition number 13 as follows: "The child care center shall have a maximum daily enrollment of 50 children. There shall be no more than 50 children on site at any one time. Hours of operation shall be from 9:30 A.M. to 1:30 P.M."

Mr. Hammack suggested an amendment to the motion which would include not deleting development condition number 12. Mrs. Day seconded the amendment but it failed to carry by a vote of 3-4.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-D-074 by TRINITY UNITED METHODIST CHURCH, under Section 3-203 of the Zoning Ordinance to allow additional site lighting for an existing church and related facilities and existing child care center, on property located at 1205 Dolley Madison Boulevard, Tax Map Reference 30-2((32))A, 1, and 5, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 15, 1987; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-2.
3. The area of the lot is 5.574954 acres of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 8-303 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. Any future change in this Special Use Permit shall be subject to the provisions set forth in Article 17, Site Plans, except that evidence of compliance of subsequent development conditions proposed in this application, SP 87-D-074, may be accomplished as revisions to 2527-RGP-01. Addressing parking lot landscaping and transitional screening and barrier requirements, this arrangement would be subject to approval by the Director of Environmental Management.
5. The maximum number of seats in the principal place of worship shall be 448.
6. There shall be 140 parking spaces provided and all parking shall be on site.
7. Transitional Screening 1 shall be provided along all lot lines with the existing vegetation to be supplemented to the satisfaction of the County Arborist except:

- o The transitional screening yard adjacent to Buchanan Street and Dolley Madison Boulevard may be modified to provide plantings which enhance the aesthetics of the building rather than screen the use.
- o Screening shall be intensified with coniferous trees to provide a significant barrier within the area where the transitional screening yard is reduced to twelve (12) feet.
- 8. Interior parking lot landscaping as specified by Sect. 13-106 of the Zoning Ordinance shall be provided.
- 9. The barrier requirement shall be waived in all areas except within the yard adjacent to the play yard where a 6-foot board on board fence shall be provided to provide a noise barrier and screen.
- 10. The existing outdoor play yard shall provide a 6 foot board on board barrier and dense screening 12 feet in width subject to approval of the County Arborist and the contiguous landowner.
- 11. In the event that a trail is provided on contiguous property on either side of the applicant's property, then at such time as a trail is provided the applicant shall dedicate and construct a 6-foot, TX-2, Type I asphalt trail within a 10-foot area provided adjacent to Dolley Madison Boulevard.
- 12. Parking lot lighting shall be metal halide type, and standards not exceeding twenty (20) feet in height and shielded, if necessary to prevent light, glare, or glow from projecting onto adjacent residential property. No metal halide bulbs size shall exceed 175 watts.
- 13. The child care center shall have a maximum daily enrollment of 50 children. There shall be no more than 50 children on site at any one time. Hours of operation shall be from 9:30 A.M. to 1:30 P.M.

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

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

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

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 15, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 209, December 15, 1987, (Tape 4), Scheduled case of:

12:10 P.M. MICHAEL JAY RUSH AND BEVERLY NEALE RUSH, SP 87-D-066, application under Sect. 8-901 of the Zoning Ordinance to allow modification to permitted extensions into minimum required yards to allow construction of deck addition to detached dwelling to 7.1 feet from side lot line (12 ft. min. side yard required by Sects. 3-307 and 2-412), located at 6708 Lumsden Street, on approximately 10,800 square feet of land, zoned R-3, Dranesville District, Tax Map Reference 30-4((19))22.

Heidi Belofsky, Staff Coordinator, presented the staff report.

Michael Rush, 6708 Lumsden Street, McLean, Virginia, the applicant, appeared before the Board and explained his request as outlined in the statement of justification submitted with the application.

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

Prior to making the motion, Mr. Ribble stated that the applicant had met the standards for a special permit and moved to grant the request subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-D-066 by MICHAEL JAY RUSH AND BEVERLY NEALE RUSH, under Section 8-901 of the Zoning Ordinance to allow modification to permitted extensions into minimum required yards to allow construction of deck addition to detached dwelling to 7.1 feet from side lot line, on property located at 6708 Lumaden Street, Tax Map Reference 30-4((19))22, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 15, 1987; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 10,800 square feet of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-903 and 8-903 of the Zoning Ordinance.

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

1. This Special Permit approval is for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date\* of the Special Permit unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

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

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 15, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 210, December 15, 1987, (Tape 4), Scheduled case of:

12:30 P.M. ST. BARNABAS EPISCOPAL CHURCH, SPA 74-M-047-2, application under Sect. 3-103 of the Zoning Ordinance to amend S-47-74 for church and related facilities to allow expansion of sanctuary and replacement of storage shed located at 4801 Ravensworth Road, on approximately 6.4413 acres of land, zoned R-1, WSP0D, Mason District, Tax Map Reference 71-3((1))1. (TO BE DEFERRED - NOTICES NOT IN ORDER)

Heidi Belofsky, Staff Coordinator, advised the Board that the applicant had failed to follow the correct procedures in notifying the abutting property owners, therefore a deferral was necessary.

Staff suggested February 16, 1988 at 9:20 A.M. and Mr. DiGiulian so moved. Mr. Hammack seconded the motion which passed unanimously.

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12:50 P.M. COLLEGE TOWN ASSOCIATES, SP 87-A-068, application under Sect. 4-603 of the Zoning Ordinance to allow child care center for 99 children within a shopping center, located at 10697 Braddock Road, on approximately 36,243 square feet of land, zoned G-6, Annandale District, Tax Map Reference 68-1(1)9. (OTH GRANTED)

Heidi Belofsky, Staff Coordinator, presented the staff report and advised the Board that the Planning Commission had held a hearing on the subject application and had endorsed the staff report which recommended approval subject to the development conditions. She added that the applicant concurred with the development conditions.

Richard Wolff, 1403 North Courthouse Road, Arlington, Virginia, representative for the applicant, appeared before the Board and agreed with all of the development conditions contained in the staff report.

Chairman Smith called for speakers and Mrs. Doyle, Office of Governmental Affairs, George Mason University, appeared before the Board in support of the application. She stated that the child care center would help the employees of the University.

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

Prior to making the motion, Mr. Hammack stated that the application was in compliance with the standards for a special permit and therefore moved to grant the request subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-A-068 by COLLEGE TOWN ASSOCIATES, under Section 4-603 of the Zoning Ordinance to allow child care center for 99 children within a shopping center, on property located at 10697 Braddock Road, Tax Map Reference 68-1(1)9, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 15, 1987; and

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

1. The applicant is the proposed occupant.
2. The present zoning is G-6.
3. The area of the lot is 36,243 square feet of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-303 and 8-305 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

4. This Special Permit is subject to the provisions of Article 17, site plans. Any plan submitted shall conform with the approved Special Permit and these conditions.
5. The maximum daily enrollment shall be limited to 99 children.
6. The maximum number of staff shall not exceed 15 persons on site at any one time.
7. The hours of operation shall be limited to 7:00 a.m. to 6:00 p.m., Monday through Friday.
8. The play area shall be fenced with wooden stockade fencing so as to ensure noise levels within the play area do not exceed 65 dBA ldn.
9. The ground-level transformer shall be fenced or walled out of the play area. Such fencing shall be flush with the ground so that children can not crawl under it. Any and all measures as determined by the Director of the Department of Environmental Management necessary to ensure the safety of the children with respect to the transformer shall be fully implemented.
10. Children shall not be picked up nor discharged from vehicles in the fire lane.
11. The remote play area shown on the submitted plat shall be deleted.
12. Any sign identifying this facility shall be located within the limits of the Special Permit as shown on the submitted plat and shall conform to the specifications delineated in Article 12 of the Zoning Ordinance.
13. The existing landscaping within the play area shall not be disrupted and shall be maintained in accordance with Article 12.
14. Twenty four (24) parking spaces shall be provided for this use and the parking requirement for the entire shopping center shall be recalculated prior to site plan approval to show that the requirement for the shopping center can be met.
15. Based upon the minimum required square footage of outdoor play area per child, there shall be no more than 46 children in the outdoor play area at any one time.
16. No additional screening is required.

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

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

Mr. Hammack seconded the motion.

The motion carried by a vote of 7-0.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 15, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 212, December 15, 1987, (Tape 4), Scheduled case of:

1:00 p.m. MR. & MRS. ROBERT C. ARLEDGE/PLASEIED & ASSOCIATES, SP 85-D-062, application under Section 8-901 of the Zoning Ordinance to permit reduction to minimum yard requirements based on error in building location to allow 17 foot high detached garage to remain 9'8" from the rear lot line (17 ft. minimum rear yard required by Sect. 10-104) in accordance with the Order of the Fairfax County Circuit Court entered on October 17, 1986, in the case of Arledge, et. al. v. Board of Zoning Appeals of Fairfax County, Virginia, in Chancery No. 95727, located at 6022 Orris Street on approximately 46,063 square feet, zoned R-1, Dranesville District, Tax Map Reference 31-2((22))2A.



Lori Greenleaf, Staff Coordinator, was available to answer questions from the Board.

The following chronology is background information regarding SP 85-D-062, Mr. and Mrs. Robert C. Arledge; Plaseled and Associates.

- o On January 14, 1986, the Board of Zoning Appeals denied SP 85-D-062, Mr. and Mrs. Robert C. Arledge; Plaseled and Associates.
- o On February 13, 1986, Mr. and Mrs. Robert C. Arledge, and Plaseled & Associates filed a Petition for Writ and Certiorari in the Circuit Court of Fairfax County, Virginia which challenged the Board of Zoning Appeals' decision in the application.
- o On June 25, 1986, the Circuit Court of Fairfax County heard the suit and on October 17, 1986, entered a final decree which ruled that: (1) the decision of the Board of Zoning Appeals was plainly wrong and was based on erroneous principles of law; (2) the decision of the Board of Zoning Appeals is reversed; and, (3) that the case be remanded to the Board of Zoning Appeals for reconsideration of the special permit requested by the Petitioner consistent with the Court's finding. The Order of the Circuit Court is included as Attachment 2.
- o The Board of Zoning Appeals appealed the decision of the Circuit Court of Fairfax County to the Supreme Court of Virginia. On October 1, 1987, the Supreme Court of Virginia determined that there was no reversible error in the judgment of the Circuit Court and refused the petition for appeal.
- o Consistent with the findings of the Circuit Court, on November 16, 1987, the Board of Zoning Appeals authorized the Clerk to the Board of Zoning Appeals to make proper advertisement and notification for a public hearing of SP 85-D-062. The purpose of this hearing is to approve SP 85-D-062 and to impose whatever reasonable conditions the Board of Zoning Appeals deems appropriate. The hearing was scheduled for December 15, 1987 at 1:00 p.m.

John Cahill, Hazel, Fiske, Thomas, Beckhorn & Hanes, 4084 University Drive Fairfax, Virginia, appeared before the Board and stated that he concurred with the development conditions recommended by staff.

Chairman Smith called for speakers and Means Johnston, 1134 Litton Lane, McLean, Virginia, appeared before the Board and requested that the size of the garage be reduced and/or an increase in the screening between his property and the subject property and to limit the duration of special permit.

The Board discussed the determination made by the Court to reconsider the application and whether or not the application could be denied or what reasonable conditions could be imposed.

Mr. Cahill opposed the Board taking any action which would alter the structure in any way. He expressed the opinion that the Court had determined that the Board had made an error and the Board could not change the structure. He added that the Court had sent the application back to the BZA for approval subject to the development conditions that was before the Court on the appeal. Mr. Cahill pointed out that the only change in the revised development conditions and the original conditions was the change in screening.

At 5:20 p.m. the Board went into Executive Session to discuss legal matters concerning this court case with the Assistant County Attorney. The Board reconvened the meeting at 6:00 p.m.

Mr. DiGiulian moved to grant the request subject to the development conditions contained in the memorandum from staff with modification to condition 3, that the applicant shall plant 10 trees. Mrs. Day suggested the following amendment to the motion, that any trees that die should be replaced within 15 days which Mr. DiGiulian accepted.

Ms. Kalsey, Chief, Board of Zoning Appeals Support Branch (BZASB), clarified that the six (6) foot fence was actually seven (7) feet in height.

1. This approval is granted only for the location of the garage indicated on the plat submitted with this application and is not transferable to other land or other structures on the same land.
2. A new building permit reflecting the actual location of the garage shall be obtained within sixty (60) days of the approval of this special permit.
3. Within an area thirty (30) feet in length along the side of the garage which parallels the rear lot line and centered on this wall of the garage, the applicant shall plant 10 trees, 12 to 15 feet in planted height. The variety of trees shall be a combination of or entirely Hemlock, Arborvitae, Holly, or Leyland Cypress. The purpose of these plantings shall be to maintain a

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continuous and unbroken screen of vegetation above the level of the existing seven (7) foot high wood fence. The number and location of the plantings shall be coordinated with and approved by the County Arborist. In no event shall less than ten (10) trees be planted. The trees shall be planted within sixty (60) days of the approval of this special permit unless the County Arborist determines that planting is not feasible because of weather conditions or availability of plants. In that case, planting shall occur within six (6) months of the approval date of this special permit. Any trees that die shall be replaced within 15 days of dying.

4. The existing seven foot high wood fence shall remain.

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

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Page 214, December 15, 1987, (Tape 4), Scheduled case of:

1:20 P.M. BELLE HAVEN COUNTRY CLUB, INCORPORATED, SPA 82-V-093-2, application under Sect. 3-303 of the Zoning Ordinance to amend S-82-V-093 for country club to permit building additions to existing facilities, located at 6023 Fort Hunt Road, on approximately 156.7 acres of land, zoned R-3, Mount Vernon District, Tax Map Reference 83-4((1))5. (DEFERRED FROM 12/8/87)

Jane Kelsey, Chief, Board of Zoning Appeals Support Branch, presented the staff report for Claudia Hamblin-Katnik, Staff Coordinator. She advised the Board that the purpose of the expansion is to facilitate the increase of seating capacity of the existing restaurant, to increase the bar area and the golf storage facility. She added that the applicant was requesting that the golf maintenance facility be allowed to remain as it had never been approved and the request was to bring it into conformity with the special permit. Ms. Kelsey concluded that staff was recommending approval of the request subject to the development conditions contained in the staff report.

William Arnold, 10521 Judicial Drive, Fairfax, Virginia, the representative for the applicant, appeared before the Board and stated that the applicant agreed with proposed development conditions 1-12 and 15. He added that the applicant objected to condition 13 (there is no condition 14) which concerns trails. Mr. Arnold stated that there should be no requirement that a trail should be dedicated or built for the following reasons: 1) It's not on the Plan, 2) It's not needed because there is a trail on the east and west side, 3) It would be dangerous because it would be located next to the golf course, 4) The benefit of the trail is negligible when compared to the cost of providing it as it goes nowhere, 5) It would require the removal and replacement of the fence along the road which would be costly, 6) There is a plan to widen Fort Hunt Road which would wipe out all of the improvements, 7) The trail would go from residence to an office area and there would be no reason for anyone to use. With regard to the oil tanks, they are not in the floodplain and the water has never been high enough to cause a problem. He added that improvements have been made to prevent flooding such as a dike and the placement of high powered pumps. However, if it is a problem, the Country Club will move them.

Ms. Kelsey advised the Board that the Trails Planner had stated that all that was necessary concerning the trail was that the applicant commit to construct after Fort Hunt Road is widened.

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

Mr. Hyland moved to grant the request subject to the development conditions contained in the staff report with the following modifications: That condition 13 be deleted and condition 15 be renumbered, number 13.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SPA 82-V-093-2 by BELLE HAVEN COUNTRY CLUB, INCORPORATED, under Section 3-303 of the Zoning Ordinance to amend S 82-V-093 for country club to permit building additions to existing facilities, on property located at 6023 Fort Hunt Road, Tax Map Reference 83-4((1))pt. 22, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 15, 1987; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 156.7 acres of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-403 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The hours of operation shall be 8:00 A.M. to 11:00 P.M. Tuesday through Sunday.
6. There shall be 215 paved and striped parking spaces. The existing overflow parking area shall be retained. All parking shall be confined to the site.
7. The parking lots which are paved and striped shall meet the specifications for interior parking lot landscaping as provided for in Sect. 13-106 of the Zoning Ordinance. Should it be necessary to redesign the parking area to comply with this development condition, the paved parking requirement may be reduced to no lower than 192 spaces.
8. All lighting and noise shall be confined to the site.
9. The total family membership shall not exceed 540 family members unless an amendment to the special permit allowing an increase in membership has been approved by the BZA.
10. Transitional Screening 1 shall be provided along Fort Hunt Road for 500 feet on either side of the entrance.
11. The barrier requirement shall be fulfilled by the six (6) foot chain link fence that presently exists on the property.
12. Construction of the deceleration/acceleration lanes and road improvements shall be provided at such time as determined necessary by the Director, Department of Environmental Management.
13. No fuel storage facilities shall be located within the floodplain.

The above conditions incorporate all applicable conditions of the previous approvals.

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

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

Mr. DiGiulian seconded the motion.

The motion carried by a vote of 6-0-1 with Mr. Ribble abstaining.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 15, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 216, December 15, 1987, (Tape 5), Scheduled case of:

1:40 A.M. SAINT MARK COPTIC ORTHODOX CHURCH, SP 87-C-064, application under Sect. 3-E03 of the Zoning Ordinance to allow church and related facilities, located at 2115 Hunter Mill Road, on approximately 2.8035 acres of land, zoned R-E, Centreville District, Tax Map Reference 27-4((1))pt. 22. (DEFERRED FROM 12/8/87 FOR DECISION ONLY)

Lori Greenlief, Staff Coordinator, advised the Board that the subject application had been deferred to allow the Board an opportunity to visit the site.

Mrs. Day stated that she had visited the site and was very concerned about the site distance as it was very hazardous.

Mr. Hammack also stated that he had visited the site and agreed with Mrs. Day. He further stated that he could not support the application as it was presented. He added that the requirement for the traffic improvements had not been satisfied.

Ms. Greenlief explained that staff was requiring a right turn taper and for the improvement of the road to private street standards.

Mr. Hammack reiterated that he could not support the application with the present ingress/egress.

Keith Martin, 950 N. Glebe Road, Arlington, Virginia, representative of the applicant, appeared before the Board and stated that the applicant had originally suggested that entrance be located on Hunter Mill Road near the center of the site and VDOT agreed but the County Office of Transportation requested it be located on Lawyer's Road.

Ms. Greenlief explained that staff had requested the entrance be located on Lawyer's Road because the traffic count was higher on Hunter Mill Road.

Mr. Hammack, Mr. Martin and the Board discussed the possibility of a deferral to allow the applicant time to reevaluate the traffic situation. However, since there were only four Board members present for the public hearing and since Mr. Hyland would not be able to hear the application if it were deferred as he was resigning from the Board of Zoning Appeals to assume his new position as the Mount Vernon District Supervisor, thus leaving only three members to vote on the application. Note: A special permit or variance application can only be granted with four affirmative votes.

At this time, Chairman Smith allowed Ms. Connie Sisk, 2048 Angelico Way, to speak and express her concern regarding the traffic situation. She also expressed concern that after being told last week that the application was being deferred for decision only and that no testimony from citizens would be allowed today and the Board had allowed her to speak today.

At this time, Mr. Hammack moved to deny the request as it did not satisfy the requirements for a special permit.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-C-064 by SAINT MARK COPTIC ORTHODOX CHURCH, under Section 3-E03 of the Zoning Ordinance to allow church and related facilities, on property located at 2115 Hunter Mill Road, Tax Map Reference 27-4(1)pt. 22, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 15, 1987; and

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

1. That the applicant is the contract purchaser.
2. The present zoning is R-E.
3. The area of the lot is 2.8035 acres of land.

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

THAT the applicant has not presented testimony indicating compliance with the general standards for Special Permit Uses and the additional standards for this use as contained in Sections 8-303 of the Zoning Ordinance.

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

Mr. Ribble seconded the motion.

The motion carried by a vote of 4-0-3 with Chairman Smith, Mrs. Thonen and Mr. DiGiulian abstaining.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 15, 1987.

At this time, Mr. Martin requested a waiver of the 12 month limitation on refiling the subject application. Mr. Hammack so moved. Mr. Ribble seconded the motion which passed by a vote of 7-0.

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Page 217, December 15, 1987, (Tapes 5 & 6) Request for Clarification for Cedar Crest Country Club

Ms. Kelsey advised the Board that there had been a request for clarification on the application of Cedar Crest Country Club.

Mr. Miller raised issue with items 8 and 10 which he explained are existing facilities that have been there for 15 to 25 years. With respect to item 10, he questioned whether or not staff intended that the maintenance facility be left as a maintenance facility when it was denied as a picnic pavilion. With regard to 8, it is an enclosed pavilion that is used over the winter months for indoor activities, staff recommends it be removed. Therefore, he requested that items 8 and 10 be retained in their current configuration and useage. With regard to items 32 and 38 which the Board denied, Mr. Miller added that these were requested by the Health Department. He requested that if these facilities not be denied but if the Board took action to deny the request than these items be included in the 12 month waiver period.

Ms. Greenlief clarified for the record that Mr. Miller was referring to items 38 and 39 not 32 and 38. She stated that staff has no objection to leaving number 10 as a maintenance facility. She added that staff clearly recommended denial of number eight and the Board denied number 8 which was staff's intent. With regard to items 38 and 39 which were locker room addition to the club house and staff did not know if the Health Department had required those items.

Mrs. Thonen moved to reconsider SP 87-S-049, Cedar Crest Country Club for possible omissions or actions taken on the development conditions.

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

Mr. Hammack stated that item 10 could remain as a maintenance shed but not as a picnic facility. If the locker room additions were required by the Health Department they should be allowed to remain but requested verification from the Health Department that these facilities were required.

Ms. Kelsey suggested that those items be allowed to be added to those items brought back before the Board as part of the 12 month waiver.

With regard to item 8, Mr. Hammack stated that it should be allowed to remain.

Mr. Hammack moved to clarify the previously approved conditions: Condition 18, shall be clarified that under the second bullet which is termed locker room addition club house, numbers 38 and 39 the applicant is allowed to bring that in as part of the items he can bring in under the waiver of the 12 month limitation. With regard to shelters number 8 and 10, picnic shelter number 8 shall be deleted from the motion to deny and picnic shelter number 10 shall be revised to say that number building number 10 may remain and be used as a maintenance shed only. Items 8 and 10 shall be added to condition 17 as approved items. The remainder of the development conditions shall remain the same.

Mrs. Thonen seconded the motion which passed 7-0.

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Page 218, December 15, 1987, (Tape 6) After Agenda Item 1

Approval of Resolutions for December 8, 1987

Mr. Hammack moved approval of the Resolutions for December 8, 1987 as submitted.

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

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Page 218, December 15, 1987, (Tape 6) After Agenda Item 2

Approval of Minutes for September 3, 22 and October 27, 1987

Mr. Hammack so moved. Mrs. Day seconded the motion which passed by a vote of 7-0.

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Page 218, December 15, 1987, (Tape 6) After Agenda Item 3

Request for Additional Time for House of Brokers, VC 86-M-038

Mr. Hammack moved to grant the request for additional time for the above referenced application for three months. Mr. DiGiulian seconded the motion which passed by a vote of 7-0. The new expiration date is April 8, 1988.

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Page 218, December 15, 1987, (Tape 6) After Agenda Item 4

Request for Waiver of the 12 month limitation on rehearing John Stokes, VC 87-M-149

Mrs. Thonen so moved. Mr. DiGiulian seconded the motion which passed by a vote of 7-0.

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Page 218, December 15, 1987, (Tape 6) After Agenda Item 5

Request for Additional Time for Daniel L. German, VC 87-S-048

Mr. Hammack moved to grant the request for an additional sixty days. Mr. DiGiulian seconded the motion which passed by a vote of 6-1 with Chairman Smith voting nay.

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As there was no other business to come before the Board, the meeting was adjourned at 7:31 P.M.

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

Betsy S. Hutt  
Betsy S. Hutt, Deputy Clerk  
Board of Zoning Appeals

Tamara S. Gentry  
Tamara S. Gentry, Associate Clerk  
Board of Zoning Appeals

Daniel Smith  
Daniel Smith, Chairman  
Board of Zoning Appeals

SUBMITTED: June 2, 1988

APPROVED: June 7, 1988

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, January 5, 1988. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack; Robert Kelley; John Ribble and Mary Thonen.

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

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At this time the Board welcomed new member Robert Kelley.

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The Board elected new officers. Daniel Smith as Chairman, John DiGiulian, Vice-Chairman and Patti Hicks as Clerk.

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Page 220, January 5, 1988, (Tape 1), Scheduled case of:

8:00 P.M. PETE SCAMARDO, VC 87-D-129, application under Sect. 18-401 of the Zoning Ordinance to allow 7.5 feet high fence to remain in side and rear yards (7 ft. max. height for fence in side or rear yards required by Sect. 10-104), located at 8302 Bernane Forest Court, on approximately 36,018 square feet of land, zoned R-1, Dranesville District, Tax Map Reference 29-1((9))49.

Lori Greenlief, Staff Coordinator, presented the staff report.

Michael Giguere with McGuire, Woods, Battle and Boothe located at 8280 Greensboro Drive, McLean, Virginia, appeared before the Board and explained the request as outlined in the statement of justification submitted with the application. Mr. Giguere explained that the grade on the adjacent property is lower than the applicant's grade and therefore the fence appears higher than seven feet if you looked at the fence from the adjacent property owner's house. There is fill on the subject property. He added that the only area in violation was the post caps of the fence and the ball and cap on the brick columns. Mr. Giguere added that he had two letters in support of the application which were submitted for the record. He also showed additional photographs of the fence to the Board. Mr. Giguere stated that the applicant attempted to comply with the Zoning Ordinance and construct the fence in good faith.

Mrs. Thonen expressed concern that the County would let someone fill an area and then not require the fence to be lowered. She added that this was impacting on the neighbors.

Mr. DiGiulian questioned the fact that the fence could be seven feet above the retaining wall and that it would still meet the requirements of the Ordinance. Ms. Greenlief explained that if the fence were directly on top of the wall that would effect the measurement of the fence but the fence was actually offset from the retaining wall. She added that the Zoning Administrator had instructed the inspector to measure the fence from the grade on the applicant's property up to the top of the fence.

Mr. Hammack pointed out that there were other cases in the Mount Vernon District along the Potomac River where there was very steep topography and fences were built a little off the grade (without a retaining wall or fill) but the fences were built in sections and the grade went down. He noted that the Zoning Administrator took the position that the height should be measured from the common property line which was a different position from that stated today.

Chairman Smith called for speakers and Dr. Elwood, 1309 Daviswood Drive, McLean, Virginia, appeared before the Board and questioned on which side of the fence the height should be measured and whether the fence was being built in accordance with the permits requested. Dr. Elwood also expressed concern about increased drainage.

In rebuttal, Mr. Giguere reiterated that the applicant had tried to comply with the Ordinance and that the only portion of the fence that was in violation was the ball and cap. He added that it was a hardship to ask the applicant to take the ball and cap off of the fence to meet a technicality.



Mrs. Thonen pointed out that if the fence were measured from the ground where the fill started it would be 10 1/2 - 11 feet high. Mr. DiGiulian expressed the opinion that the fence should be measured at grade at the common property line. Mr. Giguere stated that if that issue were a question then a determination from the Zoning Administrator as to how the height should be measured is necessary. Therefore, Mr. Giguere requested a deferral.

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

Prior to making the motion, Mr. Hammack stated that a question had been raised as to how the height of the fence is computed so he moved to defer decision on the application to obtain additional information from the Zoning Administrator on how to compute the proper height of the fence.

Mr. DiGiulian seconded the motion. He added that the retaining wall detail that was part of the approved plans shows that the edge of the wall at the ground is three inches inside the property line and it shows the fence against the retaining wall which would be one structure. Therefore, if an elevation is going to be measured it should be at the property line which is where the wall starts.

Following a question from Ms. Kelsey, Mr. DiGiulian clarified his request which was whether or not the fence is on top of the retaining wall or whether or not the fence sits inside several inches away from the retaining wall.

The motion passed by a vote of 7-0.

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Page 221, January 5, 1988, (Tape 1), Scheduled case of:

8:15 P.M. JOHN A. AND CAROLE A. NORTHRUP, VC 87-P-130, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed lot 18B having a lot width of 25 ft. (150 ft. min. lot width required by Sect. 3-106), located at 2636 Oak Valley Drive, on approximately 2.00 acres of land, zoned R-1, Providence District, Tax Map Reference 38-3((1))18.

Lori Greenleaf, Staff Coordinator presented the staff report and advised the Board that approval of this variance would lead to other variance requests in the area.

Mrs. Day expressed the opinion that the pipestem lot would have an adverse effect on lot 19 and another pipestem lot should not be granted.

Carole Northrup, 3910 N. Abingdon Street, Arlington, Virginia, the applicant, appeared before the Board and explained the request as outlined in the statement of justification submitted with the application. She added that there was no opposition from the neighbor. Ms. Northrup also stated that there would be higher density if there was strict adherence to the Zoning Ordinance.

Chairman Smith called for speakers and William Long, 6443 Hitt Avenue, McLean, Virginia, appeared before the Board in support of the proposal.

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

Prior to making the motion, Mrs. Thonen stated that the applicant had not proven that there was a hardship nor did the applicant meet the standards for a variance. She added that the proposal would be precedent setting in this area. Therefore, Mrs. Thonen moved to deny the request.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-P-130 by JOHN A. AND CAROLE A. NORTHRUP, under Section 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed lot 18B having a lot width of 25 ft., on property located at 2636 Oak Valley Drive, Tax Map Reference 38-3((1))18, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 5, 1988; and

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

1. That the applicants are the owners of the land.
2. The present zoning is R-1.
3. The area of the lot is 2.00 acres of land.

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

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

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

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

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

Mrs. Day seconded the motion.

The motion carried by a vote of 7-0.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on January 13, 1988.

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Page 223, January 5, 1988, (Tape 1), Scheduled case of:

8:30 P.M. AIRSTON CORPORATION OF VIRGINIA, SP 87-S-071, application under Sect. 3-303 of the Zoning Ordinance to allow subdivision sales office and waiver of the dustless surface requirement, located at 5400 and 5402 Ashcomb Court and 13999 Cabells Mill Drive, on approximately 48,713 square feet of land, zoned R-3, Springfield District, Tax Map Reference 54-2((4))21, 22, 23, 24. (Notices not in order)

Lori Greenlief, Staff Coordinator, advised the Board that the applicant had changed addresses and not advised staff, therefore the applicant did not receive the notice package, thus the notices were not in done. Staff suggested a new public hearing date of February 16, 1988 at 9:40 A.M.

Mrs. Thonen so moved and Mr. Ribble seconded the motion which passed by a 7-0 vote.

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Page 223, January 5, 1988, (Tape 1), Scheduled case of:

8:45 P.M. HUNTER DEVELOPMENT COMPANY OF FAIRFAX, INC., SPA 87-S-011-1, application under Sect. 3-503 of the Zoning Ordinance to amend SP 87-S-011 for subdivision sales office to permit relocation of temporary parking spaces and waiver of dustless surface requirement, located at 5801-T Rockdale Court, on approximately 0.24432 acres of land, zoned R-5 and WS, Springfield District, Tax Map Reference 54-4((8))pt. K.

Lori Greenlief, Staff Coordinator, advised the Board that the applicant had not done the required notices because he was working towards a possible relocation of the sales trailer to another parcel. the applicant was therefore requesting a deferral and Staff suggested a new date of February 16, 1988 at 10:00 A.M.

Chairman Smith called for speakers to address the issue of deferral and Chuck Newton of 5829 Rockdale Court, Centreville, Virginia, appeared before the Board in support of the request.

There being no other speakers to address this issue, it was so ordered to defer the application to February 16, 1988 at 10:00 A.M.

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Page 223, January 5, 1988, (Tape 1), Scheduled case of:

9:00 P.M. CORA BIGELOW, ELENOR B. SMITH, WILLIAM & JEANETTE SMITH, VC 87-C-154, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into three (3) lots, proposed corner lot 2 having a lot width of 95 ft. (125 ft. min. lot width required by Sect. 3-206) and existing dwelling on proposed lot 1 to remain 28.4 ft. from new front lot line after dedication (35 ft. min. front yard required by Sect. 3-207) located at 9954 and 9960 Vale Road, on approximately 1.803 acres of land, zoned R-2, Centreville District, Tax Map Reference 37-4((1))43, 44. (OUT OF TURN HEARING GRANTED 11/10/87)

Lori Greenlief, Staff Coordinator, presented the staff report.

William Smith, 2962 Cashell Lane, Vienna, Virginia, the applicant, appeared before the Board and explained his request as outlined in the statement of justification submitted with the application. He added that the proposal was in conformance with the character of the neighborhood.

Chairman Smith called for speakers and Clarence Smith, 9948 Vale Road, Vienna, Virginia, appeared before the Board in support of the request. He stated that the property was currently very unsightly and the proposal would improve the area.

Fred Wilburn, surveyor of the property, appeared before the Board and noted that the width of lot 2 would not be changed and that the request was not unreasonable.

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

Prior to making the motion, Mr. DiGiulian stated that the applicant had met the nine standards for a variance, especially under 2A and 2F. Therefore he moved to grant the request subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-C-154 by CORA BIGELOW, ELENOR B. SMITH, WILLIAM AND JEANETTE SMITH, under Section 18-401 of the Zoning Ordinance to allow subdivision into three (3) lots, proposed corner lot 2 having of 95 ft. and existing dwelling on proposed lot 1 to remain 28.4 ft. from new front lot line after dedication, on property located at 9954 and 9960 Vale Road, Tax Map Reference 37-4((1))43, 44, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 5, 1988; and

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

1. That the applicants are the owners of the land.
2. The present zoning is R-2.
3. The area of the lot is 1.803 acres of land.

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

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

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

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

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

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

- 3. The driveways to the proposed lots shall be constructed in accordance with the Public Facilities Manual as determined by Department of Environmental Management (DEM).
- 4. A tree preservation plan, the purpose of which shall be to preserve existing stands of quality hardwoods shall be provided to the County Arborist for review and approval.
- 5. All proffers adopted in conjunction with EZ 85-C-124 shall be met.

Messrs. Ribble and Hammack seconded the motion.

The motion carried by a vote of 7-0.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on January 13, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 225, January 5, 1988, (Tape 1), After Agenda Item #1:

Approval of Minutes

Mrs. Day moved to approve the Minutes for July 30, October 6, 13, and November 10, 1987.

Mr. Hammack seconded the motion which passed by a vote of 6-0-1 with Mr. Kelley abstaining.

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Page 225, January 5, 1988, (Tape 1), After Agenda Item #2:

Request for Additional Time  
Claremont Subdivision  
V-70-79

Mr. DiGiulian moved to grant an additional six months. Mr. Ribble seconded the motion which passed unanimously. The new expiration date is April 15, 1988.

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Page 225, January 5, 1988, (Tape 1), After Agenda Item #3:

Request for Additional Time  
Accotink Universalist Church  
SP 85-S-065

Oliver Easterwood, 6838 Spring Beauty Court, Springfield, Virginia, appeared before the Board to request additional time. He explained that the additional time was necessary due to construction delays, the location of the sewer pumping station and the lack of funds.

Mr. Ribble moved to grant an additional 18 months. Mrs. Thonen seconded the motion which passed unanimously. The new expiration date is June 3, 1989.

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Page 225, January 5, 1988, (Tape 1), After Agenda #4:

Request for Additional Time  
The Courts Homeowners Association  
SP 85-D-060

Mr. Hammack moved to grant the request for an additional 12 months. Mrs. Thonen seconded the motion which passed unanimously. The new expiration date is July 14, 1988.

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Page 226, January 5, 1988, (Tape 1), After Agenda #5:

Request for Additional Time  
Edward J. Stalcup  
VC 86-D-005

Mr. Hammack moved to grant additional time for six months. Mr. Kelley seconded the motion which passed unanimously. The new expiration date June 24, 1988.

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Page 226, January 5, 1988, (Tape 2), After Agenda Item #5:

RICHARD E. WARD APPEAL

Mr. Hammack moved that the above reference application for appeal was timely filed and therefore moved to accept the application.

Mr. Ribble seconded the motion which passed unanimously.

Staff suggested a date of February 23, 1988 at 11:00 A.M. There being no objection, it was so ordered.

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Page 226, January 5, 1988, (Tape 2), After Agenda Item #6:

RANDOLPH WILLIAMS, INC. APPEAL

Mr. Hammack moved that the above reference application for appeal was timely filed and therefore moved to accept the application.

Mr. Ribble seconded the motion which passed unanimously.

Staff suggested a date of March 15, 1988 at 11:00 A.M. There being no objection, it was so ordered.

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Page 226, January 5, 1988, (Tape 2), After Agenda Item #7:

LITTLE PIMMIT RUN STREAM VALLEY ASSOCIATION, INC. APPEAL

Mr. Ribble moved that the above reference application for appeal was timely filed and therefore moved to accept the application.

Mr. Hammack seconded the motion which passed unanimously.

Staff suggested a date of March 8, 1988 at 11:00 A.M. There being no objection, it was so ordered.

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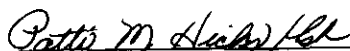
Page 226, January 5, 1988, (Tape 2), After Agenda Item #8:

Approval of Resolution for Arledge  
SP 85-D-062

Mr. DiGiulian moved to approve the Resolution for the above referenced application. Mrs. Thonen seconded the motion which passed unanimously.

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As there was no other business to come before the Board, the meeting was adjourned at 9:55 P.M.

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

  
Daniel Smith, Chairman  
Board of Zoning Appeals

SUBMITTED: 4/12/88

APPROVED: 4/9/88

227

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, January 12, 1988. The following Board Members were present: Chairman Daniel Smith; Ann Day; John DiGiulian; Paul Hammack; John Ribble; and Mary Thonen. Robert Kelley was absent from the meeting.

Chairman Smith called the meeting to order at 9:30 A.M. Mrs. Day led the prayer.

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(Due to problems with the tape, switched manually to Tape 2.)

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Page 227, January 12, 1988, (Tape 2),

PETE SCAMARDO, VC 87-D-129

This case had been deferred from January 5, 1988 because questions had been raised as to how the height of the fence is computed and to obtain additional information from the Zoning Administrator on how to compute the proper height of the fence.

Mrs. Greenlief, Staff Coordinator, explained that there is no height restriction on retaining walls as long as a building permit is obtained and a grading plan has been submitted. She added that the applicant has met these requirements but because the applicant has positioned the fence off the retaining wall staff has to measure from the grade instead of the bottom of the retaining wall.

Mrs. Thonen noted that this was not the first scheduled case. Jane Kelsey, Chief of the Board of Zoning Appeal Support Branch, explained that the Board had deferred this case from a previous date.

Chairman Smith stated that the Board should refrain from any further discussion of this case until after the end of the scheduled agenda. The Board requested staff to contact the applicant's attorney and ask that he be present to respond to questions.

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Page 227, January 12, 1988, (Tape 2), Scheduled case of:

9:00 A.M. OSWALD AND MARLENE BACHER APPEAL, A 86-V-012, to appeal the Zoning Administrator's determination that a quick-service food store and fast food restaurant which have been established within the existing service station are in violation of the Zoning Ordinance, located at 8570 Backlick Road, on approx. 30,325 square feet, zoned I-6, Mount Vernon District, Tax Map 99-4(1)77. (TO BE HEARD CONCURRENT WITH REZONING. DEF. FROM 3/10/87 6/9/87 AND 10/27/87)

Chairman Smith informed the Board members that the appellants in this A 86-V-012 were requesting another deferral. In response to questions from the Board about the deferral, Jane Kelsey, Chief of the Board of Zoning Appeals Support Branch, stated that she had discussed this with the Zoning Administrator and had been told that the Zoning Administrator agreed with the deferral.

Mrs. Thonen disagreed with the deferral and made a motion to deny the request. She stated that the appellants could reapply for a variance following the Board of Supervisors' action on the rezoning. Mr. DiGiulian seconded the motion.

Since some of the Board members stated that they could not support this motion, Mrs. Thonen then made a substitute motion to move this case to the end of the agenda. There was no second, thus the motion died.

Following further discussion, Mrs. Thonen then made another substitute motion to pass over this until the end of the agenda so that the Zoning Administrator and the appellant's attorney could be present. Mr. DiGiulian seconded the motion which carried unanimously.

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Page 227, January 12, 1988, (Tape 2), Scheduled case:

9:30 A.M. KATHERINE A. RANDALL, VC 87-D-131, application under Sect. 18-401 of the Zoning Ordinance to allow carport addition to dwelling to 4 ft. from side lot line (7 ft. min. side yard required by Sects. 3-307 and 2-412), located at 1827 Rupert Street, on approximately 10,500 square feet of land, zoned R-3, Dranesville District, Tax Map Reference 40-2((26))136.

Lori Greenlief, Staff Coordinator, presented the staff report.

Katherine Randall, 1827 Rupert Street, McLean, Virginia, the applicant, explained the request as outlined in the statement of justification submitted with her application.

William A. Stiles, 1828 Rupert Street, McLean, Virginia, told the Board that he has lived across from the applicant for twenty years. He stated that he believed the addition of a carport might deter people from mistaking the driveway for a street and driving onto the applicant's property.

Martin Bove, 2017 Kirby Road, McLean, Virginia, came forward to speak in support of the request. He stated that he worked with the applicant and believed that the carport addition would be beneficial to her as she was not in good health.

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

Mrs. Thonen made a motion to grant VC 87-D-131 as she believed that the applicant has satisfied the standards for a Variance, that this is the only feasible location for this construction, and that the request is in harmony with the surrounding area. The approval was subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-D-131 by KATHERINE A. RANDALL, under Section 18-401 of the Zoning Ordinance to allow carport addition to dwelling to 4 feet from side lot line, on property 1827 Rupert Street located at Tax Map Reference 40-2((26))136, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 12, 1988; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 10,500 square feet of land.

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

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



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

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

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

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Hammack seconded the motion which carried by a vote of 5-0 with Mr. Hammack not present for the vote; Mr. Kelley absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on January 20, 1988. This date shall be deemed to be the final approval date of this variance.

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Due to Chairman Smith's being absent from the room, Vice-Chairman DiGiulian presided over the next scheduled case.

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Page 229, January 12, 1988, (Tape 2), Scheduled case of:

9:40 A.M. IMMANUEL PRESBYTERIAN CHURCH, SPA 79-D-037-1, application under Sect. 3-103 of the Zoning Ordinance to amend S-37-79 for a church and related facilities to permit new entrance and modifications and additions to driveway and parking lot, additional parking and modification of the dustless surface requirements, on property located at 888 Dolley Madison Boulevard, on approximately 5.834 acres, zoned R-1, Dranesville District, Tax Map 31-2((1))4A. (DEF. FROM 9/10/87 AND 10/6/87)

Kevin Guinaw, Staff Coordinator, presented the staff report. He explained that this application has been deferred twice in order to allow time for the applicant and citizens to resolve outstanding issues. He added that on December 18, 1987, the applicant submitted a revised development plan to staff and staff's comments on these revisions have been summarized into an addendum which was delivered to the Board today. Mr. Guinaw highlighted the proposed revisions as follows: 1) the existing driveway will be closed and there will be only one driveway which will be located 75 feet from the northern property line, 2) the proposed front parking area has also been moved proportionally southward, and 3) the proposed parking improvements will be completed in two phases. In closing, Mr. Guinaw stated that staff agrees with the applicant's revisions with the exception that staff believes that full transitional screening should be provided now. Based upon the revised development conditions, staff recommends approval of this application.

William Barton, 6131 Long Meadow Road, McLean, Virginia, represented the church. He stated that the applicant has held meetings with the citizens and the citizens are now in agreement with the revised application. Mr. Barton stated that the church has made several concessions in order to address citizen concerns. He noted that the site entrance has been shifted at least 50 feet with the driveway being relocated, signs indicating "no parking" have been installed to help remove the traffic from Savile Lane and onto the church property, and each tree on the site has been added to the plat.

Also, Mr. Barton stated that the parents of children who attend pre-school and the speech and language classes have been instructed to drop their children off on the church property away from the road in order to address the safety concerns.

Mr. DiGiulian questioned the applicant as to whether or not he was in agreement with the revised development conditions. Mr. Barton replied that the applicant would still like

to provide the transitional screening in phases due to the financial costs which would be incurred by the church. He added that the applicant would like to commence construction on the sidewalks as soon as possible.

John Kenny, 1029 Savile Lane, McLean, Virginia, represented the Downscast Citizens Association. He stated that the Association supported the revised application and agreed with staff's recommendation that the transitional screening along Savile Lane be a part of phase 1. He requested that transitional screening also be provided along the north edge of Savile Lane and along the Fisher property line as part of Phase 2. Mr. Kenny requested that the citizens association be allowed to review the landscaping and lighting plan.

As there were no additional speakers in support nor in opposition to the request, Vice-Chairman DiGiulian closed the public hearing.

He asked staff for suggested language which could be incorporated into the development conditions regarding transitional screening along the Fisher property line being constructed as a part of phase 2.

Mr. Guinaw explained that staff is requesting that this screening be included in Phase 1 because of the number of existing parking spaces which are located 10 feet from the lot line. He added that staff believes that these parking spaces can be reconfigured without too much disruption to the site and with a minimal cost to the applicant.

As this was Vice-Chairman DiGiulian's motion, he turned the chair over to Mrs. Thonen. Mrs. Thonen then closed the public hearing as there were no additional staff comments.

Mr. DiGiulian made a motion to grant this application in accordance with the development conditions contained in the staff report with the following addition to development condition number 8:

"The transitional screening along the Fisher property line shall be installed during Phase II construction."

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 79-D-037-1 by IMMANUEL PRESBYTERIAN CHURCH, under Section 3-103 of the Zoning Ordinance to amend S-37-79 for a church and related facilities to permit new entrance and modifications and additions to driveway and parking lot, additional parking and modification of the dustless surface requirements, on property located at 888 Dolley Madison Boulevard, Tax Map Reference 31-2((1))4A, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 12, 1988; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 5.834 acres of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-303 of the Zoning Ordinance.

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

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

2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The seating capacity of the main worship area shall not exceed 220.
6. There shall be 122 parking spaces provided. All parking for the proposed use shall be provided on site. The front parking area and all travel aisles shall be paved.
7. A modification of the dustless surface requirement shall be granted for the rear parking area. This area shall be constructed and maintained in accordance with the standard practices approved by the Director, Department of Environmental Management (DEM), which shall include but not be limited to the following:
  - A. The parking area shall be constructed with clean stone, having as little fines material as possible. The stone should be spread evenly and to a depth adequate enough to prevent wear-through or bare subsoil exposure.
  - B. Travel speeds in the parking areas shall be limited to 10 mph or less.
  - C. Routine maintenance shall be performed to prevent surface unevenness, wear-through or subsoil exposure. Resurfacing shall be conducted when stone becomes thin.
  - D. During dry periods, application of water or calcium chloride shall be made in order to control dust.
  - E. Runoff shall be channeled away from and around the parking areas.
  - F. The property owner shall perform periodic inspections to monitor dust conditions drainage functions, compaction and migration of stone surface.This modification is granted for a period of five years.
8. Transitional Screening 3 shall be provided along the northern lot line as shown on the special permit plat. The transitional screening along the Fisher property line shall be installed during Phase II construction. Transitional Screening 1 shall be provided along the remainder of the northern lot line and along all other lot lines. Existing vegetation shall be preserved where possible and supplemented as necessary to meet the screening requirements. On the front lot line along Rt. 123 and on the front lot line along Savile Lane in the area up to the proposed parking lot, required transitional screening plantings shall be modified to allow landscape plantings which will soften the visual impact of the church when viewed from the respective roadways. The nature and type of all required and supplemental plantings shall be subject to the final approval of the County Arborist.
9. Interior parking lot landscaping shall be provided in accordance with the provisions of Article 13.
10. An adequate turnaround area shall be provided, as determined by the Director of the Department of Environmental Management, at the end of the rear parking area.
11. The barrier requirement shall be waived.
12. Parking lot lighting, if installed, shall be the low intensity type, on standards not to exceed twelve (12) feet in height and shielded, if necessary, so as to prevent light or glare from projecting onto adjacent properties.
13. Signs shall be permitted in accordance with the provisions of Article 12, Signs.

- 14. This approval is for both Phases I and II as modified by the development conditions above. Phase II shall be implemented within four years of the final approval date for this special permit.

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

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

Mr. Ribble seconded the motion which carried by a vote of 4-0 with Messrs Hammack and Smith not present for the vote; Mr. Kelley absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on January 20, 1988. This date shall be deemed to be the final approval date of this special permit.

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Mrs. Thonen turned the chair back over to Vice-Chairman DiGiulian.

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Page 232, January 12, 1988, (Tape 2), Scheduled case of:

9:50 A.M. JULIE A. KEPLINGER, SP 87-D-027, application under Sect. 8-901 of the Zoning Ordinance to allow waiver of dustless surface requirement for a plant nursery, located at 10618 Leesburg Pike, on approximately 3.462 acres, zoned R-1, Dranesville District, Tax Map Reference 12-3((1))11. (TO BE HEARD CONCURRENT WITH SE 87-D-029 - DEF. FROM 10/6/87)

Kevin Guinaw, Staff Coordinator, informed the Board that staff had received a letter from the applicant in SP 87-D-027 requesting a withdrawal of her application.

Mr. Ribble made a motion to allow the applicant to withdraw her application without prejudice. Mrs. Thonen seconded the motion which carried by a vote of 4-0 with Messrs. Hammack and Smith not present for the vote; Mr. Kelley absent from the meeting.

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Page 232, January 12, 1988, (Tape 2), Scheduled case of:

10:05 A.M. T AND T JOINT VENTURE, VC 87-D-134, application under Sect. 18-401 of the Zoning Ordinance to allow enclosure of existing carport for living space 18.8 ft. from a side lot line and construction of an addition to dwelling to 18.8 ft. from the other side lot line (20 ft. min. side yards required by Sect. 3-107), located at 6920 Arbor Lane on approximately 21,781 square feet of land, zoned R-1, Dranesville District, Tax Map Reference 21-4((1))9.

Lori Greenlief, Staff Coordinator, presented the staff report. She added that the attached garage of the dwelling on adjacent Lot 8 is located 19.6 feet from the shared side lot line.

Rachel T. Cheatle, 616 Live Oak Drive, McLean, Virginia, came forward to represent the applicant. She stated that the applicant plans to upgrade the house by enclosing the existing carport in order to provide additional living space.

Mr. Ribble asked the applicant to comment on the opposition letter that had been received by staff from the adjacent property owner.

After reviewing the letter, Ms. Cheatle explained that she had talked with the owner of Lot 10 over the weekend and had presented him with a copy of the proposed plans. At that time he did not voice any objection.

In response to questions from the Board, Ms. Cheatle explained that she had been told that a variance was not needed for the carport to be located in the front yard.

Mrs. Greenlief clarified that the carport could be constructed without a variance as long as it met the minimum front yard requirement.

The Board expressed concern with the applicant constructing a carport in the front yard.

Vice-Chairman DiGiulian called for speakers in support of the request and hearing no reply, called for speakers in opposition to the request. The following citizens came forward: Jim Pope, 6921 Arbor Lane, McLean, Virginia; Barkley Van Doren, 6916 Arbor Lane, McLean, Virginia; and, Ed Lewis, 6912 Arbor Lane, McLean.

The citizens opposed the application based upon their belief that the proposed addition would greatly detract from the surrounding neighborhood. They also noted that the plan before the Board today was not the one that they had reviewed prior to the public hearing.

During rebuttal time, Steve Powell, principal with T & T Joint Venture, came forward to respond to the concerns of the citizens. He stated that he was sorry that the neighbors are not happy with the proposed design but that he believes this is merely a personal preference. He asked that the Board grant the request.

There was no additional comments, and Vice-Chairman DiGiulian closed the public hearing.

Mrs. Day made a motion to grant-in-part VC 87-D-134 as she believed that the applicant had presented testimony showing compliance with the standards for a variance for the carport enclosure request, that this request will upgrade the property, and that a professional architect will be overseeing the work. She clarified for the citizens who were present that since a variance is not required for the proposed carport to be located in the front yard the Board could not take action regarding that addition.

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**MOTION TO GRANT-IN-PART FAILED**

**COUNTY OF FAIRFAX, VIRGINIA**

**VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS**

In Variance Application VC 87-D-134 by T AND T JOINT VENTURE, under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport for living space 18.8 feet from a side lot line and construction of an addition to dwelling to 18.8 feet from the other side lot line, on property located at 6920 Arbor Lane, Tax Map Reference 21-4(11)9, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 12, 1988; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 21,781 square feet of land.

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

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;
  - F. An extraordinary situation or condition of the subject property, or
  - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.

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

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

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

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED IN PART (only the carport enclosure) with the following limitations:

- 1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
- 2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
- 3. A Building Permit shall be obtained prior to any construction.

Mr. Ribble seconded the motion which FAILED by a vote of 2-2 with Mrs. Thonen and Mr. DiGiulian voting nay; Messrs. Hammack and Smith not present for the vote; and Mr. Kelley absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on January 20, 1988.

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Chairman Smith was now present and presided over the next scheduled case.

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10:20 A.M.      KENNETH D. AND GAIL B. JUSTICE, VC 87-D-132, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into six (6) lots, proposed lot 6 having a lot width of 12 feet (100 ft. min. lot width required by Sect. 3-206), located at 2101 Powhatan Street, on approximately 3.123 acres of land, zoned R-2, Dranesville District, Tax Map Reference 41-1((16))1, 2.

Lori Greenlief, Staff Coordinator, presented the staff report. She pointed out an error in the staff report on page 2 which states "the pipestem has reverse frontage on North Nottingham." This statement is incorrect as the lot does not meet the definition of a reverse frontage lot. Mrs. Greenlief stated that this property can be subdivided into five lots without a variance and that it is staff's opinion that this application does not meet at least standards number 4, 6, and 6A for reasons set forth in the staff report.

In response to questions from the Board, Mrs. Greenlief explained that North Nottingham would have to be at least a minor arterial in order for the lot to meet the definition of reverse frontage. She added that perhaps the applicant could better respond to questions regarding the existing dwelling.

Charles Runyon, with Runyon, Dudley and Anderson Associates, 10650 Main Street, Fairfax, Virginia, surveyor and engineer for the applicant came forward. He stated that this property is surrounded on three sides with streets, two of which are publicly maintained. He stated that when 4A and 4b were resubdivided a portion was vacated, and therefore North Nottingham cannot be extended along the frontage of this property to provide publicly maintained street frontage. The applicant would like to improve North Nottingham to private street standards to serve Lots 5 and 6 and then there would be four properties utilizing that road who would be responsible for maintaining the road. He added that the applicants would like to subdivide the lot that has the existing dwelling on it some time in the future but the applicants presently live there.

In response to questions from the Board, Mr. Runyon replied that the term outlot is used because it is not actually an existing lot until a variance is granted. Once the variance has been granted, he explained the word "outlot" is removed.

Chairman Smith questioned whether or not the Board had heard a similar application on this property. Jane Kelsey, Chief of the Board of Zoning Appeals Support Branch, explained that the Board had heard applications for subdivisions in the same vicinity but not on this property.

Paul Shapiro, 6417 North Nottingham Street, McLean, Virginia, came forward to speak in support of the request as he believed that this subdivision would enhance the neighborhood. As North Nottingham Street is the only egress/ingress into his property, he was concerned whether or not the granting of this variance would absolve the applicant, or whomever purchased one of the lots, from helping to maintain North Nottingham Street. Mr. Shapiro stated that he could support the request if the applicant would agree to continue to help maintain the street. He added that he and the applicant had reached a tentative agreement and presented the Board and staff with suggested wording to be incorporated into the development conditions.

Chairman Smith stated that the Board was in receipt of a letter from the Franklin Area Citizens Association which requested denial of this request.

Following a review of the speaker's suggested wording, Ms. Kelsey stated that staff could not support a development condition which would stipulate that the applicant improve North Nottingham Street to pipestem standards. She added that the Department of Environmental Management might require something altogether different.

Mr. Runyon stated that he had no problem with what the speaker had proposed. He suggested that perhaps the wording "in compliance with the Department of Environmental Management" could be added to the end of the proposed development condition number 1.

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

Mr. Ribble made a motion to deny VC 87-D-132 as he does not believe that the applicant has presented testimony showing compliance with the standards for a variance. He added that the applicant can subdivide the property into five lots without a variance.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-D-132 by KENNETH D. AND GAIL B. JUSTICE, under Section 18-401 of the Zoning Ordinance to allow subdivision into six (6) lots, proposed lot 6 having a lot width of 12 feet, on property located at 2101 Rowhatan Street, Tax Map Reference 41-1((16))1 and 2, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 12, 1988; and

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

1. That the applicants are the owners of the land.
2. That the property could be divided into five (5) lots without a Variance and would be more in keeping with the density in that area and the strict application of the Zoning Ordinance would not produce a undue hardship.

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

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

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

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

NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED.

Mrs. Day seconded the motion which carried by a vote of 5-0 with Mr. Hammack not present for the vote; Mr. Kelley absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on January 20, 1988.

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Page 236, January 12, 1988, (Tape 3), Scheduled case of:

10:40 A.M. ALLISON D. PELKEY, SP 87-S-063, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow deck to remain 1.7 feet from side lot line on a corner lot (8 ft. min. side yard req. by Sect. 3-307 and Interpretation 14), located at 5303 Kimanna Drive, on approximately 10,613 square feet of land, zoned R-3(C), AN, WS, Springfield District, Tax Map Reference 44-3(2)(28)14.

Kevin Guinaw, Staff Coordinator, presented the staff report. He stated that it is staff's opinion that the application does not meet standards 1B or 1D, that there is no indication that the applicant made a diligent effort to obtain a building permit prior to constructing the deck, and that this structure is visually detrimental to the adjacent property owners. Therefore, Mr. Guinaw stated staff was recommending denial of SP 87-S-063.

The applicant, Allison Pelkey, 5303 Kimanna Drive, Centreville, Virginia, read a prepared statement into the record. He stated that the owner of Lot 15 has constructed a brick garage which is 24 feet wide by 12 feet in height within 2 feet of the rear shared lot line, and the neighbor on Lot 13 recently constructed a 6 foot high barricade



type fence which abuts the garage. He added that because of a steep slope in the rear of his lot, the deck height varies from 4 feet to 5 feet and 6 inches. Mr. Pelkey added that he resents the implication in the staff report that the deck was not constructed in good faith and firmly denied this accusation. He stated that he constructed the deck based upon a County General Information brochure. Mr. Pelkey stated that he and his family are very proud of their home, they have lived there for 19 years, and they do not believe the deck detracts from other properties nor that it would set an undesirable precedent.

Mr. Pelkey replied he had tried to obtain information about his neighbor's building permit but had been told the file could not be located.

Chairman Smith called for speakers in support of the request and hearing no reply called for speakers in opposition to the request.

Irene Alvarez, 14630 Batavia Drive, Centreville, Virginia, came forward. She told the Board that at the time she and her husband placed a contract on their house the deck did not exist. Upon a visit to their prospective home, they saw the ongoing construction of the deck. Since they did not want to have hard feelings with their new neighbors, they contacted their real estate agent to cancel the contract and was told this was not a valid reason for voiding the contract. They then contacted the County and was told because the prior property owner had filed a complaint, Zoning Enforcement would be conducting an investigation. She asked the Board to deny the request that as she believed the deck is an infringement on their privacy and will affect the value of their property.

In response to questions from the Board, Mrs. Alvarez replied that there was an entrance into the basement on the side of their house which faced the deck.

Mr. Pelkey came forward and disagreed with the speakers' comments that the deck will lower their property value. He asked the Board to allow him to keep the deck.

Chairman Smith closed the public hearing.

Mr. Hammack stated that he was not opposed to the deck itself but did believe it was too close to the shared lot line. He then made a motion to allow the deck to remain but that it be reduced in size so that it would only be 4 feet from the shared lot line.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Mr. Hammack made the following motion:

WHEREAS, Application No. SP 87-S-063 by ALLISON D. PELKEY under Section 8-901 of the Fairfax County Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow deck to remain 1.7 feet (Board granted 4.0 feet) from side lot line on a corner lot, on property located at 5303 Kimanna Drive, Tax Map Reference 44-3((2))(28)14, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on January 12, 1988; and,

WHEREAS, the Board made the following conclusions of law:

1. The Board has determined that:
  - A. The error exceeds ten (10) percent of the measurement involved, and
  - B. The non-compliance was done in good faith, or through no fault of the property owner, or was the result of an error in the location of the building subsequent to the issuance of a Building Permit, if such was required, and
  - C. Such reduction will not impair the purpose and intent of this Ordinance, and
  - D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
  - E. It will not create an unsafe condition with respect to both other property and public streets, and

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F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.

G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED IN PART with the following limitations:

1. This approval is for the location and the specific deck addition shown on the plat included with this application and is not transferable to other land.
2. A building permit reflecting the location of the deck shall be obtained.
3. The applicant shall plant and maintain a minimum of six Arborvitae or Skyrocket Juniper trees, each at least six feet in height, spaced four (4) feet apart, parallel to the deck in the area between the deck and the lot line shared with Lot 13. Any dead or dying trees shall be promptly replaced by the applicant.

Mr. Ribble seconded the motion which carried by a vote of 4-1 with Mr. Smith voting nay; Mr. Hammack not present for the vote; Mr. Kelley absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on January 20, 1988.

NOTE: It is noted that Chairman Smith reminded the applicant that a new plat must be submitted showing the structure as approved by the Board before the Chairman can sign the plat as approved. Before the Zoning Violation can be cleared, the plantings must also be installed.

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The Board recessed for lunch at 12:00 Noon and reconvened at 1:00 P.M.

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11:00 A.M. GREAT FALLS BOARDING KENNELS, infringement., SPR 81-D-056-1, application under Sect. 3-E03 of the Zoning Ordinance to allow renewal of S-81-D-056 for kennel, located at 8920 Old Dominion Drive, on approximately 2.12 acres of land, zoned R-E, Dranesville District, Tax Map Ref. 13-4((1))31.

Chairman Smith stated that the applicant in SPR 81-D-056-1 was requesting a deferral. Mrs. Thonen made a motion to defer this application to April 26, 1988 at 9:00 a.m. as suggested by staff. Hearing no objection, the Board so moved.

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11:20 A.M. SCARBOROUGH CORPORATION, SP 87-C-072, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow dwelling to remain 6.3 ft. from side lot line such that side yards total 22 ft. (8 ft. min., 24 ft. total min. side yard requirements by Sect. 3-207), located at 2946 Franklin Oaks Drive, on approximately 13,089 square feet of land, zoned R-2(C), Centreville District, Tax Map Reference 25-4((14))88.

Kathy Reilly, Staff Coordinator, presented the staff report. She stated that staff recommends approval of this application because it appears the error was caused by a miscommunication between the builder and and surveyor. She added that the removal of the sunroom would cause a hardship to both the property owner and the builder and that the application meets the standards for a special permit.

Stephen Fox, attorney with the law firm of Fox & Proffitt, 10385 Main Street, Fairfax, Virginia, represented the applicant. He explained that the error was discovered at a point during construction when footings had been poured and the walls were up. Because he believed that the error had been made in good faith, he asked that the Board grant the request.

In response to questions from Mrs. Thonen, Mr. Fox explained that the builder would repurchase the house if the application is denied.

Mrs. Thonen expressed her concern with builders trying to construct houses on lots which are too small to accommodate the size of the proposed house. She suggested that in the future the applicant take this into consideration before beginning construction.

Mr. Fox told Mrs. Thonen that he had discussed this with the builder and he had been assured this problem has been rectified.

Karen McMahon, 2946 Franklin Oaks Drive, Herndon, Virginia, co-applicant, came forward to ask the Board to grant this request.

Chairman Smith called for speakers in support of this application and hearing no reply called for speakers in opposition.

Michael James, 2950 Franklin Oaks Drive, Herndon, Virginia, stated that the error was discovered at the time the foundation was poured and was reported to both the builder and the County. He added he was concerned with this request affecting his property value and with a safety factor if the applicant's house caught on fire.

Mr. Fox came forward and disagreed with the speaker's comments regarding this request devaluing his property. He asked the Board to grant this request.

Since there were no additional comments, Chairman Smith closed the public hearing.

Mrs. Thonen made a motion to grant SP 87-C-072 because this is a minimal request and the error was done in good faith.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Mrs. Thonen made the following motion:

WHEREAS, Application No. SP 87-C-072 by SCARBOROUGH CORPORATION under Section 8-901 of the Fairfax County Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow reduction to minimum yard requirements based on error in building location to allow dwelling to remain 6.3 feet from side lot line such that side yards total 22 feet, on property located at 2946 Franklin Oaks Drive, Tax Map Reference 25-4(14)88, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on January 12, 1988; and,

WHEREAS, the Board made the following conclusions of law:

1. The Board has determined that:
  - A. The error exceeds ten (10) percent of the measurement involved, and
  - B. The non-compliance was done in good faith, or through no fault of the property owner, or was the result of an error in the location of the building subsequent to the issuance of a Building Permit, if such was required, and
  - C. Such reduction will not impair the purpose and intent of this Ordinance, and
  - D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
  - E. It will not create an unsafe condition with respect to both other property and public streets, and
  - F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.
  - G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED with the following limitations:

1. This modification is approved for the location and the specific structure shown on the plat included with this application and is not transferable to other land.
2. A new Building Permit shall be obtained reflecting the size and location of the existing structure prior to the issuance of a residential use permit.

Mrs. Thonen seconded the motion which carried by a vote of 6-0 with Mr. Kelley absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on January 20, 1988.

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Page 240, January 12, 1988, (Tape 3), Scheduled case of:

11:40 A.M. FIRST BAPTIST CHURCH OF MERRIFIELD, SP 87-P-073, application under Sects. 3-303 and 8-901 of the Zoning Ordinance to allow addition of building to existing church and related facilities, additional use as a child care center, and waiver of the dustless surface requirement, located at 8122 Ransell Road, on approximately 36,169 square feet of land, zoned R-3, Providence District, Tax Map Reference 49-4((1))36 and 49-4((3))8, SA. (NOTICES NOT IN ORDER)

Jane Kelsey, Chief of the Board of Zoning Appeals Support Branch, explained that the applicant was requesting a deferral so the applicant could meet the notice requirements and to allow time for the staff and the applicant to resolve outstanding issues.

Following a discussion among the Board, Mrs. Thonen made a motion to defer SP 87-P-073 to March 8, 1988 at 9:00 a.m. Mr. DiGiulian seconded the motion which carried unanimously.

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Page 240, January 12, 1988, (Tape 3), Scheduled case of:

12:00 Noon CHILDREN'S WAY SCHOOLS BY REV. ROGER W. VERLEY, SPR 81-C-034-1, application under Sect. 3-103 of the Zoning Ordinance to renew S 81-C-034 for child care center, located at 2558 Flint Hill Road, on approximately 1.145 acres of land, zoned R-1, Centreville District, Tax Map Reference 38-3(1)30, 30A.

Jane Kelsey, Chief of the Board of Zoning Appeals Support Branch, explained that this case needed to be deferred so that the applicant could redo notices. Also, staff is working with the applicant on the provision of transitional screening around the parking lot.

Mrs. Thonen made a motion to defer SPR 81-C-034-1 to March 15, 1988 at 9:00 a.m. as suggested by staff.

Mr. Ribble seconded the motion which carried by a vote of 6-0 with Mr. Kelley absent from the meeting.

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Page 240, January 12, 1988, (Tape 3), Scheduled case of:

12:20 P.M. ELIZABETH M. WOLFSON, VC 87-A-117, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 15.2 feet from rear lot line (25 ft. min. rear yard required by Sect. 3-307), located at 9200 Burnette Drive, on approximately 9,118 square feet of land, zoned R-3(C), Annandale District, Tax Map Reference 69-4((15))13. (DEFERRED FROM 12/8/87)

Chairman Smith stated that a letter had been received from the applicant in VC 87-A-117 requesting a deferral.

Mr. DiGiulian made a motion to defer this case to March 15, 1988 at 9:15 A.M. Mr. Ribble seconded the motion which passed unanimously.

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Page 241, January 12, 1988, (Tape 3), Scheduled case of:

OSWALD AND MARLENE BACHER APPEAL, A 86-V-012

The Board had passed over this case earlier in the day. Mr. Ribbla made a motion to grant a deferral to the appellants and suggested March 8, 1988 at 11:30 A.M. Hearing no objection, the Board so moved.

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Page 241, January 12, 1988, (Tape 3),

PETE SCAMARDO, VC 87-D-129

The Board passed over this case earlier in the day.

Jane Kelsey, Chief of the Board of Zoning Appeals Support Branch, told the Board that the Zoning Administrator was available to come to the public hearing if the Board wished.

Ms. Kelsey explained that the applicant still needed the variance because the fence exceeds the 7 foot height limitation. She added that the Zoning Ordinance states that a fence in the front yard must not exceed 4 feet and if it is in the rear yard, it must not exceed 7 feet.

Following a discussion between the Board and staff, the Board requested that staff contact the applicant and the abutting property owner to obtain permission for the Board to conduct a site visit.

Mrs. Thonen made a motion to defer this case until March 8, 1988 at 12:00 noon as suggested by staff. Mr. Hammack seconded the motion which passed unanimously.

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Page 241, January 12, 1988, (Tape 3), After Agenda Item:

January 5, 1988 Resolutions

Mrs. Thonen moved approval of the Resolutions as prepared by staff. Mrs. Day seconded the motion which passed unanimously.

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Page 241, January 12, 1988, (Tape 3), After Agenda Item:

Organizational Meeting

As that was the last scheduled case on the agenda, Ms. Kelsey stated that the Board had scheduled an organizational meeting. Because two of the Board members had already left, the remaining members decided to reschedule this meeting for January 19, 1988 at the end of the day.

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Page 241, January 12, 1988, (Tape 3), Information Item:

Proposed Home Professional Office Zoning Ordinance Amendment

Mrs. Thonen asked the status of the Home Professional Office Zoning Ordinance Amendment. Jane Kelsey, Chief of the Board of Zoning Appeals Support Branch, explained that the Zoning Administrator has submitted a draft to James P. Zook, Director, Office of Comprehensive Planning, for review prior to going to the Board of Supervisors. She explained that Zoning Ordinance amendments cannot be released to anyone prior to the Board of Supervisors' review. She added that this had taken longer than anticipated because the Zoning Administrator had decided to review the Home Occupation provisions at the same time because they are so closely related.

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Page 241, January 12, 1988, (Tape 3), Information Item:

By-Laws

Jane Kelsey, Chief of the Board of Zoning Appeals Support Branch, distributed copies of the revised Board of Zoning Appeals by-laws for Board review prior to the next meeting. The revisions were as the Board had discussed the previous week. The major revision would be forthcoming, hopefully in the near future.

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Pay Vouchers

Mrs. Day asked staff to discuss the possibility of the Board being paid monthly rather than quarterly.

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As there was no other business to come before the Board, the meeting was adjourned at 1:35 P.M.

Betsy S. Hurtt  
Betsy S. Hurtt, Deputy Clerk to the  
Board of Zoning Appeals

Daniel Smith  
Daniel Smith, Chairman  
Board of Zoning Appeals

SUBMITTED: 7/7/88

APPROVED: 7/12/88

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, January 19, 1988. The following Board Members were present: Daniel Smith, Chairman; Ann Day; Gerald Hyland; Paul Hammack, and Mary Thonen. John DiGiulian, Vice-Chairman; and John Ribbie were absent from the meeting.

Chairman Smith opened the meeting at 9:05 A.M. and Mrs. Day led the prayer.

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Page 243, January 19, 1988 (Tape 1), Scheduled case of:

9:00 A.M. HERITAGE FOREST ASSOCIATES, SP 87-S-016, application under Sect. 3-803 of the Zoning Ordinance to allow community center and recreation facilities, located in the Heritage Estates Subdivision on approx. 3.82 acres, zoned R-8(W.S), Springfield District, Tax Map 65-2((1))pt. 23. (DEF. FROM 5/5, 5/19, 6/9 & 7/7/87, 7/10/87 AND 11/10/87)

Lori Greenlief, Staff Coordinator, presented the staff report. Ms. Greenlief stated that the application has been deferred numerous times in order for the County and the applicant to negotiate a resolution to the issue surrounding the realignment of Federation Drive. Ms. Greenlief further stated that it is staff's judgment that the revised proposal adequately addresses the concerns raised by staff in the initial review of this application, thus, staff recommends approval subject to the revised development conditions dated today.

Bruce McKechnie, attorney for the applicant with the law firm of Falcone & Rosenfeld, Ltd, 10521 Judicial Drive, Suite 100, Fairfax, Virginia, stated the applicant is in agreement with the Development Conditions as stated in the Addendum dated January 19, 1988.

Since there were no speakers to address this application Chairman Smith closed the public hearing.

Mr. Hammack moved to grant SP 87-S-016, Heritage Forest Associates, based on the fact that the application meets the general standards for a Special Permit.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-S-016 by HERITAGE FOREST ASSOCIATES, under Section 3-803 of the Zoning Ordinance to allow community center and recreation facilities, on property located at Intersection of Old Centreville Road and Federation Drive, Tax Map Reference 65-2((10))pt. 23, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 19, 1988; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the applicant is the owner of the land.
- 2. The present zoning is R-8 and WSPOD.
- 3. The area of the lot is 3.82 acres of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 8-403.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

- 1. This approval is granted to the applicant only. However, upon conveyance of the property to the Heritage Forest Homeowners Association, this approval will transfer to the association. This approval is for the location indicated on the application and is not transferable to other land.
- 2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether

- or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
  4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
  5. The maximum number of employees on site at any one time shall be four (4).
  6. The regular hours of operation for the pool shall be from 9:00 a.m. to 9:00 p.m. The hours of operation for the tennis courts shall be from 7:00 a.m. to 10:00 p.m. The hours of operation for the community room shall be from 9:00 a.m. to 10:00 p.m. Swim team practices may begin at 8:00 a.m. The community room shall not be used for meetings during swim meets.
  7. After-hour parties for the swimming pool shall be governed by the following:
    - o Limited to six (6) per season.
    - o Limited to Friday, Saturday and pre-holiday evenings.
    - o Shall not exceed beyond 12:00 midnight.
    - o A written request at least ten (10) days in advance and receive prior written permission from the Zoning Administrator for each individual party or activity.
    - o Requests shall be approved for only one (1) such party at a time and such requests shall be approved only after the successful conclusion of a previous after-hour party.
  8. There shall be no use of bullhorns, whistles (except in emergencies), loudspeakers or amplification before 9:00 a.m. or after 9:00 p.m. and all noise shall be in accordance with the provisions of Chapter 108 of the Fairfax County Code.
  9. If lights are provided for pool and parking lot they shall be in accordance with the following:
    - o The combined height of the light standards and fixtures shall not exceed 12 feet for the pool and parking lot.
    - o The lights shall be low-intensity design which focuses the light directly onto the facility.
    - o Shields shall be installed, if necessary, to prevent the light from projecting beyond the facility.
  10. There shall be a minimum of forty-seven (47) parking spaces for the pool and community center and eight (8) parking spaces for the tennis courts. The maximum number of spaces for the total use once Federation Drive is realigned shall be eighty-four (84).
  11. Transitional Screening 1 shall be provided along the northwestern, northeastern and southern lot lines as shown on the plat submitted with this application. The screening may be modified to allow for entrance features in the area on either side of Federation Drive realigned where it intersects Lot 16 to the north. Foundation plantings shall be provided around the bath house to the satisfaction of the County Arborist.
  12. Interior parking lot landscaping shall be provided in accordance with the provisions of Article 13.
  13. The Consumer Services Section of the Environmental Health Division of the Fairfax County Health Department shall be notified before any pool waters are discharged during drainage or cleaning operations. This agency will make a determination as to whether proper neutralization of these pool waters has been completed.
  14. A soil survey shall be completed if determined necessary by the Director, Department of Environmental Management (DEM), prior to site plan approval. If high water table soils resulting from uncompacted fill, resource removal or any other circumstance resulting in instability are found in the immediate vicinity of the pool, then the pool shall be engineered and constructed to ensure pool stability, including the installation of hydrostatic relief valves and other appropriate measures as, determined by DEM.



- 15. Best Management Practices (BMPs) shall be provided as determined by the Director, Department of Environmental Management.
- 16. Dedication of land for public street purposes shall be provided as shown on the Generalized Development Plan proffered in conjunction with RZ 78-S-093.
- 17. The entrance to the recreation facility shall be thirty (30) feet in width.
- 18. Dedication shall be provided, generally in conformance with the plat dated June 18, 1987 and received by the Board of Zoning Appeals Support Branch on July 1, 1987, to facilitate the construction of a connector road between the subdivision to the north and Federation Drive across the subject property. Temporary grading and construction easements shall also be provided as determined necessary by the Director, DEM.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mrs. Thonen seconded the motion.

The motion carried by a vote of 5-0 with Mr. DiGiulian and Mr. Ribble absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on January 27, 1988. This date shall be deemed to be the final approval date of this special permit.

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9:20 A.M. VULCAN MATERIALS COMPANY, SPA 82-V-091-1, application under Sect. 8-101 and 7-305 of the Zoning Ordinance to renew and amend S 82-V-091 for stone quarrying, crushing, sales, associated quarrying activities, and accessory uses, located at 9800 Ox Road, on approximately 225.94 acres of land, zoned R-1, I-6, N-R, Mount Vernon District, Tax Map Reference 112-2(1)pt. of 8, pt. of 9, and pt. of 11, 12, 13; 106-4(1)pt. 54.

Chairman Smith stated that he was in receipt of a letter from the applicant's agent requesting a deferral due to technical issues that needed to be clarified. Chairman Smith further stated that the applicant's property was on Federal land and in the Natural Resource District and wanted to know the arrangement between the District and Vulcan.

Mrs. Thonen moved to defer SPA 82-V-091-1, Vulcan Materials Company to March 15, 1988 at 9:30 a.m. in order for staff to review additional information provided by the applicant and to resolve technical issues related to the special permit proposal. Mrs. Day seconded the motion which passed by a vote of 5-0 with Mr. DiGiulian and Mr. Ribble absent from the meeting.

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Mrs. Thonen moved that the Board go into Executive Session at 9:30 A.M. to discuss personnel matters. Mrs. Day seconded the motion which passed unanimously 5-0 with Mr. DiGiulian and Mr. Ribble absent from the meeting.

The Board reconvened at 10:00 a.m. Chairman Smith requested that staff schedule a meeting with the presence of Ms. Barbara Byron, Director, Zoning Evaluation Division and Mr. James Zook, Director, Office of Comprehensive Planning to discuss personnel matters.

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9:40 A.M. FAITH FELLOWSHIP ASSEMBLY OF GOD CHURCH, SPA 85-L-069-1, application under Sect. 3-103 of the Zoning Ordinance to amend SP 85-L-069 for a church and related facilities to permit widening of approved church building, located at 7800 Telegraph Road, on approximately 4.75 acres of land, zoned R-1, Lee District, Tax Map Reference 100-1((8))2 and B; 100-1((5))1; and, 100-1((7))A.

Lori Greenlief, Staff Coordinator, presented the staff report. Ms. Greenlief commented that this application was an amendment and the principal change requested is to increase the width of the church from 38.0 feet to 45.33 feet. Ms. Greenlief also requested that Development Condition #11 be changed to read as follows: "A four (4) foot sidewalk shall be provided along Old Telegraph Road and Telegraph Road unless waived by the Department of Environmental Management."

P. J. Wright, 7321 Wickford Drive, Alexandria, Virginia, pastor of the church, stated that an error was made in the original plat as to the width of the church. The applicant is in agreement with the staff report and Development Conditions.

In answer to Mrs. Thonen's question, Ms. Greenlief stated that the Development Conditions concerning the EQC were worded to protect the EQC.

Since there were no speakers to address this application Chairman Smith closed the public hearing.

Mrs. Thonen moved to grant SPA 85-L-069-1, Faith Fellowship Assembly of God Church based on the applicant's testimony and that the application met the standards for a Special Permit Application. Mrs. Thonen also included in her motion that Development Condition #11 be changed to read as follows: "A four (4) foot sidewalk shall be provided along Old Telegraph Road and Telegraph Road unless waived by Department of Environmental Management."

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SPA 85-L-069-1 by FAITH FELLOWSHIP ASSEMBLY OF GOD CHURCH, under Section 3-103 of the Zoning Ordinance to amend SP 85-L-069 for a church and related facilities to permit widening of approved church building, on property located at 7800 Telegraph Road, Tax Map Reference 100-1((8))2 and B; 100-1((5))1, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 19, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 4.75 acres of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 8-303 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The maximum number of seat in the main worship area shall be limited to 220 with a corresponding minimum of 56 parking spaces and a maximum of 63 parking spaces. This does not include that parking area for the parsonage.
6. If parking lot lights are installed, they shall not exceed ten (10) feet in height and shall be shielded, if necessary, to prevent glare onto adjacent properties.
7. Transitional Screening 1 shall be provided along all lot lines except along Old Telegraph Road and Telegraph Road where landscape plantings shall be provided to lessen the visual impact from the street. The size, location and type of plants shall be approved by the County Arborist at the time of site plan review. There shall be an open unplanted area, fifteen (15) feet in width, along the southern lot line. Transitional Screening 1 shall be provided between this open area and the church building and parking area as shown on the plat. Transitional Screening 1 shall be provided along the northern lot line. The barrier requirement shall be waived.
8. The entrance and driveway into the site shall be shifted to the south to provide room for Transitional Screening 1. The existing southern entrance shall be barricaded as shown on the special permit plat and that area shall be replanted to blend with the remainder of the front yard as approved by the County Arborist.
9. Existing quality vegetation shall be preserved as determined by the County Arborist. The parking area may be redesigned to accommodate this preservation provided this parking area is not extended closer to the front or sides of the lot.
10. Right-of-way to 45 feet from centerline of Telegraph Road shall be dedicated to the Board of Supervisors and conveyed in fee simple. Temporary ancillary easements shall be provided. Along Old Telegraph Road, frontage improvements shall be provided and the face of curb to centerline dimension for this widening shall be 22 feet.
11. A four (4) foot sidewalk shall be provided along Old Telegraph Road and Telegraph Road unless waived by Department of Environmental Management.
12. Interior parking lot landscaping shall be provided in accordance with Article 13 of the Zoning Ordinance.
13. Pursuant to the Virginia Code Section 10-152, the applicant shall at the time of site plan approval, record among the land records of Fairfax County, an Open Space Easement to the Board of Supervisors. The easement shall include that land that is shown as floodplain easement on the special permit plat submitted with this application. There shall be no clearing of any vegetation in this area, except for dead or dying trees or shrubs and no grading. There shall be no structures located in this area.
14. The site entrance shall be constructed in accordance with Virginia Department of Transportation standards.
15. Best Management Practices for stormwater management shall be provided as determined by the Director, DEM. These facilities shall not be located in the Environmental Quality Corridor.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Hammack seconded the motion.

The motion carried by a vote of 5-0 with Mr. DiGiulian and Mr. Ribble absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on January 27, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 248, January 19, 1988 (Tape 1), Scheduled case of:

10:00 A.M. GEORGE AND PAT KNIGHT, VC 87-P-147, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 19.5 feet from rear lot line (25 ft. min. rear yard required by Sect. 3-307), located at 9124 Glenbrooke Road, on approximately 10,500 square feet of land, zoned R-3, Providence District, Tax Map Reference 58-2((10))61.

Jane C. Kelsey, Chief, Special Permit and Variance Branch, presented the staff report.

George Knight, 9124 Glenbrook Road, Fairfax, Virginia, applicant, stated that he met the requirements for a variance, especially pertaining to the irregular shape of the lot.

Since there were no speakers to address the application, Chairman Smith closed the public hearing.

Mrs. Day moved to grant VC 87-P-147, George and Pat Knight, based on the applicant's testimony; specifically the irregular shape of the lot, the right side of the property is shorter than the left side, the dwelling is sited at an angle on the lot, lot 51 is 27 feet from the joint rear lot line, and that a 6 foot high fence is just inside the property line of the applicant, thus creating a hardship for the applicant.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-P-147 by GEORGE AND PAT KNIGHT, under Section 3-307 of the Zoning Ordinance to allow construction of addition to dwelling to 19.5 feet from rear lot line, on property located at 9124 Glenbrooke Road at Tax Map Reference 58-2((10))61, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 12, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicants are the owners of the land.
2. The present zoning is R-3.
3. The area of the lot is 10,500 square feet of land.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
  - A. Exceptional shape at the time of the effective date of the Ordinance;
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.

9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.
4. The exterior of the addition shall be architecturally compatible with the existing building and shall be similar in color and materials.

Mr. Hammack seconded the motion.

The motion carried by a vote of 5-0 with Mr. DiGiulian and Mr. Ribble absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on January 27, 1988. This date shall be deemed to be the final approval date of this variance.

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Page <sup>249</sup> 249, January 19, 1988 (Tape 2), Scheduled case of:

Reconsideration of Allison D. Pelkey

Mr. Hammack moved the Board deny the reconsideration of Allison D. Pelkey, SP 87-S-063, with Mrs. Day seconding the motion which passed by a vote of 4-1 with Mr. Smith voting nay and Mr. DiGiulian and Mr. Ribble absent from the meeting.

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The Board discussed a previous Board policy concerning whether a Board member present on hearing for an application can vote on matters relating to an application at some future date and time. Since there was no agreement among the Board, the Board decided to add this to the list to be discussed at the special meeting.

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Page <sup>249</sup> 249, January 19, 1988 (Tape 2), Scheduled case of:

10:30 A.M. JAMES L. FLANAGAN, VC 87-V-146, application under Sect. 18-401 of the Zoning Ordinance to allow construction of 12 feet high detached garage 4 feet from side and rear lot lines (15 ft. min. side yard, 12 ft. min. rear yard required by Sects. 3-207 and 10-104), located at 8701 Curtis Avenue, on approximately 13,894 square feet of land, zoned R-2, Mount Vernon District, Tax Map Reference 110-2((6))32 and pt. of 31 and 33.

Kathy Reilly, Staff Coordinator, presented the staff report. Ms. Reilly noted that the detached garage will be 720 square feet in size which exceeds the 600 square foot limit established by the Zoning Administrator as a guideline for the size of detached garages. This application has been reviewed by the Zoning Administration Division and there is no objection to the size of the structure since it does not exceed a coverage of more than 30% of the rear yard and is less than one-third of the size of the dwelling.

James L. Flanagan, 8701 Curtis Avenue, Alexandria, Virginia, the applicant, stated that he meet the requirements for a Variance. Specifically, he purchased the property in good faith, the lot is large enough to build the addition, and he will use the same type of material for the structure.

Since there were no speakers to address the application, Chairman Smith closed the public hearing.

Mr. Hammack moved to grant, VC 87-V-146, James L. Flanagan, in part based on the applicant's testimony and specifically that the side lot is narrow in width. He granted 4' from the side lot line and 10' from the rear property line making it a 2' variance.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-V-146 by JAMES L. FLANAGAN, under Sections 3-307 and 10-104 of the Zoning Ordinance to allow construction of 12 feet high detached garage 4 feet from side lot line and 10 feet from rear lot line, on property located at 8701 Curtis Avenue at Tax Map Reference 110-2((6))32 and pt. of 31 and 33, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 19, 1988; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the applicant is the owner of the land.
- 2. The present zoning is R-2.
- 3. The area of the lot is 13,894 square feet of land.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

- 1. That the subject property was acquired in good faith.
- 2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
- 3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
- 4. That the strict application of this Ordinance would produce undue hardship.
- 5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
- 6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
- 7. That authorization of the variance will not be of substantial detriment to adjacent property.
- 8. That the character of the zoning district will not be changed by the granting of the variance.
- 9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED IN PART with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit showing all existing and proposed structures shall be obtained prior to any construction.

Mrs. Thonen seconded the motion.

The motion carried by a vote of 4-1, with Chairman Smith voting nay and Mr. DiGiulian and Mr. Ribble absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on January 27, 1988. This date shall be deemed to be the final approval date of this variance.

NOTE: It is noted that Chairman Smith reminded the applicant that a new plat must be submitted showing the structure as approved by the Board before the Chairman can sign the plat as approved.

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10:45 A.M. ROGER O. DEMARCO, VC 87-P-136, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into five (5) lots, proposed Lots 2, 3, and 4 each having a lot width of 4 feet (80 ft. min. lot width required by Sect. 3-306), located at 7622 Shreve Road, on approximately 1.92771 acres of land, zoned R-3, Providence District, Tax Map Reference 49-2((1))162.

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report. Ms. Hamblin-Katnik stated that Mr. DeMarco wanted to subdivide the property into five lots, he does not meet the requirements for a variance, and she specifically noted that only one lot meets the pipestem lot requirements. Ms. Hamblin-Katnik further commented that there are many outstanding transportation issues involved with this application.

Roger DeMarco, 703 Hunter Court, Vienna, Virginia, the applicant, stated that he originally requested a subdivision with five lots and has now reduced it to four lots, which in turn, enables him to leave all trees and natural vegetation in the surrounding area. Mr. DeMarco believes that he meets the criteria for a pipestem lot, specifically, the Vepco easement running across the property, abutting townhouses and the irregular shape of the lot. Mr. DeMarco stated that he will provide fencing to Shreveport Manor Subdivision and will plant 8 feet wide pine trees every 12 feet to screen the view of the proposed subdivision houses from the adjacent subdivision as part of his approval of the variance.

Mrs. Thonen suggested that staff have the Office of Transportation review this application again according to the new plats. Mrs. Thonen stated that the pipestem lot would be less detrimental to the neighborhood than putting in the road.

Richard Shea, 7618 Shreve Road, Falls Church, Virginia, stated that he was neither in opposition nor support of the application, but raised a few issues which were of concern to him. His concerns were to ensure the neighbor's privacy, noise reduction and construction on frontage improvements.

Since there were no additional speakers to address the application, Chairman Smith closed the public hearing.

Mrs. Thonen moved to defer VC 87-P-136, Roger O. DeMarco, to January 26, 1988 at 11:30 a.m. This application was deferred to give the Office of Transportation an opportunity to review and comment on the new plats and also in order to give staff an opportunity to revise the Development Conditions concerning specific areas of concern; the neighbors do not want a cul-de-sac in the location of the new application, do not want new road construction in the immediate area, do want screening between the present houses and the proposed lots, and preservation of the surrounding area of lot five.

Mr. Hammack seconded the motion which passed by a vote of 5-0 with Messrs. DiGiulian and Ribble absent from the meeting.

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11:00 A.M. WILPAX DEVELOPMENT CORP., VC 87-P-137, application under Sect. 18-401 of the Zoning Ordinance to allow construction of a dwelling to 8.0 feet from side lot line (20 ft. min. side yard required by Sect. 3-107), located at 1654 La Salle Street, on approximately 14,712 square feet of land, zoned R-1, Providence District, Tax Map Reference 30-3((2))208A and 209. (TO BE HEARD CONCURRENT WITH VC 87-P-138)

11:00 A.M. WILPAX DEVELOPMENT CORP., VC 87-P-138, application under Sect. 18-401 of the Zoning Ordinance to allow construction of a dwelling to 10.5 feet from each side lot line (20 ft. min. side yard required by Sect. 3-107), located at 1654 La Salle Street, on approximately 9,497 square feet of land, zoned R-1, Providence District, Tax Map Reference 30-3((2))207A. (TO BE HEARD CONCURRENT WITH VC 87-P-137)

Jane C. Kelsey, Chief, Special Permit and Variance Branch, presented the staff report. Ms. Kelsey stated that the subject properties are located in an older subdivision and research of the records of the Zoning Administration Division do not indicate that a substantial number of variances have been granted in this area. Ms. Kelsey specifically pointed out that the submitted plat indicates that the applicants are proposing construction that is encroaching on the City of Falls Church water line easement. The applicants should request written permission from the City of Falls Church to build on the water line easement.

Russell Jenkins, 6817 Baron Road, McLean, Virginia, agent for the applicant stated that he felt the applications met all the requirements for a variance; specifically, the narrowness and shallowness of the lots, and the fact that the old lots in the area could not be built upon without a variance.

Sisinio Flores, Jr., 1650 La Salle Avenue, McLean, Virginia, in opposition to the application, stated that he submitted a letter for the Board. Mr. Fluera is in opposition to the application because the houses are too close together. He also stated that he thought the application was requesting a variance of 10 feet, not 8 feet, from the side lot line.

Mrs. Thonen commented that the application was in keeping with the area and meets the guidelines of a variance.

Mrs. Day stated that she would not support VC 87-P-137 because she did not believe that it was an economic hardship, and that she did not believe that two houses should be built on the lot, that it was poor planning.

Mr. Hammack moved to grant VC 87-P-137, Wilpax Development Corporation, based on the fact that the application satisfies the nine requirements for a variance, that it is a triangular shaped lot, there are easements in the rear, and that it is in conformance with the rest of the neighborhood.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-P-137 by WILPAX DEVELOPMENT CORPORATION, under Section 18-401 of the Zoning Ordinance to allow construction of a dwelling to 8.0 feet from side lot line, on property located at 1654 La Salle Street, Tax Map Reference 30-3((2))208A, 209, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 19, 1988; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 14,712 square feet of land.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

- 1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
A. Exceptional narrowness at the time of the effective date of the Ordinance;



- B. Exceptional shape at the time of the effective date of the Ordinance;
  - C. Substandard lot;
  - D. An extraordinary situation or condition of the subject property, specifically, the large easement in the rear of the property
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
- A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location of the specific dwelling shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.
4. The applicant must obtain written approval from the City of Falls Church before any permit is issued involving construction within a water line easement.
5. The proposed patio/deck shall meet the minimum rear yard requirements for the district.

Mrs. Thonen seconded the motion.

The motion carried by a vote of 4-1 with Mrs. Day voting nay and Messrs. DiGiulian and Ribble absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on January 27, 1988. This date shall be deemed to be the final approval date of this variance.

Chairman Smith noted that the applicant must submit a new plat showing the structures as approved by the Board before the Chairman will sign the plat as approved.

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Mr. Hammack moved to grant VC 87-P-138, Wilpax Development Corporation, based on the facts that the application meets all the nine requirements for a variance, it is a substandard lot, the narrowness of the lot and encumbered with a large easement in the rear.

Mrs. Day stated that she would support this application even though she believes that it is a poor design.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-P-138 by WILPAX DEVELOPMENT CORPORATION, under Section 18-401 of the Zoning Ordinance to allow construction of a dwelling to 10.5 feet from each side lot line, on property located at 1652 La Salle Street, Tax Map Reference 30-3((2))207A, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 19, 1988; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the applicant is the owner of the land.
- 2. The present zoning is R-1.
- 3. The area of the lot is 9,497 square feet of land.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

- 1. That the subject property was acquired in good faith.
- 2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shape at the time of the effective date of the Ordinance, triangular shape;
  - C. Substandard lot;
  - D. An extraordinary situation or condition of the subject property, specifically, the large easement in the rear of the property.
- 3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
- 4. That the strict application of this Ordinance would produce undue hardship.
- 5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
- 6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
- 7. That authorization of the variance will not be of substantial detriment to adjacent property.
- 8. That the character of the zoning district will not be changed by the granting of the variance.
- 9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

- 1. This variance is approved for the location of the specific dwelling shown on the plat included with this application and is not transferable to other land.
- 2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.

3. A Building Permit shall be obtained prior to any construction.
4. The applicant must obtain written approval from the proper authorities of these easements before any permit is issued involving any encroachment on these easements.
5. The proposed patio/deck shall meet the required minimum rear yard for the district.

Mrs. Thonen seconded the motion.

The motion carried by a vote of 5-0 with Messrs. DiGlulian and Ribble absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on January 27, 1988. This date shall be deemed to be the final approval date of this variance.

**NOTE:** It is noted that Chairman Smith reminded the applicant that a new plat must be submitted showing the structures as approved by the Board before the Chairman would sign the plat as approved.

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Page 255, January 19, 1988 (Tape 2), Scheduled case of:

11:15 A.M. FAIRFAX COVENANT CHURCH, SP 87-S-075, application under Sect. 3-C03 of the Zoning Ordinance to allow church and related facilities, located on Ox Road, on approximately 16.15 acres of land, zoned R-C and WS, Springfield District, Tax Map Reference 68-3(1)pt. of 6.

Heidi Belofsky, Staff Coordinator, presented the staff report. Ms. Belofsky commented that the church would have no private school, nor any child care associated with this application.

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The Board recessed at 12:25 and reconvened at 12:40 p.m.

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Heidi Belofsky, Staff Coordinator, continued with the staff report. Ms. Belofsky stated that the applicant has agreed to construct a right turn lane into the site and to finance the conversion of the traffic light at the intersection of Ox Road and Zion Drive from three way to four way. Staff recommends approval of this application subject to the Development Conditions.

Benny Phillips, 6327 Rockwell Road, Burke, Virginia, Senior Pastor of the church, stated that the applicant has cooperated with staff on this application.

Sarah Reifsnnyder, Esq., 4020 University Drive, Fairfax, Virginia, attorney for the applicant, stated that the applicant had worked with staff to make this an application that meets all the standards for a Special Permit. The church has reduced the seating capacity from 2,000 people to 1,200 people, thus, a concurrent reduction in parking spaces. The parking lots have been reconfigured at the suggestion of staff. The church worked out an agreement with the Country Club of Fairfax for access at Zion Drive. The applicant agrees with the last paragraph of Development Condition #5, which states that an analysis of the intersection of Ox Road and Zion Drive to handle the special permit use shall be provided before the site plan is approved. Ms. Reifsnnyder suggested changes in some of the Development Conditions.

Chairman Smith stated that he did not feel that staff should set hours of operation on any church.

Since there were no speakers to address this application Chairman Smith closed the public hearing.

Mrs. Thonen moved to grant SP 87-S-075, Fairfax Covenant Church, based on the fact that there is 1,200 seating capacity on 16.15 acres and 80% open space and the fact that the application does not impact anyone. Development Conditions #1 through #7 will stay the same. Development Condition #8 shall read: "The maximum number of staff persons on site at any one time shall not exceed 15". Development Conditions #9 through #11 shall remain the same. Development Condition #12 shall read: "In order to minimize adverse impacts on the surrounding residential development, no activities or meetings shall begin prior to 8:00 a.m. or conclude after 10:00 p.m. on any day of the week. Religious

services shall be in accordance with normal church hours". Development Conditions #13 through #16 shall remain the same. Development Condition #17 shall read: "All church related activities shall be conducted without offsite noise". Development Condition #18 shall read: "There shall be no school nor any child care facility associated with this parcel without BZA approval". Development Conditions #19 through #20 shall remain the same. Development Condition #21 shall read: "The forty (40) foot ingress-egress easement shown on the plat shall be recorded as a permanent easement among the land records of Fairfax County. Any revocation of this access easement shall immediately render SP 87-S-075 null and void without prior BZA approval".

Mr. Hammack seconded the motion.

Mr. Hammack made an amended motion to change Development Condition #12 to read as follows: "In order to minimize adverse impacts on the surrounding residential communities, hours of operation of activities and meetings or services shall be limited to those associated with normal church activities".

After the motion was seconded a discussion ensued about the possibility of outside noise. Chairman Smith stated, "They don't have any recreation facilities shown on here, they're not going to have any ballfields."

Mrs. Thonen accepted Mr. Hammack's amendment to the motion.

Mr. Hammack made an amended motion to change Development Condition #17 that would read as follows: "All outdoor uses shall comply with all applicable County Ordinances".

Mrs. Thonen accepted Mr. Hammack's amendment to the motion.

In answer to Ms. Kelsey's question concerning Development Condition #18, Mrs. Thonen stated that Development Condition #18 should read as follows: "There shall be no school nor any child care facility associated with this parcel without Board of Zoning Appeals or Board of Supervisors' approval. Any conferences on site shall not exceed the seating capacity of 1200 without prior BZA approval".

Ms. Belofsky clarified that staff is trying to standardize the Development Conditions for churches and staff cannot discriminate between the various religions.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-S-075 by FAIRFAX COVENANT CHURCH, under Section 3-C03 of the Zoning Ordinance to allow church and related facilities, on property located on Ox Road, Tax Map Reference 68-3(1)pt. of 6, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 19, 1988; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the applicant is the contract purchaser.
- 2. The present zoning is R-C and WSP0D.
- 3. The area of the lot is 16.15 acres of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 8-303 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
- 2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether

or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans. Any plan submitted to the Department of Environmental Management pursuant to this Special Permit shall conform with the approved Special Permit plat and these conditions.
5. The following transportation improvements shall be implemented:  

Temporary ancillary easements as necessary for public street purposes shall be provided along the site frontage of Ox Road.

Site access shall be provided from a single entrance at the intersection of Ox Road and Zion Drive.

Interparcel access shall be provided to adjoining lot 6A.

The right turn lane from Ox Road into the site shown on the plat shall be provided in accordance with VDOT specifications.

The traffic signal at the intersection of Ox Road and Zion Drive shall be improved from a three (3) way signal to a four (4) way signal at the applicant's expense.

An intersection analysis showing the adequacy of the intersection of Ox Road and Zion Drive to handle the Special Permit use shall be provided before the site plan is approved. The recommendations of this analysis, if any, shall be implemented at the applicant's expense as may be deemed appropriate by the Department of Environmental Management (DEM) in consultation with the County Office of Transportation and the Virginia Department of Transportation (VDOT).
6. There shall be a maximum of 1200 seats in the main place of worship and a corresponding minimum of 300 parking spaces and a maximum of 305 parking spaces including all required handicap parking. All parking for this facility shall be on site.
7. There shall be no free standing spire on site. Any sign or other method of identification shall conform with Article 12 of the Zoning Ordinance.
8. The maximum number of staff persons on site at any one time shall not exceed 15.
9. Best Management Practices shall be provided as indicated on the submitted plat. Additional measures may be required by the Director of DEM at the time of site plan approval.
10. The exterior of the building shall generally conform to the Architectural plans submitted with this application in regard to height, architectural design and materials of brick and glass. These plans shall become part of and remain attached to the Development Conditions.
11. No expansion of the main place of worship either temporary or permanent may occur without approval by the BZA of an amendment to the approved Special Permit.
12. In order to minimize adverse impacts on the surrounding residential communities; hours of operation of activities and meetings or services shall be limited to those associated with normal church activities.
13. Transitional Screening 2 shall be installed along all lot lines with the following modifications: The existing vegetation which shall be supplemented if necessary to meet Par. 4 of Sect. 13-104 and the landscaping shown on the submitted plat shall be used to satisfy the Screening requirement. Clearing and Grading shall be limited to within 25 feet of the building parking areas, and drainfield along the Western lot line in order to ensure maximum tree preservation.

- 14. The Barrier requirement shall be modified to allow the six (6) foot wooden privacy fence shown on the plat along the frontage of lot 6A to fulfill this requirement.
- 15. The interior of the parking lot shall be landscaped and maintained in accordance with Article 13 of the Zoning Ordinance.
- 16. The poles for outdoor lighting shall not exceed twelve (12) feet in height and shall be located, oriented, and shielded so as to prevent light or glare from projecting onto adjacent properties.
- 17. All outdoor uses shall comply with all applicable County Ordinances.
- 18. There shall be no school nor any child care facility associated with this parcel without Board of Zoning Appeals or Board of Supervisors' approval. Any conferences on site shall not exceed the seating capacity of 1200 without prior BZA approval.
- 19. Public water shall be supplied to the site at no cost to Fairfax County.
- 20. Approval of a septic system must be granted in writing by the Health Department prior to the issuance of any building permit. Approval of this special permit use shall not be construed to imply approval of any septic system nor obligate the county to provide public sewer to the site.
- 21. The forty (40) foot ingress-egress easement shown on the plat shall be recorded as a permanent easement among the land records of Fairfax County. Any revocation of this access easement shall immediately render SP 87-S-075 null and void without prior Board of Zoning Appeals approval.
- 22. Notation number 12. on the submitted plat which reads "the landscaping is shown for illustrative purposes only and may change with final design and engineering" shall be deleted from the plat in its entirety.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Hammack seconded the motion.

The motion carried by a vote of 5-0 with Messrs. DiGiulian and Ribble absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on January 27, 1988. This date shall be deemed to be the final approval date of this special permit.

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11:30 A.M. FAIRFAX COUNTY WATER AUTHORITY, SP 87-V-048, application under Sect. 3-203 of the Zoning Ordinance to allow waiver of dustless surface requirement to retain gravel driveway and parking spaces for expanded water storage and pumping facilities, located at 7715 and 7717 Fordson Road, on approximately 2.6285 acres of land, zoned R-2, Mount Vernon, Tax Map Reference 102-1(1)85 and 85A. (TO BE HEARD CONCURRENT WITH SE 87-V-055)

Jana C. Kelsey, Chief, Special Permit and Variance Branch, presented the staff report. Ms. Kelsey stated that SE 87-V-055, to be heard concurrent with SP 87-V-048, was heard by the Board of Supervisors and approved on January 11, 1987. Staff recommends approval based upon the Development Conditions.

Marty Sultan, Fairfax County Water Authority, 8560 Arlington Boulevard, Merrifield, Virginia, agent for the applicant, stated that on page 2 of the staff report the date of the Board of Supervisors' hearing was January 11, 1988, not January 11, 1987. Mr. Sultan stated that the applicant agreed with the Development Conditions requested by staff.

Since there were no speakers to address this application Chairman Smith closed the public hearing.

Mrs. Day moved to grant SP 87-V-048, Fairfax County Water Authority, based on the fact that a dustless surface on a small lot should not have an adverse affect on a neighboring area, the use is not a heavy automobile use, the fact that the applicant agrees with the Development Conditions, and meets the requirements for a Special Permit.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-V-048 by FAIRFAX COUNTY WATER AUTHORITY, under Section 3-203 of the Zoning Ordinance to allow waiver of dustless surface requirement to retain gravel driveway and parking spaces for expanded water storage and pumping facilities, on property located at 7715 and 7717 Fordson Road, Tax Map Reference 102-1(1)85 and 85A, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 19, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-2 and HC.
3. The area of the lot is 2.6285 acres of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-903 and 8-915 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. A waiver of the dustless surface requirement shall be granted for the driveway and parking area. These areas shall be maintained in accordance with the standard practices approved by the Director, Department of Environmental Management, which shall include but not be limited to the following:
  - A. Travel speeds in the parking areas shall be limited to 10 mph or less.
  - B. During dry periods, application of water or calcium chloride shall be made in order to control dust.

- C. Routine maintenance shall be performed to prevent surface unevenness, wear-through or subsoil exposure. Resurfacing shall be conducted when stone becomes thin.
  - D. Runoff shall be channeled away from and around the parking areas.
  - E. The property owner shall perform periodic inspections to monitor dust conditions, drainage functions, compaction and migration of stone surface.
6. This waiver of the dustless surface requirement is approved for a period of five (5) years.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date. Mrs. Thonen seconded the motion.

The motion carried by a vote of 5-0 with Messrs. DiGiulian and Ribble absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on January 27, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 260, January 19, 1988, (Tape 3), After Agenda #1:

Approval of Resolutions from January 12, 1988

Mrs. Thonen moved to approve the Resolutions from January 12, 1988 with Mr. Hammack seconding the motion which passed by a vote of 5-0 with Messrs. DiGiulian and Ribble absent from the meeting.

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Page 260, January 19, 1988, (Tape 3), After Agenda #2:

Request for Additional Time  
Capital Baptist Church  
SPA 76-M-268-1

Mr. Hammack moved to grant the request of Capital Baptist Church, SPA 76-M-268-1, an additional 12 months in order to begin construction. The new expiration is December 17, 1988. Mrs. Thonen seconded the motion which passed unanimously by a vote of 5-0 with Messrs. DiGiulian and Ribble absent from the meeting.

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Mrs. Thonen moved to go into Executive Session with Mr. James Zook, Director, Office of Comprehensive Planning and Ms. Barbara Byron, Director, Zoning Evaluation Division. Mr. Hammack seconded the motion which passed by a vote of 5-0 with Messrs. DiGiulian and Ribble absent from the meeting. Mrs. Thonen noted, for the record, the Board went into Executive Session at 1:35 p.m. without lunch.

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The Board reconvened at 2:40 p.m. after the Executive Session

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Chairman Smith stated that the Board wanted to have a Special Meeting on March 29, 1988 with Mr. James Zook, Director, Office of Comprehensive Planning, Ms. Barbara Byron, Director, Zoning Evaluation Division and Ms. Jane C. Kelsey, Chief, Special Permit and Variance Branch to discuss various items. The various items to be discussed will be the Noise Ordinance and its implementation, transportation issues, trail issues, the funding for the Baker Appeal litigation, and other relevant issues as brought up in the Executive Session.

Mrs. Thonen moved to have a Special Meeting on March 29, 1988 with Mr. Hammack seconding the motion which passed by a vote of 5-0 with Messrs. DiGiulian and Ribble absent from the meeting.

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As there was no other business to come before the Board, the meeting was adjourned at 2:45 P.M. with no lunch.

  
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Tamara S. Gentry, Associate Clerk  
Board of Zoning Appeals

  
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Daniel Smith, Chairman  
Board of Zoning Appeals

SUBMITTED: 4/26/88

APPROVED: 5/3/88

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, January 26, 1988. The following Board Members were present: Daniel Smith, Chairman; Ann Day; Paul Hammack; Robert Kelley. John DiGiulian, Vice-Chairman; John Ribble and Mary Thonen were absent from the meeting.

Chairman Smith opened the meeting at 9:42 A.M. and Mrs. Day led the prayer.

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Page 262 January 26, 1988, (Tape 1), Scheduled case of:

9:00 A.M. U.S. HOME - SHEMANDOAH VALLEY LAND DEVELOPMENT DIVISION, SP 87-C-077, application under Sect. 8-914 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow dwelling to remain 17.5 feet from rear lot line (20 ft. min. rear yard required by Sect. 3-507), located at 3617 Buckeye Court, on approximately 1,500 square feet of land, zoned R-5, Centreville District, Tax Map Reference 35-3((5))(1)195A.

In the staff coordinator's absence, Jane Kelsey, Chief, Special Permit and Variance Branch, presented the staff report and advised the Board that staff was recommending approval of the application subject to the development conditions contained in the staff report.

Bandy Minchew with Hazel, Thomas, Fiske, Beckhorn and Hanes, located at 3110 Fairview Park Drive, Falls Church, Virginia, appeared before the Board as the representative of the applicant, and stated that the error was made in good faith. He added that the applicant was not aware of the error until the Department of Environmental Management (DEM) informed them that the as-built plan for Franklin Glen indicated that lot 195A was in violation of the minimum rear yard requirement. Mr. Minchew explained that the mistake was due to a surveying error.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Mr. Hammack moved to grant the request as it was in compliance with general standards and additional standards for this use, subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-C-077 by U.S. HOME - SHEMANDOAH VALLEY LAND DEVELOPMENT DIVISION, under Section 8-914 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow dwelling to remain 17.5 feet from rear lot line, on property located at 3617 Buckeye Court, Tax Map Reference 35-3((5))(1)195A, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 26, 1988; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the applicant is the developer/builder of the land.
- 2. The present zoning is R-5.
- 3. The area of the lot is 1,500 square feet of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-903 and 8-914 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

- 1. This approval is for the location and the specific structure shown on the plat included with this application and is not transferable to other land.
- 2. A building permit accurately reflecting the location of the townhouse shall be obtained.

Mrs. Day seconded the motion.

The motion carried by a vote of 4-0 with Messrs. DiGiulian, Ribble, and Mrs. Thonen absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on February 3, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 263, January 26, 1988, (Tape 1), Scheduled case of:

9:15 A.M. CHILD FAMILY SERVICES, INC., SP 87-L-076, application under Sect. 3-2003 of the Zoning Ordinance to allow a child care center, located at 6272 and 6276 Edsall Road, on approximately 8.3643 acres of land, zoned R-20, Lee District, Tax Map Reference 72-4((1))31.

Chairman Smith announced that the Board was in receipt of a letter from the applicant in the above referenced application requesting a deferral.

Jane Kelsey, Chief, Special Permit and Variance Branch, explained that staff has some major concerns with the application and the applicant has requested a one month deferral to allow time to resolve the issues. Staff recommended a new public hearing date of March 15, 1988 at 11:30 a.m.

Mrs. Day moved to defer the subject application to March 15, 1988 at 11:30 a.m. Mr. Hammack seconded the motion which passed by a vote of 4-0 with Messrs. DiGiulian, Ribble and Mrs. Thonen absent from the meeting.

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Page 263, January 26, 1988, (Tape 1), Scheduled case of:

9:30 A.M. DAVID C. MARTIN, VC 87-C-135, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 15.5 ft. from side lot line (20 ft. min. side yard required by Sect. 3-E07), located at 10501/William Terry Drive on approximately 100,460 square feet of land, zoned R-E, Centreville District, Tax Map Reference 37-2((19))9.

In the staff coordinator's absence, Jane Kelsey, Chief, Special Permit and Variance Branch, presented the staff report and advised the Board that the house adjacent to the proposed addition sets back 98 feet from the shared lot line.

David Martin, the applicant, 10501 William Terry, Vienna, Virginia, appeared before the Board and explained his request as outlined in the statement of justification submitted with the application. Mr. Martin stated that he always had three to four cars at the house, which only has a two car garage, and added that he would like additional space to park the cars.

Following a question from Chairman Smith, Mr. Martin stated that a 13 foot wide structure was needed to protect the architectural appearance.

Mrs. Day noted that the applicant suffered a hardship because of the narrowness of the lot in the front as well as a septic field in the front. She added that if the house had been sited towards the middle or rear of the lot, a variance would not be necessary.

Chairman Smith noted that a 12 foot addition was all that was necessary and the Board could only grant a minimum variance. Since there were no other speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mrs. Day stated that the house on the lot next door was 98 feet from the shared lot line. She added that the hardship was because of the way the house was sited on the lot, which was done because of a topographical problem, and because a septic field in the front of the lot. Mrs. Day moved to grant the variance request subject to the development conditions with the following modification to condition number 5 which will read: "The addition to the existing carport shall be 12 feet wide."

Mr. Hammack seconded the motion for purposes of discussion. He stated that the application as proposed would be better since it would allow the applicant a 13 foot wide addition. Mr. Hammack added that the extra foot would not make any difference.

Chairman Smith reminded the Board that it must follow all of the requirements of the Zoning Ordinance and pointed out that the applicant did not need the additional foot.

Ms. Kelsey suggested a deferral to allow the applicant time to address the concerns of the Board.

There being no other discussion, Chairman Smith called for the vote on the motion which passed by a vote of 4-0 with Messrs. DiGiulian, Ribble and Mrs. Thonen absent from the meeting.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-C-135 by DAVID C. MARTIN, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 15.5 feet from side lot line, (BOARD GRANTED ADDITION TO DWELLING TO 16.5 FEET FROM SIDE LOT LINE) on property located at 1501 William Terry Drive, Tax Map Reference 37-2((19))9, Mrs. Day, moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 26, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-R.
3. The area of the lot is 100,460 square feet of land.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;
  - F. An extraordinary situation or condition of the subject property, or
  - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.
4. The exterior of the addition shall be architecturally compatible with the existing building and shall be similar in color and materials.
5. The addition to the existing carport shall be 12 feet wide.

Mr. Hammack seconded the motion.

The motion carried by a vote of 4-0 with Messrs. DiGiulian, Ribble and Mrs. Thonen absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on February 3, 1988. This date shall be deemed to be the final approval date of this variance.

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Page ~~264~~ 265, January 26, 1988, (Tape 1), Scheduled case of:

9:45 A.M. FRED DAUGHERTY, SF 87-S-079, application under Sect. 5-503 of the Zoning Ordinance to allow health club, located at 14100 Parke-Long Court, on approximately 3.1314 acres of land, zoned I-5, Springfield District, Tax Map Reference 34-4((13))1.

Lori Greenlief, Staff Coordinator, presented the staff report. She advised the Board that development condition number 6 should be revised to "7:30 A.M. to 9:00 P.M., Monday through Friday and 8:00 A.M. to 4:00 P.M. Saturday and Sunday."

Randy Minchew with Hazel, Fiske, Thomas, Beckhorn and Hanes, located at 3110 Fairview Park View Drive, Falls Church, Virginia, appeared before the Board and stated that the proposal was to allow a passive health club use. Mr. Minchew added that the proposal will compliment the area. He further stated that this office building has an approved site plan and a building permit issued for the proposal.

Mr. Minchew suggested the following modifications to the development conditions:

"4. If a parking permit is required for this use, this use shall be subject to the provisions in set forth in Article 17, Site Plans.

5. There shall be a minimum of eight (8) parking spaces associated with this use on site. A parking tabulation shall be provided to the Director of the Department of Environmental Management which indicates that adequate parking is available as required by the Zoning Administrator prior to issuance of a Non Residential Use Permit."

In conclusions, Mr. Minchew stated that all parking for this use shall be on site and added that the number of parking spaces required for this health club use is less than those required for an office use.

Ms. Greenlief stated that staff agreed with the suggested amendments but noted that in Condition 5, the words "as required by the Zoning Administrator" be changed to "as required by the Zoning Ordinance."

Since there were no other speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. Hammack stated that the proposal was in compliance with the standards for a special permit, therefore he moved to grant the request subject to the revised development conditions:

"4. If a building permit is required for this use, this use shall be subject to the provisions set forth in Article 17, Site Plans.

5. There shall be a minimum of eight (8) parking spaces associated with this use provided on site. A parking tabulation shall be provided to the Director, Department of Environmental Management, which indicates that adequate parking is available as required by the Zoning Administrator prior to the issuance of a Non-Residential Use Permit. All parking for this use shall be on site.
6. The hours of operation shall be limited to 7:30 a.m. to 9:00 p.m., Monday through Friday, and 8:00 a.m. to 4:00 p.m. Saturday and Sunday."

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-S-079 by FRED DAUGHERTY, under Section 5-503 of the Zoning Ordinance to allow health club, on property located at 14100 Parke-Long Court, Tax Map Reference 34-4(13)i, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 26, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the lessee.
2. The present zoning is I-5
3. The area of the lot is 3.1314 acres of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 8-503 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. If a building permit is required for this use, this use shall be subject to the provisions set forth in Article 17, Site Plans.
5. There shall be a minimum of eight (8) parking spaces associated with this use provided on site. A parking tabulation shall be provided to the Director, Department of Environmental Management which indicates that adequate parking is available as required by the Zoning Administrator prior to the issuance of a non-residential use permit. All parking for this use shall be on site.
6. The hours of operation shall be limited to 7:30 a.m. to 9:00 p.m., Monday through Friday and 8:00 a.m. to 4:00 p.m. Saturday and Sunday.
7. There shall be a maximum of four (4) employees associated with this use on site at any one time.

8. There shall be a maximum of 12 patrons on site at any one time.
9. Any signs erected shall be in conformance with Article 12 of the Zoning Ordinance, Signs.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date\* of the Special Permit unless the activity authorized has been established, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mrs. Day seconded the motion.

The motion carried by a vote of 4-0 with Messrs. DiGiulian, Ribble and Mrs. Thonen absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on February 3, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 267, January 26, 1988, (Tape 1), Scheduled case of:

10:15 A.M. REAGAN H. GREER AND JACK J. GREER, VC 87 D-152, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into three (3) lots, each having a lot width of 8.24 feet (200 ft. min. lot width required by Sect. 3-E06), located at 908 Peacock Station Road, on approximately 10.0 acres of land, zoned R-E, Dranesville District, Tax Map Reference 13-4(1)41.

Lori Greenlief, Staff Coordinator, presented the staff report and advised the Board that staff had some concerns regarding transportation. She added that a public street should be provided if access is provided to more than five (5) lots, all of which are greater than 18,000 square feet. From an environmental standpoint a large portion of the site is in the Environmental Quality Corridor (EQC) which should be preserved. Ms. Greenlief stated that a floodplain study for the southwest corner would be necessary at the time of subdivision plan review. She added that staff was concerned about a precedent being set in the area of the application as there were several other large lots in the area.

Keith Martin, Walsh, Colucci, Stackhouse, Enrich & Lubelay, P.C., 950 North Glebe Road, Suite 300, Arlington, Virginia, advised the Board that the 35 foot right-of-way available along the tail of the property allows for the necessary 20 foot wide pavement as suggested by the Public Facilities Manual (PFM). He added that the public street standards would require a 50 foot right-of-way and the applicant has 35 feet of right-of-way and could construct a private street onto the property at PFM standards. He also stated that the EQC was being preserved through dedication to the Park Authority and/or conservation easement. Mr. Martin added that the applicant will commit to do a floodplain study. In conclusion, Mr. Martin stated that the applicant had met the standards for a variance due to the narrowness and unique shape of the lot.

Chairman Smith called for speakers in opposition and the following citizens came forward: Martha Harris, Chairman of the Planning and Zoning Board, Great Falls Citizens Association; Jocelyn and Michael Britton, 910 Peacock Station Road, Great Falls, Virginia; Gail Brown, 904 Peacock Station Road, McLean, Virginia; and, Marjorie Green, 902 Peacock Station Road, McLean, Virginia. These citizens supported the staff report and also expressed concern that about flooding, the preservation of the EQC, the additional traffic, the character of the neighborhood would be changed, and that an undesirable precedent would be set.

Chairman Smith disagreed with staff, noting that one house on ten acres of land would be unreasonable use of the land.

In rebuttal, Mr. Martin stated that 3-4 acre lots was reasonable use of the land and that denying the variance would restrict reasonable use of the property. He added that a good precedent would be set as a large portion of the area would be dedicated to the Park Authority. Mr. Martin also pointed out that if a portion of the area was in a floodplain then a special exception or variance would be required before the property could be developed. He also noted the aesthetic value of the property to the wildlife.

Since there were no other speakers to address this issue, Chairman Smith closed the public hearing.

Prior to making the motion, Mrs. Day stated that the area should be protected as it is in the Difficult Run Floodplain. She added that there was a problem with road access. Mrs. Day noted that there were other lots in the area that had the same conditions and this lot did not meet the requirements for a variance.

Mr. Hammack seconded the motion and agreed with Mrs. Day's comments. He also noted serious environmental problems and further noted that he would like to know more about the floodplain area. Mr. Hammack added that the property was unique in some ways but he could not support the variance at this time. He pointed out that maybe the property should be developed into two lots as opposed to three lots.

Chairman Smith stated that he would not support the motion to deny the application as it was a reasonable request. He added that he was not convinced of the environmental problems and since the applicant was willing to complete the stream valley connection in Difficult Run this was an asset to the people who live there. He added that the proposal was in harmony with the Plan and the applicant should be able to obtain some relief from the hardship requirements for a variance.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-D-152 by REAGAN H. AND JACK J. GREER, under Section 18-401 of the Zoning Ordinance to allow subdivision into (3) lots, each having a width of 8.24 feet, on property located at 908 Peacock Station Road, Tax Map Reference 13-4(1)41, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 26, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-E.
3. The area of the lot is 10.0 acres of land.

This application does not meet all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance.

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;
  - F. An extraordinary situation or condition of the subject property, or
  - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.



7. That authorization of the variance will not be of substantial detriment to adjacent property.

8. That the character of the zoning district will not be changed by the granting of the variance.

9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has not satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED.

The vote was 2-2 with Chairman Smith and Mr. Kelley voting nay; Mr. Hammack and Mrs. Day voting aye; Messrs. DiGiulian, Ribble and Mrs. Thonen absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on February 3, 1988.

At this time, Mr. Martin requested a waiver of the 12 month limitation on rehearing the subject application.

Mr. Hammack so moved with Mr. Kelley seconded the motion which passed unanimously. Messrs. DiGiulian, Ribble and Mrs. Thonen absent from the meeting.

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Page 269, January 26, 1988, (Tape 1), Scheduled case of:

10:30 A.M. FAITH UNITED METHODIST CHURCH, SP 87-L-081, application under Sect. 3-203 of the Zoning Ordinance to allow a child care center, located at 7010 Harrison Lane, on approximately 5.33 acres of land, zoned R-2, Lee District, Tax Map Reference 92-2((1))8B

Jane Kelsey, Chief, Special Permit and Variance Branch, presented the staff report in Heidi Belofsky's absence. She stated that staff was recommending approval of the application subject to the development conditions contained in the staff report.

Kathleen Welsh, 4508 Arendale Square, Alexandria, Virginia, representative for the applicant, appeared before the Board and explained that due to economic reasons the applicant could dedicate but not construct a right turn land into the site from Harrison Lane.

The pastor of the church appeared before the Board and stated that due to economic reasons the church could not construct the right turn lane.

Following a discussion among the Board, it was determined that the application be passed over to allow staff time to determine when Harrison Lane was planned to be improved.

There being no objection, the Chair so ordered.

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Page 269, January 26, 1988 (Tape 1), Scheduled case of:

10:45 A.M. MELVIN HOTTMAN, VC 87-M-151, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 20.7 feet from a street line of a corner lot (30 ft. min. front yard required by Sect. 3-307), located at 4111 Wynnwood Drive, on approximately 12,570 square feet of land, zoned R-3 and MC, Mason District, Tax Map Reference 60-4((24))7.

Jane Kelsey, Chief, Special Permit and Variance Branch, presented the staff report.

Melvin Hottman, 4111 Wynnwood Drive, Annandale, Virginia, the applicant, appeared before the Board and explained the request as outlined in the statement of justification submitted with the application. He also submitted letters in support of the request and also stated that the subject property did not have a garage as did other properties in the area. He noted that he needed storage area and that the proposal would be in harmony with the rest of the area.

Following questions from the Board, Mr. Hottman stated that he did propose expanding the carport because he needed storage area and that he would like to get his cars off the

street. Mr. Hottman added that the carport would be incorporated into the garage and that it would be more aesthetically pleasing to access the garage off of Crossmann Street.

Mr. Hammack stated that he could not support the application as submitted as he objected to the enlargement of the carport.

Chairman Smith called for speakers in support of the application and there being none, called for speakers in opposition and the following citizens came forward: Allen White and Jenna Blalock.

The speakers expressed concern that the addition was more than half the size of the house and it would degrade the area and set an intolerable precedent. They suggested that the applicant has reasonable use of the property and that Mr. Hottman should utilize the existing carport. They were also opposed to the relocation of the driveway.

In rebuttal, Mr. Hottman stated that he would have liked to have discussed the proposal with the neighbors but he was unaware of their concerns, therefore he requested a 30 day deferral to try to resolve the issues with the neighbors.

Ms. Kelsey suggested March 15, 1988 at 11:45 A.M.

Mrs. Day so moved and Mr. Hammack seconded the motion which passed unanimously with Messrs. DiGiulian, Ribble and Mrs. Thonen absent from the meeting.

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At 12:40 P.M. the Board recessed and reconvened the meeting at 12:53 P.M.

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Page 220, January 26, 1988, (Tape 2), Continuation of:

10:30 A.M. FAITH UNITED METHODIST CHURCH, SP 87-L-081, application under Sect. 3-203 of the Zoning Ordinance to allow a child care center, located at 7010 Harrison Lane, on approximately 5.33 acres of land, zoned R-2, Lee District, Tax Map Reference 92-2((1))8B

As staff was now prepared to answer the Board's questions as to when Harrison Lane was scheduled to be widened, the Board continued with the above referenced application.

Ms. Kelsey advised the Board that would be a minimum of six years before Harrison Lane would be widened.

Mr. Hammack stated that the property needed the right turn lane, therefore he moved to grant the request subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-L-081 by FAITH UNITED METHODIST CHURCH, under Section 3-203 of the Zoning Ordinance to allow a child care center, on property located at 7010 Harrison Lane, Tax Map Reference 92-2((1))8B, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 26, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-2.
3. The area of the lot is 5.33 acres of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 8-915 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans. Any plan submitted to the Department of Environmental Management (DEM) pursuant to this Special Permit shall conform with the approved Special Permit and these conditions.
5. The following transportation improvements shall be implemented:
  - o Right-of-way to thirty (30) feet from centerline of Harrison Lane necessary for road improvements shall be dedicated for public street purposes and shall convey to the Board of Supervisors in fee simple upon sixty (60) days notice from the Virginia Department of Transportation (VDOT).
  - o A right turn lane into the site from Harrison Lane shall be constructed to VDOT specifications.
  - o Handicap parking shall be provided and identified in accordance with the Code of Virginia.
  - o Temporary ancillary easements shall be provided to facilitate road improvements on Harrison Lane.
6. The maximum daily enrollment shall be limited to thirty-six (36) children. The hours of operation shall be limited to 7:00 a.m. to 6:00 p.m.
7. There shall be a maximum of six (6) employees on site at any one time.
8. The existing parking spaces shall be used to satisfy the required seven (7) spaces. All parking shall be on site.
9. Transitional Screening 1 shall be provided along all lot lines with the following modifications:
  - o The existing vegetation shall be used to satisfy the screening requirement along the western lot line and clearing and grading shall be limited to the "existing tree line" shown on the plat.
  - o Between the southern lot line and the parking lot evergreen plantings shall be installed so as to minimize the noise and the dust of the parking area. The specific type, size, and density shall be approved by the County Arborist.
  - o Along the northern and eastern lot lines the existing vegetation, which shall be supplemented as necessary to meet Par. 4 of Sect. 13-104, shall be used to satisfy the screening requirement.
10. Provided the outdoor recreation area is completely fenced, the barrier requirement shall be waived.
11. Any sign erected shall conform to Article 12 of the Zoning Ordinance.

12. Lighting, if used shall be shielded so as to prevent light or glare from projecting onto adjacent properties.
13. At such time as the parking area is paved, it shall be relocated out of the required screening yards, Transitional Screening 1, and interior parking lot landscaping shall be provided in accordance with the Zoning Ordinance.
14. The modification of the dustless surface requirement is approved for two (2) years and shall automatically expire, without notice on January 26, 1990.

This area shall be maintained in accordance with the standard practices approved by the Director, Department of Environmental Management, which shall include but not be limited to the following:

- A. Travel speeds in the parking areas shall be limited to 10 mph or less.
- B. During dry periods, application of water or calcium chloride shall be made in order to control dust.
- C. Routine maintenance shall be performed to prevent surface unevenness, wear-through or subsoil exposure. Resurfacing shall be conducted when stone becomes thin.
- D. Runoff shall be channeled away from and around the parking areas.
- E. The property owner shall perform periodic inspections to monitor dust conditions, drainage functions, compaction and migration of stone surface.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date\* of the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mrs. Day seconded the motion.

The motion carried by a vote of 4-0 with Messrs. DiGiulian, Ribble and Mrs. Thonen absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on February 3, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 272, January 26, 1988, (Tape 2), Scheduled case of:

11:00 A.M. PROSPECT BUILDING, INC., t/a PROSPECT HOMES, BY PAUL F. LUCAS AND JAMES A. AUDI, TRUSTEES, SP 87-P-080, application under Sect. 8-914 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow dwelling to remain 21.6 feet from rear lot line (25 ft. min. rear yard required by Sect. 3-307), located at 12808 Will Meadow Court, on approximately 12,066 square feet of land, zoned R-3, Providence District, Tax Map Reference 45-2(10)13.

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report.

Thomas Rust, Patton, Harris, Rust and Associates, P.C., 3998 Fair Ridge Drive, Fairfax, Virginia, representative for the applicant appeared before the Board and explained the request as outlined in the statement of justification as submitted with the application. He added that the applicant would provide additional screening.

Paul Lucas, 1317 Ballantrae Farms Drive, McLean, Virginia, appeared before the Board and advised there was no contingency on the contract that a special permit be obtained prior to the purchase of the house.

Mr. Hammack moved to grant the special permit subject to the development conditions contained in the staff report with one addition:

- "3. There shall be provided eight (8), eight (8) to ten (10) foot white pines in the vicinity of the common property line between lot 13 and Grays Point Condominiums planted ten (10) feet on center. The trees shall be installed in the Spring or Summer of 1988."

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-P-080 by PROSPECT BUILDERS, INC., under Section 8-914 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow reduction to minimum yard requirements based on error in building location to allow dwelling to remain 21.6 feet from rear lot line, on property located at 12808 Mill Meadow Court, Tax Map Reference 45-2((10))13, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 26, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant was the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 12,066 square feet of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-903 and 8-914 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This special permit is approved for the location and the dwelling shown on the plat included with this application and is not transferable to other land.
2. A new Building Permit shall be obtained showing the existing dwelling and the related yards, and such shall be obtained within 30 days of this date.
3. There shall be provided eight (8), eight (8) to ten (10) foot white pines in the vicinity of the common property line between lot 13 and Grays Point Condominiums planted ten (10) feet on center. The trees shall be installed in the Spring or Summer of 1988.

Mrs. Day seconded the motion.

The motion carried by a vote of 4-0 with Messrs. DiGiulian, Ribble and Mrs. Thonen absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on February 3, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 273, January 26, 1988, (Tape 3), Scheduled case of:

11:15 A.M. PLASEIED & ASSOCIATES, VC 87-D-153, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into three (3) lots, proposed lot 2 having a lot width of 10 ft. (150 ft. min. lot width req. by Sect. 3-106) as approved in VC 85-D-091, expired, located at 931 Seneca Road, on approximately 3.79 acres, zoned R-1, Dranesville District, Tax Map Reference 6-4((1))31

Kurt Gleeson, 7616 Willow Point Drive, Falls Church, Virginia, representative of the applicant, appeared before the Board and requested a deferral.

The Board deferred the application to March 22, 1988 at 9:00 A.M.

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Page 274, January 26, 1988, (Tape 3), Scheduled case of:

11:30 A.M. SOUTH RUN BAPTIST CHURCH, SP 87-S-078, application under Sect. 3-103 of the Zoning Ordinance to allow church and related facilities, located at 8708 and 8712 Selgar Drive, on approximately 10.2 acres of land, zoned R-1, Springfield District, Tax Map Reference 89-3(3)2.

There being no objections, the Board deferred the above referenced application to March 22, 1988 at 9:20 A.M. The purpose of this deferral is to allow the applicant the opportunity to address the issues raised by staff.

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Page 274, January 26, 1988, (Tape 3), Scheduled case of:

11:45 A.M. ROGER O. DEMARCO, VC 87-P-136, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into five (5) lots, proposed Lots 2, 3, and 4 each having a lot width of 4 feet (80 ft. min. lot width required by Sect. 3-306), located at 7622 Shreve Road, on approximately 1.92771 acres of land, zoned R-3, Providence District, Tax Map Reference 49-2(1)162.

Claudia Hamblin-Katnik, Staff Coordinator, advised the Board that the subject application had been deferred from January 19, 1988 in order for applicant to reduce the density to a four (4) lot subdivision from a five (5) lot subdivision. She added that the pipestem accesses all four (4) lots, therefore lots the two (2) rear lots now meet the guidelines suggested by staff for pipestem lots. However, they still do not meet all the criteria that is necessary for granting a variance. She added that the Board was concerned about traffic but that the Office of Transportation does not oppose the pipestem on an arterial street.

Following a question from Chairman Smith, Mr. DeMarco agreed to do away with all the other entrances on Shreve Road and there was now only one proposed entrance.

Chairman Smith called for speakers and Richard Shea, 7618 Shreve Road, Falls Church, Virginia, appeared before the Board and expressed concern that the privacy of the properties should be maintained but added that he and Mr. DeMarco had resolved these issues.

Since there were no other speakers to address this issue, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. Hammack stated that the applicant had met the standards for a variance and then moved to grant the request in part and subject to the revised development conditions and with one addition:

"11. That existing trees along lots 4 and 5 of the Shreve Manor Subdivision shall be preserved to the extent practical."

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-P-136 by ROGER DEMARCO, under Section 18-401 of the Zoning Ordinance to allow subdivision into five (5) lots, (BOARD GRANTED A SUBDIVISION INTO FOUR (4) LOTS) proposed lots 2 and 3 each having a lot width of 6 feet, on property located at 7622 Shreve Road, Tax Map Reference 49-2(1)162, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 19, 1988; and the decision was on January 26, 1988;

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 1.92771 acres of land.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;
  - F. An extraordinary situation or condition of the subject property, or
  - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED IN PART with the following limitations:

1. This variance is approved for the subdivision of one lot into 4 lots as shown on the plat submitted with this application.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless this subdivision has been recorded among the land records of Fairfax County, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. Only one (1) entrance to all four (4) lots shall be allowed from Shreve Road. The driveway easements shall be recorded with deeds to the property to ensure future access to these lots via a common driveway.
4. The driveway to the proposed lots shall be constructed in accordance with the Public Facilities Manual.
5. Right-of-way to forty-five (45) feet from centerline of Shreve Road shall be dedicated to the Board of Supervisors and conveyed in fee simple.
6. Frontage improvements with face of curb set 38 feet from centerline (includes pavement widening, curb, gutter, and sidewalk) along the site's Shreve Road frontage shall be provided or monies shall be placed in future construction

escrow. The cost of construction on Shreve Road shall be separately submitted to and approved by DEM. All improvements shall be designed and constructed to current VDOT standards.

7. All residential uses between 815 and 2680 feet from the centerline of Highway 66 shall meet the guidelines for the acoustical treatment of residential structures with levels between 65 and 70 dBA Ldn.

The following criteria apply to buildings within 815 and 2680 feet from the centerline of Highway 66:

Exterior walls shall have a laboratory sound transmission class (STC) of at least 39.

Doors and windows shall have a laboratory sound transmission class (STC) of at least 28. If "windows" function as the walls, then they shall have the STC specified for exterior walls.

Adequate measures to seal and caulk between surfaces shall be provided.

8. Pursuant to Virginia Code Section 10-152, the applicant shall at the time of site plan approval record among the land records of Fairfax County an Open Space easement to the Board of Supervisors. The easement shall include that land that is shown on the approved variance plat as "tree save area" on Lots 2 and 3. There shall be no clearing of any vegetation within this area, except for dead or dying trees or shrubs. No structures of any kind shall be located within this easement.
9. There shall be a six (6) foot wood fence provided along the northeastern property line adjacent to lot 4 in the Shreve Manor Subdivision.
10. There shall be no fewer than ten (10) trees placed within ten (10) feet of the northeastern property line on lot 1 adjacent to lot 4 of the Shreve Manor Subdivision, the type and location of which shall be approved by the County Arborist.
11. That existing trees along lots 4 and 5 of the Shreve Manor Subdivision shall be preserved to the extent practical.

Mrs. Day seconded the motion.

The motion carried by a vote of 4-0 with Messrs. DiGiulian, Ribble and Mrs. Thonen absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on February 3, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 276, January 26, 1988, (Tape 3), After Agenda Item #1:

Approval of Resolutions from January 19, 1988

Mr. Hammack moved approval of the Resolutions from January 19, 1988 as submitted.

Mrs. Day seconded the motion which passed unanimously with Messrs. DiGiulian, Ribble and Mrs. Thonen absent from the meeting.

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Page 276, January 26, 1988, (Tape 3), After Agenda Item #2:

Draft of Home Professional Office Amendment

Ms. Kelsey pointed out to the Board that in their package was the Draft of Home Professional Office Amendment and that they should contact Sue Ellen Stewart in the Zoning Administration with any comments or questions.

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As there was no other business to come before the Board, the meeting was adjourned at 1:55 P.M.

Patti M. Hicks  
Patti M. Hicks, Clerk to the  
Board of Zoning Appeals

Daniel Smith  
Daniel Smith, Chairman  
Board of Zoning Appeals

SUBMITTED: 4/24/88

APPROVED: 5/3/88

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, February 2, 1988. The following Board Members were present: Daniel Smith, Chairman; Ann Day; John DiGiulian, Vice-Chairman; Paul Hammack; Robert Kelley; John Ribble and Mary Thonen.

Chairman Smith opened the meeting at 7:35 p.m. and Mrs. Day led the prayer.

Mr. Ribble made a motion that the Board go into Executive Session to discuss legal matters regarding Christian Fellowship versus the Board of Zoning Appeals. Mr. Hammack seconded the motion which carried by a vote of 7-0.

The Board reconvened at 8:22 p.m. and called for the staff presentation in the first scheduled case.

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Page 277, February 2, 1988, (Tape 1), Scheduled case of:

8:00 P.M. ROGER O. DEMARCO & JOHN A. AND CAROLEA NORTHRUP, VC 87-P-155 application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into eight (8) lots with existing dwelling on proposed corner lot 1 being 11.1 ft. from new street line (30 ft. min. front yard req. by Sect. 3-404) located at 9822 Courthouse Road on approximately 2.61 acres of land, zoned R-4, Providence District, Tax Map 48-1((1))39, 40

Heidi Belofsky, Staff Coordinator, presented the staff report.

Roger O. DeMarco, 703 Hunter Court, Vienna, Virginia, co-applicant, came forward and stated that this request will not be detrimental nor change the character of the surrounding neighborhood and that to relocate the house would be an undue hardship. In closing, Mr. DeMarco stated that access would be onto Hidden Road rather than Courthouse Road.

As there were no speakers in support of this request, Chairman Smith called for speakers in opposition to the request.

Charles Blevins, 2727 Hidden Road, Vienna, Virginia, stated that he would like to support the request for keeping the house at its present location. He added that the neighborhood is a very old and historic and that he has lived there for ten years. Mr. Blevins concluded by stating that he would like to see the applicant construct houses which will be in keeping with the architecture of the existing house. He noted for the record that he had not been notified of the rezoning public hearing which was held.

Mr. DeMarco clarified that these citizens who were in attendance had been notified of this public hearing but had not been notified of the rezoning public hearing.

Chairman Smith explained to the citizens that the Board of Zoning Appeals had no control over rezoning applications.

The next speaker was David Talton, 9809 Courthouse Road, Vienna, Virginia. Mr. Talton stated that he objected to the house being located so close to the street as he believed this will be detrimental to the neighborhood. He noted for the record that he had not been notified of the rezoning public hearing.

Cynthia S. Bessa, 2731 Hidden Road, Vienna, Virginia, stated that she would like to see the house remain in its present location.

Albert Stephan, 2735 Hidden Road, Vienna, Virginia, agreed that he would also like to see the house remain in its present location.

Ms. Belofsky informed the Board that the Special Permit and Variance Branch did not prepare notification packets for rezonings but that she did have documentation to show that the applicant had met the rezoning notification requirements for this application.

As there were no further speakers or comments, Chairman Smith closed the public hearing.

Mr. DiGiulian moved to grant VC 87-P-155 subject to the development conditions contained in the staff report as he believed that the applicant had satisfied the nine standards for a variance, specifically 2(F), the house has been in its present location for a long period of time, is not detrimental to the neighborhood, and the only thing to change is the wider road on Courthouse Road.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-P-155 by ROGER O. DEMARCO AND JOHN A. & CAROLEA NORTHROP, under Section 18-401 of the Zoning Ordinance to allow subdivision into eight (8) lots with existing dwelling on proposed corner Lot 1 being 11.1 feet from new street line, on property located at 9822 Courthouse Road, Tax Map Reference 48-1(1)39 and 40, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 2, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicants are co-owners of the land.
2. The present zoning is R-4.
3. The area of the lot is 2.61 acres of land.
4. The location of the existing house is not detrimental to the neighborhood.
5. The house has been there a long time and the only thing to change is the wider road on Courthouse Road.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has an extraordinary situation or condition of the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.

Mr. Ribble seconded the motion which carried by a vote of 6-0 with Mr. Hammack not present for the vote.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on February 10, 1988. This date shall be deemed to be the final approval date of this variance.

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8:10 P.M. BARRY L. AND BETH P. REISIG, VC 87-D-156, application under Sect. 18-401 of the Zoning Ordinance to allow construction of deck addition to dwelling to 8.1 ft. from rear lot line (13 ft. min. rear yard req. by Sects. 3-307 and 2-412), located at 1026 Broad Branch Court, on approximately 8,400 square feet of land, zoned R-3(C), Dranesville District, Tax Map 21-4((19))21.

Heidi Belofsky, Staff Coordinator, presented the staff report.

Barry and Beth Reisig, 1026 Broad Branch Court, McLean, Virginia, applicants came forward. Mr. Reisig submitted a large copy of the plat for the Board's review and explained that this request will allow them to replace an existing deck which has deteriorated. He explained that the lot to the rear of his property is vacant and is owned by the homeowners association. He added that the architectural review board in this neighborhood has reviewed the plans and are in support of the request.

Mrs. Reisig added that she did not believe this would be detrimental to nor change the character of the neighborhood.

There were no speakers to address this request, therefore Chairman Smith closed the public hearing.

Mr. Hammack made a motion to grant VC 87-D-156 subject to the development conditions contained in the staff report as he believed the applicant has satisfied the nine standards for a variance, specifically 2(B) and 2(E), the rear of the property abuts open space owned by the Homeowners Association, there is no citizen opposition to the request, and there is no impact on adjacent properties.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-D-156 by BARRY AND BETH REISIG, under Section 18-401 of the Zoning Ordinance to allow construction of deck addition to dwelling to 8.1 feet from rear lot line, on property located at 1026 Broad Branch Court, Tax Map Reference 21-4((19))21, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 2, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicants are the owners of the land.
2. The present zoning is R-3(C).
3. The area of the lot is 8,400 square feet of land.
4. The rear of the property abuts open space owned by the Homeowners Association and there is no citizen opposition to the request.
5. There is no impact on adjacent properties.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has an extraordinary situation or condition of the subject property:
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.

7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.
4. The deck shall be of wood construction and shall be neutral in color.

Mrs. Day seconded the motion which carried by a vote of 5-1 with Chairman voting nay; Mr. DiGiulian not present for the vote.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on February 10, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 280, February 2, 1988, (Tape 1), Scheduled case of:

8:20 P.M. MICHAEL & JUDITH BROSEE, SP 87-A-083, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow basketball standard to remain in a front yard 6.5 ft. from side lot line (12 ft. from side lot line required by Sect. 10-104) located at 5510 DeSoto Drive, on approximately 11,475 square feet of land, zoned R-3, Annandale District, Tax Map 78-2((19))85A.

Heidi Belofsky, Staff Coordinator, presented the staff report. She noted that the word "variance" in Appendix 1 should be corrected to "special permit."

In response to inquiries from the Board, Ms. Belofsky stated that the staff report was recommending approval of this request for a period of six months in order to allow the applicant time to relocate the basketball standard.

Judith Brosee, 5510 DeSoto Street, Burke, Virginia, co-applicant, came forward and stated that the basketball hoop has been there for thirteen years without any objections from her neighbors. She added that she did not believe that staff's suggestions as to where the standard could be relocated were feasible. Mrs. Brosee stated that she had discussed this with individual neighbors and no one had voiced any objections.

Following a discussion among the Board and staff as to where the standard could be relocated, Jane Kelsey, Chief of the Special Permit and Variance Branch, pointed out that the Zoning Ordinance has been amended to state that basketball hoops are permitted in the front yard only if they meet certain setback requirements.

As there were no speakers to address this request, Chairman Smith closed the public hearing.

Mrs. Day moved to deny SP 87-A-083 as the applicants had been issued a Notice of Violation and the basketball hoop standard could be relocated without undue hardship.

Mr. Hammack stated that sometimes people were reluctant to discuss this type of situation with their neighbor. He added that he understood that perhaps sometimes the basketball would roll on to the neighbor's property and there was no way to avoid this problem when the standard is so close to the lot line.

Mrs. Thonen stated that she had tried to find some reason to grant this application and could not, therefore she would support the motion.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-A-083 by MICHAEL AND JUDITH BROSEE, under Section 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow basketball standard to remain in a front yard 6.5 feet from side lot line, on property located at 5510 DeSoto Drive, Tax Map Reference 78-2((19))85A, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 2, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicants are the owners of the land.
2. The present zoning is R-3.
3. The area of the lot is 11,475 square feet of land.
4. The basketball hoop standard can be relocated without causing undue hardship to the applicants.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has not presented testimony indicating compliance with the general standards for Special Permit Uses and the additional standards for this use as contained in Sections 8-903 and 8-914 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED.

Mr. Ribble seconded the motion which carried by a vote of 6-0 with Mr. DiGiulian not present for the vote.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on February 10, 1988.

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Page 282, February 2, 1988, (Tape 1), Scheduled case of:

8:30 P.M. RUKTON HOMES APPEAL, A 87-S-005, application under Sect. 18-301 of the Zoning Ordinance to appeal the Zoning Administrator's decision that appellant's property is not a lot under the Zoning Ordinance, located at Averett Drive, on approximately 2.4138429 acres, zoned R-C, Springfield District, Tax Map 87-1((3))Outlot D. (DEFERRED FROM 9/10/87 AND 11/5/87 AT APPELLANT'S REQUEST)

Jane Gwinn, Zoning Administrator, stated that this appeal had been deferred from September 10, 1987. She added that it is her position that a building permit cannot be issued for Outlot D as this outlot does not meet the R-C District minimum lot area of 5 acres. Ms. Gwinn referenced her staff report dated September 3, 1987.

John B. Connor, attorney with the law firm of Miles & Stockbridge, 11350 Random Hills Road, Suite 500, Fairfax, Virginia, represented the appellants. Mr. Connor argued that it was his belief that this lot was a buildable lot in 1976, and therefore should not be governed by the present Zoning Ordinance. He requested that the Board overrule the Zoning Administrator's determination in A 87-S-005.

In response to questions from the Board, Ms. Connor explained that the lot was recorded in 1976 prior to the rezoning with this lot to the R-C District, which requires 5 acre lots.

Regarding the sanitation facilities, John Rentz, 7421 Clifton Road, Clifton, Virginia, came forward and stated that the entire subdivision is on septic fields with public water.

In her closing remarks, Ms. Gwinn reiterated that she did not agree with the appellant's interpretation that in 1976 the subject property was a lot as defined in the Zoning Ordinance.

As there were no further comments, Chairman Smith closed the public hearing.

Mrs. Thonen stated that she agreed with the Zoning Administrator's comments and made a motion to uphold the Zoning Administrator's determination. Mr. DiGiulian seconded the motion which carried by a vote of 6-0 with Mr. Hammack not present for the vote.

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Page 282, February 2, 1988, (Tape 2), After Agenda Item:

CHURCH OF DUNN LORING, SP 85-P-016  
ADDITIONAL TIME

Mrs. Thonen made a motion to grant the applicant in SP 85-P-016 an additional 12 months to commence construction. Mr. DiGiulian seconded the motion which carried by a vote of 6-0 with Mr. Hammack not present for the vote. The new expiration date will be January 9, 1989.

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Page 282, February 2, 1988, (Tape 2), After Agenda Item:

THOMAS J. RAMSEY, VC 88-V-005  
OUT-OF-TURN HEARING

Jane Kelsey, Chief of the Special Permit and Variance Branch, informed the Board that the applicant was present and would like to address the Board.

Thomas J. Ramsey, 2000 Summit Terrace, Alexandria, Virginia, explained to the Board that he was requesting an out-of-turn hearing due to the delays on the part of the County. He added that these delays have caused him undue hardship.

In response to questions from the Board, Ms. Kelsey explained that all applicants have been contacted by the County Attorney's office due to the change in the Board in order that they can revise or reconfirm their affidavits. She stated that the delay is the normal delay in reviewing all applications.

Following a discussion among the Board and staff, Mr. DiGiulian made a motion to schedule the public hearing for VC 88-V-005 for March 22, 1988 at 9:40 A.M. Mr. Ribble seconded the motion which carried by a vote of 5-1 with Chairman Smith voting nay; Mr. Hammack not present for the vote.

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Page 282, February 2, 1988, (Tape 2), After Agenda Item:

LOIS AND JOEL COHEN, VC 88-P-019  
OUT-OF-TURN HEARING

Mr. Ribble made a motion to deny an out-of-turn hearing to the applicants of VC 88-P-019. Mrs. Day seconded the motion which carried by a vote of 6-0 with Mr. Hammack not present for the vote.

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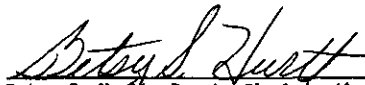
Page 282, February 2, 1988, (Tape 2), After Agenda Item:

APPROVAL OF JANUARY 26, 1988 Resolutions

Mrs. Day moved to approve the Resolutions for January 26, 1988 as submitted. Mrs. Thonen seconded the motion which carried by a vote of 6-0 with Mr. Hammack not present for the vote.

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As there was no other business to come before the Board, the meeting was adjourned at 10:08 P.M.

  
Betsy S. Hurst, Deputy Clerk to the  
Board of Zoning Appeals

  
Daniel Smith, Chairman  
Board of Zoning Appeals

SUBMITTED: 4/19/88

APPROVED: 4/26/88



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The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, February 9, 1987. The following Board Members were present: Chairman Daniel Smith; Ann Day; John DiGiulian; Paul Hammack; Robert Kelley; John Ribble; and Mary Thonen.

Chairman Smith called the meeting to order at 9:22 A.M. Mrs. Day led the prayer.

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Mrs. Thonen brought up the fact that she would like to have a Work Session to review Zoning Ordinance amendments, including the Home Professional Office Amendment. She made a motion to schedule a Work Session on February 23, 1988 immediately following the public hearing. Mr. DiGiulian seconded the motion which carried by a vote of 7-0.

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Page 287, February 9, 1988, (Tape 1), Scheduled case of:

9:00 A.M. FAIRFAX BAPTIST TEMPLE, SP 87-S-022, application under Sect. 3-103 of the Zoning Ordinance to allow church and related facilities, located at 10207 Burke Lake Road, on approx. 32.9 acres, zoned R-1, Springfield District, Tax Map 77-4((1))pt. 16 and 87-2((1))pt. 3. (DEFERRED FROM 6/9/87 AT APPLICANT'S REQUEST. DEFERRED FROM 7/21/87 UNTIL AFTER THE BOARD OF SUPERVISORS' PUBLIC HEARING ON THE SPECIAL EXCEPTION. DEFERRED FROM 10/27/87 AT APPLICANT'S REQUEST.)

Kevin Guinaw presented a letter to the Board from the applicant's agent, requesting a deferral of the application to allow the applicant to review their Special Permit plat and address staff's problems concerning this application.

Mr. Hammack moved to defer SP 87-S-022 to June 21, 1988 at 9:00 a.m. in order to allow the applicant to review their Special Permit plat and address staff's problems concerning this application. Mr. DiGiulian seconded the motion which unanimously passed by a vote of 7-0.

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Page 284, February 9, 1988, (Tape 1), Scheduled case of:

9:15 A.M. HARRY L. & HILDA M. FRAZIER SP 87-V-085, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to min. yard requirements based on error in building location to allow 19 ft. high detached garage to remain 5.3 ft. from rear lot line (19 ft. min. rear yard req. by Sect. 10-104), located at 8909 Union Farm Road, on approximately 15,000 square feet of land, zoned R-2, Mt. Vernon District, Tax Map 110-1 ((7)) 108.

Kathy Reilly, Staff Coordinator, presented the staff report. Ms. Reilly noted that a building permit was issued in July, 1987 for a garage approximately 740 square feet and letory in height and further noted that a notice of violation was issued to the application by Zoning Enforcement on July 27, 1987. Ms. Reilly stated it was staff's judgment that this application did not meet B, D or F of Sect. 8-914 of the Ordinance.

William Scott, 10400 Whitehead Street, Fairfax, Virginia, attorney for the applicant, came forward.

Chairman Smith noted that Mr. Scott was not listed on the applicant's affidavit and therefore could not represent the applicant until the affidavit had been amended.

Mrs. Thonen moved to recess the public hearing to allow Mr. Scott to go to the County Attorney's Office and amend the affidavit. Mr. DiGiulian seconded the motion which passed by a vote of 7-0.

Raymond Phillips, 4304 Adrienne Drive, Alexandria, Virginia, stated that he and another neighbor have taken the time off from work to appear today and requested the Board to do forward with the application.

Chairman Smith explained to the citizens who were present that the Board was only passing over this case until later in the day and that the case would be heard as soon as Mr. Scott returned from the County Attorney's office.

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Page 284, February 9, 1988, (Tape 1), Scheduled case of:

9:30 A.M. WILLIAM H. FRASCA (ARMA, INC.), SP 87-D-082, application under Sect. 3-303 of the Zoning Ordinance to allow a home professional office, located at 1450 Dolley Madison Boulevard, on approximately 13,906 square feet of land, zoned R-3, Dranesville District, Tax Map 30-3((1))2.

Keith Martin, with the law firm of Walsh, Colucci, Stackhouse, Emrich & Lubeley, 950 North Glebe Road, Suite 300, Arlington, Virginia, attorney for the applicant, requested a deferral because the applicant had a medical emergency and to allow the applicant time to review the staff report that he recently received.

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Cheryl Bell, 1229 Ingleside Avenue, McLean, Virginia, stated that she objected to the deferral because she had received the staff report in time to review it and had taken time off from work to appear.

Mrs. Thonen moved to defer SP 87-D-082 to March 22, 1988 at 10:00 a.m. because the applicant had a medical emergency and to allow the applicant additional time to address issues identified by staff. Mr. Hammack seconded the motion which unanimously passed by a vote of 7-0.

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Page 285, February 9, 1988, (Tape 1), Scheduled case of:

9:45 A.M. JOHN D. SINRUD, VC 87-C-158, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 13.3 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-E07), located at 10938 Stuart Mill Road, on approximately 21,244 square feet of land, zoned R-E, Centreville District, Tax Map 37-1((1))24.

Lori Greenlief, Staff Coordinator, presented the staff report.

John Sinrud, 10398 Stuart Mill Road, Oakton, Virginia, applicant, stated that his justification for the variance is the exceptionally small and narrow lot.

Since there were no speakers to address this application Chairman Smith closed the public hearing.

Mr. DiGiulian moved to grant VC 87-C-158 based on the applicant's testimony, exceptional size, and the location of the house on the lot. Mr. DiGiulian added another condition, 34, to the Development Conditions to read as follows: "The addition shall be architecturally compatible with the existing development." Mr. Ribble seconded the motion which was unanimously carried by a vote of 7-0.

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#### COUNTY OF FAIRFAX, VIRGINIA

#### VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-C-158 by JOHN D. SINRUD, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 13.3 feet from side lot line, on property located at 10938 Stuart Mill Road, Tax Map Reference 37-1((1))24, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 9, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-E.
3. The area of the lot is 21,244 square feet of land.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;
  - F. An extraordinary situation or condition of the subject property, or
  - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.

6. That:

A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or

B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.

7. That authorization of the variance will not be of substantial detriment to adjacent property.

8. That the character of the zoning district will not be changed by the granting of the variance.

9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless request for additional time is approved by the BZA because of the occurrence conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.
4. The addition shall be architecturally compatible with the existing development.

Mr. Ribble seconded the motion which carried by a vote of 7-0.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on February 17, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 286, February 9, 1988, (Tape 1), Scheduled case of:

- 9:55 A.M. RICHARD M. ROBERTSON, VC 87-D-139, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into six (6) lots and an outlet, proposed Lots 4 and 5 having a lot width of 11.95 feet and 12.12 feet, respectively (80 ft. min. lot width required by Sect. 3-306), located at the intersection of Idylwood and Dulles Access Road, on approximately 2.4491 acres of land, zoned R-3, Dranesville District, Tax Map 40-1((1))10.
- 9:55 A.M. RICHARD M. ROBERTSON, VC 87-D-140, application under Sect. 18-401 of the Zoning Ordinance to allow construction of dwelling on proposed Lot 1, 25.8 feet from Dulles Airport Access Road right of way (200 ft. min. distance from right of way required by Sect. 2-414), located at the intersection of Idylwood and Dulles Access Road, on approximately 11,050 square feet of land, zoned R-3, Dranesville District, Tax Map 40-1((1))pt. 10. (TO BE HEARD CONCURRENT WITH VC 87-D-139)
- 9:55 A.M. RICHARD M. ROBERTSON, VC 87-D-141, application under Sect. 18-401 of the Zoning Ordinance to allow construction of dwelling on proposed Lot 2, 26.0 feet from Dulles Airport Access Road right of way (200 ft. min. distance from right of way required by Sect. 2-414), located at the intersection of Idylwood and Dulles Access Road, on approximately 11,652 square feet of land, zoned R-3, Dranesville District, Tax Map 40-1((1))pt. 10. (TO BE HEARD CONCURRENT WITH VC 87-D-139)
- 9:55 A.M. RICHARD M. ROBERTSON, VC 87-D-142, application under Sect. 18-401 of the Zoning Ordinance to allow construction of dwelling on proposed Lot 3, 25.1 feet from Dulles Airport Access Road right of way (200 ft. min. distance from right of way required by Sect. 2-414), located at the intersection of Idylwood and Dulles Access Road, on approximately 14,111 square feet of land, zoned R-3, Dranesville District, Tax Map 40-1((1))pt. 10. (TO BE HEARD CONCURRENT WITH VC 87-D-139)

9:55 A.M. RICHARD M. ROBERTSON, VC 87-D-143, application under Sect. 18-401 of the Zoning Ordinance to allow construction of dwelling on proposed Lot 4, 31.3 feet from Dulles Airport Access Road right of way (200 ft. min. distance from right of way required by Sect. 2-414), located at the intersection of Idylwood and Dulles Access Road, on approximately 28,956 square feet of land, zoned R-3, Dranesville District, Tax Map 40-1((1))pt. 10. (TO BE HEARD CONCURRENT WITH VC 87-D-139)

9:55 A.M. RICHARD M. ROBERTSON, VC 87-D-144, application under Sect. 18-401 of the Zoning Ordinance to allow construction of dwelling on proposed Lot 5, 42.7 feet from Dulles Airport Access Road right of way (200 ft. min. distance from right of way required by Sect. 2-414), located at the intersection of Idylwood and Dulles Access Road, on approximately 14,634 square feet of land, zoned R-3, Dranesville District, Tax Map 40-1((1))pt. 10. (TO BE HEARD CONCURRENT WITH VC 87-D-139)

9:55 A.M. RICHARD M. ROBERTSON, VC 87-D-145, application under Sect. 18-401 of the Zoning Ordinance to allow construction of dwelling on proposed Lot 6, 56.2 feet from Dulles Airport Access Road right of way (200 ft. min. distance from right of way required by Sect. 2-414), located at the intersection of Idylwood and Dulles Access Road, on approximately 13,075 square feet of land, zoned R-3, Dranesville District, Tax Map 40-1((1))pt. 10. (TO BE HEARD CONCURRENT WITH VC 87-D-139)

Chairman Smith stated that the Board was in receipt of a letter from the applicant's attorney, Joim C. Testerman, requesting a deferral due to the fact that the floodplain study will not be available by the scheduled February 9 hearing date.

Thomas Tillotson, 2100 Glenn Spring Court, Falls Church, Virginia, stated that he received the staff report in plenty of time to review it. Mr. Tillotson stated that there were two major problems involved with developing this property; floodplain and transportation. Therefore, Mr. Tillotson requested that a deferral not be granted to the applicant.

John C. Testerman, 10523 Main Street, Fairfax, Virginia, stated that the applicant is requesting a deferral to resolve the problems raised in the staff report.

Mr. Hammack made the motion to defer VC 87-D-139 through VC 87-D-145 to April 5, 1988 at 8:30 p.m. in order to allow the applicant time to furnish floodplain and noise information. Mr. DiGiulian seconded the motion which passed by a vote of 7-0.

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As there was time before the next scheduled case, the Board took action on the after agenda items.

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Since there was time in between cases the Board acted upon the After Agenda Items.

Page 287, February 9, 1988, (Tape 1), After Agenda Item #3:

Mrs. Thonen moved to approve the Resolutions for February 2, 1988 with Mr. DiGiulian seconding the motion which passed by a vote of 6-0 with Mr. Hammack absent for the vote.

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Page 287, February 9, 1988, (Tape 1), After Agenda #1:

Request for Out-of-Turn Hearing  
Cynthia C. Fronda  
SP 88-A-012  
58-4((3))17

Mrs. Thonen moved to deny the request for an Out-of-Turn Hearing for Cynthia C. Fronda with Mrs. Day seconding the motion which passed by a vote of 6-0 with Mr. Hammack absent for the vote.

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Page 287, February 9, 1988, (Tape 1), After Agenda 2:

Request for Out-of-Turn Hearing  
Mohamad Ali Rouhani  
VC 88-S-021  
88-1((15))1

Mrs. Thonen moved to grant the request for an Out-of-Turn Hearing for VC 88-S-021 to April 12, 1988 at 9:00 a.m. Mr. DiGiulian seconded the motion which passed by a vote 6-0 with Mr. Hammack absent for the vote.

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Approval of Minutes for October 20, November 16  
and December 1, 1987

Mr. DiGiulian moved to approve the minutes from October 20, November 16 and December 1, 1987 with Mrs. Day seconding the motion. The motion passed by a vote of 5-0-1 with Mr. Hammack not present for the vote; Mr. Kelley abstaining.

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The Board brought the SP 87-V-085, Frazier case on the floor again.

Page 288, February 9, 1988, (Tape 1), Scheduled case of:

9:15 A.M. HARRY L. & HILDA M. FRAZIER SP 87-V-085, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to min. yard requirements based on error in building location to allow 19 ft. high detached garage to remain 5.3 ft. from rear lot line (19 ft. min. rear yard req. by Sect. 10-104), located at 8909 Union Farm Road, on approximately 15,000 square feet of land, zoned R-2, Mt. Vernon District, Tax Map 110-1((7))108

William Scott, Jr., 10400 Whitehead Street, Fairfax, Virginia, attorney for the applicant stated there were several reasons which justified the special permit. These reasons were that the error was done in good faith, no second story is intended, and the structure does not adversely impact the neighborhood. Mr. Scott submitted pictures for the record.

In answer to Mr. Ribble's question, Mr. Scott replied that the structure would be used for a garage and storage.

In answer to Mr. Hammack's question, Ms. Reilly replied that the Zoning Administrator has not made a decision as to the size of the structure.

Chairman Smith asked Mr. Scott for the square footage of the structure. Mr. Scott did not reply.

Mr. Guinaw noted that there was a discrepancy on the dimensions of the structure; 740 square feet was indicated on the building permit and 843 square feet was indicated on the Special Permit plat.

Raymond Philipps, 4304 Adrienne Drive, Alexandria, Virginia, stated that the property for this application is rental property; that the applicant does not live there. Mr. Philipps was in opposition to the application for many reasons. Mr. Frazier did not build the structure according to the building permit and, within two weeks of receiving the building permit he was informed he was in violation, but he completed the building. Mr. Philipps stated that all the adjacent property owners are in opposition.

Richard J. Tyler, 8911 Union Farm Road, Alexandria, Virginia, submitted pictures and additional letters from neighbors in opposition. Mr. Tyler stated his opposition to the application.

Warren B. Johnson, 8653 Gateshead Road, Alexandria, Virginia, spoke in opposition as to the general concept of granting deviations and variations to the regulations. Mr. Johnson further commented that he is in opposition to the Frazier application for the simple reason of the size of the structure in the residential area.

John Travers, 8921 Union Farm, Alexandria, Virginia, spoke in opposition to the application. Mr. Travers stated that the structure was an eyesore.

In rebuttal, Mr. Scott stated that Mr. Frazier has been in the roofing business for 30 years at the same location, 6422 Richmond Highway, and has no intention of moving his business. Mr. Scott pointed out and submitted pictures that showed the height of the structure is not higher than the neighbor's house.

Mr. Guinaw pointed out that the dwellings to the rear are setback 300-400 from the floodplain. Mr. Guinaw also stated that the structure is large and the height of the garage door is above average. If it is the intent of the Board to approve this application, staff would like to add two Development Conditions in addition to those in the staff report. First, to add one on screening that would require a minimum of six evergreen trees at least six feet in height along the rear perimeter of the garage in order to screen the visual impacts from the adjacent properties with the nature and final location of the plantings to be subject to the approval of the Country Arobrist. Second, that the application shall submit new plats showing the delineation of the floodplain on the property. If the garage structure is located within a floodplain then the applicant shall apply to the Board of Supervisors for a Special Exception to allow that structure to remain within the floodplain in accordance with the provisions of Part 9, of Article 2, of the Zoning Ordinance.

In answer to Mr. DiGiulian's question, Ms. Kelsey replied that a story, as defined in the Ordinance for residential structures does not actually say that it is 10 feet, that is an interpretation used to try to determine the height of a structure when the plat says 1 or 2 stories. Under the definition of Gross Floor Area, in the Zoning Ordinance, the 10 feet applies to commercial and industrial buildings.

Since there were no additional speakers to address this application, Chairman Smith closed the public hearing.

Mr. Hammack moved to grant SP 87-V-085 based on the testimony of the applicant. He stated that the property owner that owns the property to the immediate rear is not impacted by this structure, the property owner that occupies the property to the immediate right may not approve of the size of the dwelling, but the two alternatives that the Board faces would require the structure to be moved actually closer to the adjacent property owner's house, or the other alternative is to reduce the height of the structure and leave it where it is. Mr. Hammack does not believe that the application violates the definition for a one story for purposes of this special permit. Development Conditions 1 through 4 remain the same. Development Condition #5 will read: "A minimum of nine evergreen trees, twelve feet in height, shall be provided by the applicant in order to provide screening to the properties on the northeast and south sides of the structure as determined by the County Arborist. The applicant shall replace any trees that shall die. Development Condition #6 will read: "The applicant shall submit new plats showing the delineation of the floodplain on the property. If the garage structure is located within the floodplain the applicant shall apply to the County Board of Supervisors for a Special Exception to allow the structure to remain the floodplain.

Mr. DiGiulian seconded the motion.

Mr. Kelley supported Mr. Hammack's motion, but not Development Condition #6.

Mr. Smith stated that he would not support the motion because the applicant has not proven that the noncompliance was done in good faith and he believed the height of the structure is detrimental to the adjacent property owners.

Mrs. Day stated she would not support the motion as there were too many mistakes and it does have an adverse affect on his neighbors.

The motion to approve passed by a vote of 4-3 with Mr. Smith, Mrs. Day and Mrs. Thonen voting nay.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-V-085 by HARRY L. AND HILDA M. FRAZIER, under Section 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow 19 foot high detached garage to remain 5.3 feet from rear lot line, on property located at 8909 Union Farm Road, Tax Map Reference 110-1((7))108, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 9, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicants are the owners of the land.
2. The present zoning is R-2.
3. The area of the lot is 15,000 square feet of land.
4. The property owner who occupies the property to the immediate rear is not impacted by this structure; his house is probably a good 400 feet away. He would be the one impacted by the rear yard requirements.
5. The property owner who occupies the property to the immediate right, unfortunately may not approve of the size of the dwelling, but the two alternatives which face -- one would require the structure to be moved actually closer to his house so it would be impacted by -- if the applicant were to move the structure. The other alternative possibly would be to reduce the height of the structure and leave it where it is.
6. It does not violate a one-story definition for purposes of this Special Permit.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-903 and 8-914 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant for the location the specific structure shown on the plat and is not transferable to other land.
2. A building permit reflecting the accurate location and dimensions of the garage shall be obtained.
3. The garage shall be used for only the storage of private automobiles and residential personal property. No commercial motor vehicles or commercially-related property and materials shall be stored in this structure.
4. The materials used to finish this structure shall be compatible with the principle dwelling unit on the property and to the adjacent properties.
5. A minimum of nine evergreen trees, 12 feet in height, shall be provided by the applicant in order to provide screening to the properties on the northeast and south sides of the structure as determined by the County Arborist. The applicant shall replace any trees that shall die.
6. The applicant shall submit new plats showing the delineation of the floodplain on the property. If the garage structure is located within the floodplain the applicant shall apply to the County Board of Supervisors for a Special Exception to allow the structure to remain in the floodplain.

Mr. DiGiulian seconded the motion.

The motion carried by a vote of 4-3 with Chairman Smith, Mrs. Day and Mrs. Thonen voting nay.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on February 17, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 290, February 9, 1988, (Tape 2), Scheduled case of:

10:30 A.M. JOSE AND PILAR ABRAHAM SP 87-P-086, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to min. yard requirements based on error in building location to allow 12 ft. high storage building to remain 2.0 ft. from side lot line and 2.7 ft. from rear lot line (10 ft. min. side yard and 12 ft. min. rear yard req. by Sects. 3-407 and 10-104), located at 1019 Poplar Drive, on approximately 10,518 square feet of land, zoned R-11, Providence District, Tax Map 50-1((4))10

Lori Greenlief, Staff Coordinator, presented the staff report. Ms. Greenlief stated that staff believes the noncompliance was done in good faith. Ms. Greenlief further commented that staff believes some modifications to the structure may reduce the visual impact which is the color of the structure be stained a darker color, and that screening be provided along the rear lot line.

In answer to Chairman Smith's question, Ms. Greenlief replied that there was no written contract, only a verbal contract with the construction company.

Jose Abraham, 1019 Poplar Drive, Falls Church, Virginia, applicant stated that he was not aware of which permits had to be obtained, nor of the measurements of the shed being incorrect. The contractor left and Mr. Abraham finished the building.

Mrs. Thonen stated that the applicant had several letters in support of the application.

Sincer there were no speakers to address this application Chairman Smith closed the public hearing.

Mrs. Day moved to grant SP 87-P-086 based on the applicant's testimony, that there are no objections to the application, that the structure is in the rear corner of the yard and the neighbor has the same structure, and that she believes it was done in good faith.

Mr. DiGiulian seconded the motion.

In response to Mr. Hammack's question, Mrs. Day added to her motion to eliminate Development Condition #4 in the staff report dated February 2, 1988.

Mr. Ribble stated that he would support the motion, but pointed out to the applicant that part of this structure is in a right-of-way and this could cause problems in the future.

Chairman Smith called for the question which passed by a vote of 5-2 with Messrs. Smith and Hammack voting nay.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-P-086 by JOSE AND PILAR ABRAHAM, under Section 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow 12 feet high storage building to remain 2.0 feet from side lot line and 2.7 feet from rear lot line, on property located at 1019 Poplar Drive, Tax Map Reference 50-1((4))10, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 9, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicants are the owners of the land.
2. The present zoning is R-11.
3. The area of the lot is 10,518 square feet of land.
4. No objections from abutting property owners.
5. The structure will be on the rear corner of the lot.
6. Neighbor on the rear lot has a similar structure.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-903 and 8-914 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This special permit is approved for the location and the specific structure shown on the plat submitted with this application and is not transferable to other land.
2. A Building Permit which shows the location of the shed in accordance with this special permit shall be obtained.
3. Conical-style evergreens shall be planted and maintained along the rear lot line in the area of the shed. The applicant shall coordinate with the County Arborist and the Arborist shall approve the type and location of the plantings.

Mr. DiGiulian seconded the motion.

The motion carried by a vote of 5-2 with Chairman Smith and Mr. Hammack voting nay.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on February 17, 1988. This date shall be deemed to be the final approval date of this special permit.

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Mrs. Thonen moved to include what could be done to improve the coordination of the building permits with Zoning Administration for the special work session. Mr. DiGiulian seconded the motion which passed by a vote of 7-0.

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10:45 A.M. NATALIA S. FLANDERS ET AL, JERALD K. LEABERRY AND PATRICIA M. LEABERRY, VC 87-C-150, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed Lot 4B1 having a lot width of 39.67 feet (200 ft. min. lot width required by Sect. 3-E06), located at 11213 and 11215 Stuart Mill Road, on approximately 7.07 acres of land, zoned R-E, Centreville District, Tax Map 36-2((1))19B and 19C. (NOTICES NOT IN ORDER)

Mrs. Thonen moved to defer VC 87-C-150 to April 19, 1988 at 9:00 a.m. as a result of the notices not being in order. Mrs. Day seconded the motion which passed by a vote of 5-0 with Messrs. Hammack and Kelley not present for the vote.

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10:55 A.M. COMMUNITY CHURCH OF GOD, SPA 83-P-028-2, application under Sects. 3-103 and 8-901 of the Zoning Ordinance to amend SP 83-P-028 for church and related facilities to permit modification of screening and dustless surface requirements, located at 2458 Gallows Road, on approximately 168,064 square feet of land, zoned R-1, Providence District, Tax Map 39-4((1))30A.

Jane C. Kelsey, Branch Chief, Special Permit and Variance Branch, presented the staff report. This is an application to amend a previously approved Special Permit to allow modification of the transitional screening and a modification to the dustless surface requirement. Ms. Kelsey stated that staff recommends approval of the modification to the dustless requirement and denial of the modification to the screening requirement.

Pastor Wood, 2500 Gallows Road, Fairfax, Virginia, representative for the applicant, stated that the reason the church would like the transitional screening removed is for the purpose of keeping the church and the house within walking distance.

In answer to Mr. Ribble's question, Pastor Wood replied that the applicant agreed with staff's Development Conditions, except for the transitional screening and the fence conditions.

Since there were no speakers to address this application Chairman Smith closed the public hearing.

Mr. Ribble moved to grant SPA 83-P-028-2 based on the applicant's testimony and that the applicant has satisfied the standards for a Special Permit. Mr. Ribble modified Development Condition #5 to read as follows: "Transitional Screening 1 shall be provided along Cedar Street and along the western lot line as shown on the plat submitted with this application. Evergreen plantings shall be provided along Gallows Road to screen these areas from view of the road. The amount and type of such planting shall be determined by the County Arborist.

Mr. Hammack seconded the motion which passed by a unanimous vote of 7-0.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 83-P-028-2 by COMMUNITY CHURCH OF GOD, under Section 3-103 and 8-901 of the Zoning Ordinance to amend SP 83-P-028 for church and related facilities to permit modification of screening and dustless surface requirements, on property located at 2458 Gallow Road, Tax Map Reference 39-4((1))30A, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 9, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 168,064 square feet of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-915 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans. Any plan submitted to the Department of Environmental Management pursuant to this Special Permit shall conform with the approved Special Permit and these conditions.
5. Transitional Screening 1 shall be provided along Cedar Street and along the western lot line as shown on the plat submitted with this application. Evergreen plants shall be provided along Gallows Road to screen these areas from view of the road. The amount and type of such planting shall be determined by the County Arborist.
6. The barrier requirement shall be waived.
7. Interior parking lot landscaping shall be required in accordance with the provisions of Sect. 13-106 of the Zoning Ordinance and subject to the approval of the County Arborist.
8. If parking lot lights are installed, they shall be no higher than 12 feet and shall be shielded if necessary to prevent glare onto adjacent properties.
9. The maximum number of seats shall be 400 with a corresponding minimum and maximum number of 100 parking spaces.
10. All maintenance and repair of vehicles shall be conducted within the interior of the garage and shall be limited to vehicles owned by the church. There shall be no outside storage of vehicle parts. Maintenance and minor repairs shall be conducted during daylight hours and there shall be not major repair of vehicles on this property.
11. The facade of the garage shall be of a brick appearance.
12. The modification of the dustless surface requirement is approved for a term of six (6) months and shall expire automatically without notice on August 9, 1988.

These conditions incorporate all previously approved Development Conditions.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Hammack seconded the motion.

The motion carried by a vote of 7-0.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on February 17, 1988. This date shall be deemed to be the final approval date of this special permit.

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11:10 A.M. RICHARD FEICKERT/JOHN MATTEI SP 87-S-088, application under Sect. 5-503 of the Zoning Ordinance to allow a health club within a business park, located at Sullyfield Circle, on approximately 5.25 acres of land, zoned I-5, Springfield District, Tax Map 34-3 ((5))D2.

Jane C. Kelsey, Chief, Special Permit and Variance Branch, presented the staff report. Ms. Kelsey stated that there have been other Special Permit Applications in the vicinity for health clubs of a different type. Ms. Kelsey stated that staff had no major problems with this application and recommended approval in accordance with the Development Conditions stated in the staff report.

Rich Feickert, 15205 Rolling Ridge Road, Haymarket, Virginia, co-applicant, submitted layout of the gym and a parking tabulation. Mr. Feickert explained that this use is non-controversial, there will be no traffic problems, and the application meets the general standards for a Special Permit. Mr. Feickert stated that he was in full agreement with the Development Conditions, except #6 and #8. The suggested change for Development Condition #6 would be to extend the hours to 11:00 p.m. and Development Condition #8 would be changed from 40 patrons to 75 patrons.

Ms. Kelsey stated that staff has no problems with an increase of patrons on site at any one time, provided adequate parking can be provided, and further stated that the numbers in Development Conditions #5 and #8 will have to be changed. Ms. Kelsey further stated that staff has no problem with deleting any reference to hours, Development Condition #6, in this location because it will not create any impact on adjacent residential properties. Since there are no residential properties in the vicinity, Ms. Kelsey further stated that Development Condition #5 would change to 28 parking spaces and Development Condition #8 would change to 75 patrons and Development Condition 36 can be deleted.

Since there were no speakers to address this application Chairman Smith closed the public hearing.

Mr. Hammack moved to grant SP 87-S-088 based on the applicant's testimony and because the applicant meets the general standards for a Special Permit. Mr. Hammack made the following modifications to Development Conditions. Development Conditions #1 through #4 remain the same. Development Condition #5 shall be changed to read as follows: "There shall be a minimum of 28 parking spaces associated with this use ...". Development Condition #6 shall be deleted in its entirety. Development Conditions #7, #8, and #9 shall be renumbered sequentially. Development Condition #7 shall read as follows: "There shall be a maximum of 75 patrons on site at any one time".

Mrs. Thonen made the motion to waive the 8 day waiting period and make the Resolution final as of February 9, 1988. Mr. DiGiulian seconded the motion which passed unanimously by a vote of 7-0.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-S-088 by RICHARD FEICKERT & JOHN MATTEI, under Section 5-503 of the Zoning Ordinance to allow a health club within a business park, on property located at Sullyfield Circle, Tax Map Reference 34-3((5))D2, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 9, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicants are the lessees of the land.
2. The present zoning is I-5.
3. The area of the lot is 5.25 acres of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 8-503 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. a copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans. Any plan submitted to the Department of Environmental Management (DEM) pursuant to this Special Permit shall conform with the approval Special Permit plan and these conditions.
5. There shall be a minimum of twenty-eight (28) parking spaces associated with this use provided on site. A parking tabulation shall be provided to the Director, (DEM) at the time of site plan review which indicates that adequate parking is available for all uses on this property. All parking for this use shall be on site.
6. There shall be a maximum of three (3) employees associated with this use or site at any one time.
7. There shall be a maximum of 75 patrons on site at any one time.
8. Any signs erected shall be in conformance with Article 12 of the Zoning Ordinance, Signs.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mrs. Thonen seconded the motion which carried by a unanimous vote of 7-0.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on February 10, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 295, February 9, 1988, (Tape 2), Scheduled case of:

11:25 A.M. EULION J. WHITE VC 87-C-159, application under Sect. 18-401 of the Zoning Ordinance to allow construction of enclosed porch (deck) addition to dwelling to 12.5 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located at 13218 Lazy Glen Lane, on approximately 8,548 square feet of land, zoned R-3, Centreville District, Tax Map 25-3 ((9)) 278.

Kathy Reilly, Staff Coordinator, presented the staff report.

Eulion J. White, 12318 Lazy Glen Lane, Herndon, Virginia, applicant, stated that he had a building permit which he received on October 16 to build a deck. Mr. White realized after the deck was built that there was a terrible problem with mosquitoes in the area and decided to screen the deck in.

Mrs. Thonen noted that the applicant had an irregular shaped lot.

In response to Mr. DiGiulian's question, Mr. White replied that the area in the rear is a floodplain area that belongs to the Fairfax County Park Authority.

Since there were no speakers to address this application Chairman Smith closed the public hearing.

Mr. DiGiulian moved to grant VC 87-C-159 based on the applicant's testimony, that the applicant meets all the requirements for a variance; specifically, the exceptional shape of the lot and the fact that the deck is closest to the floodplain area which will be impact on that specific property.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-C-159 by EULION J. WHITE, under Section 18-401 of the Zoning Ordinance to allow construction of enclosed porch (deck) addition to dwelling to 12.5 feet from rear lot line, on property located at 13218 Lazy Glen Lane, Tax Map Reference 25-3(9)278, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 9, 1988; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the applicant is the owner of the land.
- 2. The present zoning is R-3.
- 3. The area of the lot is 8,548 of land.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

- 1. That the subject property was acquired in good faith.
- 2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;
  - F. An extraordinary situation or condition of the subject property, or
  - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
- 3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
- 4. That the strict application of this Ordinance would produce undue hardship.
- 5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
- 6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
- 7. That authorization of the variance will not be of substantial detriment to adjacent property.
- 8. That the character of the zoning district will not be changed by the granting of the variance.
- 9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless request for additional time is approved by the BZA because of the occurrence conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A new Building Permit shall be obtained prior to completion of any construction.

Mrs. Thonen seconded the motion.

The motion carried by a vote of 5-1 with Chairman Smith voting nay and Mr. Hammack not present for the vote.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on February 17, 1988. This date shall be deemed to be the final approval date of this variance.

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Page \_\_\_\_\_, February 9, 1988, (Tape 3), Scheduled case of:

11:40 A.M. DONALD R. DeGRANGE SP 87-P-087, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to min. yard requirements based on error in building location to allow 9 ft. high shed to remain 8.3 ft. from side lot in and 2.5 ft. from rear lot line (12 ft. min. side yard, 9 ft. min rear yard req. by Sects. 3-307 and 10-104), located at 9305 Glenbrook Road, on proximately 11,527 square feet of land, zoned R-3, Providence District, Tax Map 58-2 ((11)) 50. (NOTICES NOT IN ORDER)

Chairman Smith stated that the Board was in receipt of a letter from Mr. DeGrange requesting a deferral in order to have additional time to notify his neighbors.

Mrs. Thonen moved to defer SP 87-P-087 to March 15, 1988 at 12:00 due to the fact that the notices were not in order.

Mr. DiGiulian seconded the motion which passed by a vote of 6-0 with Mr. Hammack not present for the vote.

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Mrs. Thonen moved to adjourn the meeting at 12:50 with no lunch break, Mr. DiGiulian seconded the motion which passed by a vote of 6-0 with Mr. Hammack not present for the vote.

  
Tamara S. Gentry, Associate Clerk  
Board of Zoning Appeals

  
Daniel Smith, Chairman  
Board of Zoning Appeals

SUBMITTED: 5/10/88

APPROVED: 5/17/88

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, February 16, 1988. The following Board Members were present: Daniel Smith, Chairman; Ann Day; Paul Hammack; Robert Kelley, John Ribble and Mary Thonen. John DiGiulian, Vice-Chairman was absent from the meeting.

Chairman Smith opened the meeting at 9:45 A.M. and Mrs. Day led the prayer.

// Page 298, February 16, 1988, (Tapes 1 and 2), Scheduled case of:

9:00 A.M. CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS - ANNANDALE VIRGINIA STAKE, SP 87-S-065, application under Sect. 3-103 of the Zoning Ordinance to allow a church and related facilities, located in South Run Subdivision, Section I, on approximately 168,916 square feet of land, zoned R-1, WSP0D, Springfield District, Tax Map 88-3((6))F. (DEFERRED FROM 12/8/87)

Heidi Belofsky, Staff Coordinator, presented the staff report and its addendum and advised the Board that the applicant had submitted revised plats. She added that the applicant had also reduced the F.A.R., number of parking spaces and seating capacity. Ms. Belofsky also pointed out that the building now complies with the front yard requirements of the R-1 District. Additional screening will be provided along the lot lines as well as revised landscaping around the church building. She also noted that the applicant had eliminated plans to hold bi-annual conferences on the site. Ms. Belofsky stated that there were two unresolved issues concerning traffic one of which was the dedication of right-of-way necessary for the improvements of Lee Chapel Road as part of the Springfield Bypass and the other was the unsatisfactory access on South Park Circle. However, the applicant has now verbally agreed to prohibit access on South Park Circle and to provide dedication of the right-of-way for proposed improvements on Lee Chapel Road.

Tom Lawson of the Lawson and Kipp law firm, 10805 Main Street, Suite 200, Fairfax, Virginia, representative of the applicant, appeared before the Board and stated that he concurred with the staff report and the revised development conditions and pointed out that the original site plan and development plan for the area indicated that the subject site was proposed for a church site. He added that the proposal had been reduced to accommodate the concerns of the staff, citizens and neighbors. Mr. Lawson also stated the following points: 1) The F.A.R. had been reduced. 2) The proposed building was smaller. 3) Open space was provided. 4) The total number of parking spaces had been reduced. 5) Fewer church activities were now being proposed. 6) They were no longer requesting a satellite dish. 7) They agreed to the colonial style motif and would also submit to their plans to the HOA Architectural Review Committee for the South Run Subdivision. 8) There will be no flood lights at night. 9) There will be no free standing sign. 10) There will be no free standing spire. 11) Access on South Park Circle will be eliminated.

Chairman Smith called for speakers in support of the application and the following citizens came forward: Scott Lee, 7412 Rock Ravine, Fairfax Station; Linda Klurney, 9920 South Park Circle, Fairfax Station; Cliff Barton, 7315 Lake Tree Drive, Fairfax Station; Tom Moore, 9745 South Park Circle, Fairfax Station; Larry Morey, 6653 Old Blacksmith Drive, Burke; Jim Thomas 7304 Mizzen Place, Burke; David Calden, 8517 Fairburn Drive, Springfield; Gordon Jones, 6803 Trefor Court, Springfield; Glen Goodsell, 9747 South Park Circle, Fairfax, Station, Virginia. These citizens indicated that the church would not create parking problems and that the church would be an asset to the community. They also pointed out that the church had made many concessions to the residents of South Run and they also noted that the church would be located on the outer-perimeter of the community.

Chairman Smith called for speakers in opposition to the request and the following citizens came forward: William Truesdell, 9921 South Park Circle, Fairfax Station; Diane Malanowski, 9925 South Park Circle, Fairfax Station; Nancy Crum, 7304 Compass Court, Burke; Nancy Converse 9744 Rolling Ridge Drive, Fairfax Station; Joe Kampf, 7504 Rambling Ridge Drive, Chip Larouche, 7703 Stoney Creek Court, Fairfax Station; George Lippencott, 9907 South Park Circle; Pat Junkin, 9915 South Park Circle; Dr. Geoffrey McIntyre, 9735 Rolling Ridge Drive, Fairfax Station; Pat Genzler, 9934 South Park Circle; Robert Pearson, 9093 Andromeda Drive, Burke; Darrell Whitaker, 7525 Rambling Ridge Drive, Fairfax Station; Glenn Leister, 9702 Rambling Ridge Court; Glenise White, 9931 South Park Circle, and Ray Pelletier, 9928 South Park Circle, Fairfax Station.

These citizens expressed concern about additional traffic, access, safety, noise, lack of sidewalks for the children, that the church was too large for the site and that heavy traffic would destroy the community streets. They also were concerned that the church would only allow limited use of the building for community use and that the church would not agree to come under the community's restrictive covenants.

Sarah Reifsnnyder, representative for South Run Community, appeared before the Board and stated that the church did not meet the criteria of the Zoning Ordinance nor is it in harmony with the neighborhood. She added that the traffic will impact the neighborhood because of poor access and she also expressed concern for the large groups of people meeting at the church all day on Sundays.

In rebuttal, Mr. Lawson reiterated that there would not be any more than 300 people associated with this use at any one time. He added that the church was not opposed to the HOA Covenants and they will allow community meetings at the church.

Since there were no other speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. Hammack pointed out that there was hardly a church in Fairfax that is proposed that is not controversial. He added that one of the church's mentioned today by comparison was an application for 2,000 seats that had been reduced by that church from 4,000 originally and was ultimately denied by the Board. He further stated that the Board was sensitive to the traffic problems and ingress and egress. Mr. Hammack added that if ingress/egress is off of a main road it can be dangerous as well as if it's off a community road. He concluded by saying that in his opinion the applicant has made a satisfactory application and therefore moved to grant the request subject to the development conditions.

Mrs. Thonen noted that the major issue was land use. She added that even though the church is smaller the services are doubled. Mrs. Thonen also pointed out that even though there have been more dense churches approved by the Board they have been on more land.

Mr. Hammack responded that the church would be sited across from the recreational facility, a park, and a four-lane highway. He concluded that this was a good site for a church.

Mr. Kelley stated that he was also opposed to the church because it was to great of a burden on the community.

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**THE MOTION TO GRANT FAILED  
COUNTY OF FAIRFAX, VIRGINIA**

**SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS**

In Special Permit Application SP 87-S-065 by CHURCH OF JESUS CHRIST OF THE LATTER DAY SAINTS - ANNANDALE STAKE, under Section 3-103 of the Zoning Ordinance to allow a church and related facilities, on property located in the South Run Subdivision, Tax Map Reference 88-3((6))F, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 16, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 168,916 square feet of land.
4. The issue is land use alone.
5. The site has been planned for a church site for quite some time, prior to the construction of the homes in South Run.
6. The original application was for a much larger church. It was for a stake center. The applicant has reduced the size of the church to use it for a ward chapel. That eliminates certain activities which would be viewed as undesirable by some people such as the conferences that the Church of Latter Day Saints holds in the stake centers.
7. There's been a reduction in the bulk of the building.
8. There's been a reduction in the number of seats to a maximum of 300.
9. The reduced size of the building satisfies the F.A.R. requirements for an R-1 District, even with the dedication of land for the Lee Chapel Road improvements.



- 10. The church has attempted to satisfy community concerns such as height and lighting as well as some of the staff concerns.
- 11. It's unusual that this Board will get an application for a church for only 300 seats and for those of you who might feel that another church would come in for less, but I seriously doubt it.
- 12. The issue of using having two wards use the church tends to spread out the use of the members of the church on the site. Instead of having large numbers of people come in all in the morning or all in the afternoon this is going to spread out some of that traffic through the day.
- 13. The rest of the uses associated or proposed to be implemented associated with the use of this church are sort of innocuous. They are basically directly limited to the church function itself. As we see in many cases we have churches that have very strong community outreach programs which may or may not thought to be desirable by people including AA, Homes for the homeless, Mother's Day Out Programs, school activities, it goes on forever. The churches in Fairfax are very active for the most part. And this particular application does not include any of those uses and under the development conditions those uses would be limited and they would have to come back to this Board if they wanted to implement those uses.
- 14. VDOT would not approve access off of Lee Chapel Road. Any church that would be put on this site would probably be limited to that access as provided in this application. The additional access onto the circle has been closed.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 8-303 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
- 2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
- 3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
- 4. This Special Permit is subject to the provisions of Article 17, Site Plans. Any plan submitted to the Department of Environmental Management pursuant to this Special Permit shall conform with the approved Special Permit plat and these conditions.
- 5. Temporary ancillary easements necessary for public street purposes shall be provided along the site frontage of Lee Chapel Road.
- 6. Dedication as determined by VDOT along the site frontage on the Lee Chapel Road necessary for road improvements shall be dedicated for public street purposes to the Board of Supervisors in fee simple.
- 7. Temporary ancillary easements necessary for public street purposes shall be provided along the site frontage of Lee Chapel Road.
- 8. The use of this Chapel shall be limited to two wards of the Church of Latter Day Saints, each ward not to exceed 300 members.

9. Site access shall be provided from a single entrance on Pond Point Drive. There shall be no access from South Park Circle nor Lee Chapel Road.
10. There shall be a minimum of 94 parking spaces and a maximum of 125 parking spaces including handicap parking. All parking shall be on site.
11. There shall be a maximum of 375 seats in the main place of worship
12. BMPs shall be provided to the satisfaction of the Director of DEM at the time of site plan approval and may include but are not limited to the stormwater detention pond shown on the plat.
13. There shall be no conferences nor any other activities on site which exceed the seating capacity of the church or the vehicular capacity of the parking area.
14. The exterior of the building shall generally conform to the Architectural plans submitted with this application in regard to height and architectural design.
15. No expansion of the main place of worship, either permanent or temporary, may occur without approval by the Board of Zoning Appeals (BZA) of an amendment to the approved Special Permit.
16. Transitional Screening 2 shall be provided along all lot lines with the following modifications:

The fifty (50) foot strip of existing vegetation along the northern lot line shall remain undisturbed and may be used to satisfy the Transitional Screening requirement and shall be supplemented as necessary so as to comply with the intent of Transitional Screening 2, as determined by the County Arborist.

The landscape plantings shown on the January 29, 1988 Special Permit Plat may be used to satisfy the transitional screening requirements along the western, southern, and eastern lot lines.

A five (5) foot high landscaped earthen berm shall be constructed along the entire western lot line so as to minimize adverse impact on the adjacent residences.
17. The barrier requirement shall be waived.
18. The interior of the parking lot shall be landscaped in accordance with Article 13 of the Zoning Ordinance and the design criteria of the Public Facilities Manual.
19. There shall be no school nor any child care facility associated with this parcel without the specific approval of the Board of Zoning Appeals or the Board of Supervisors.
20. The standards for outdoor lighting shall not exceed twelve (12) feet in height and shall be located, oriented, and shielded so as to prevent light or glare from projecting onto adjacent properties.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date\* of the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Ribble seconded the motion.

The motion FAILED by a vote of 3-3 with Messrs. Ribble, Smith and Hammack voting aye; Mrs. Day, Mrs. Thonen and Mr. Kelley voting nay; Mr. DiGiulian absent from the meeting. \*This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 2, 1988. This date shall be deemed to be the final approval date of this special permit.

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9:20 A.M. ST. BARNABAS EPISCOPAL CHURCH, SPA 74-M-047-2, application under Sect. 3-103 of the Zoning Ordinance to amend S-47-74 for church and related facilities to allow expansion of sanctuary and replacement of storage shed located at 4801 Ravensworth Road, on approximately 6.4413 acres of land, zoned R-1, WSP0D, Mason District, Tax Map 71-3((1))1. (DEFERRED FROM 12/15/87 - NOTICES NOT IN ORDER)

Heidi Belofsky, Staff Coordinator, presented the staff report and advised the Board that staff was recommending approval of the application subject to the development conditions contained in the staff report.

Frank Spink, Jr., 5158 Piedmont Place, Annandale, Virginia, the representative for the applicant, appeared before the Board and explained the request as outlined in the statement of justification submitted with the application. With regard to Condition 8, Mr. Spink requested clarification of the word "around" and suggested that it be changed to "across". With regard to Condition 12, Mr. Spink noted that this was not in the original conditions and requested that the words, "DEM and shall include a gravel percolation of french drain around the pavement" be deleted.

Ms. Belofsky explained that the wording in Condition 12 was suggested by the Environmental Division of the Office of Comprehensive Planning based on the recommendation of the Department of Environmental Management. She added that the development conditions incorporated all previous development conditions. Ms. Belofsky further explained that concerning Condition 8, the word "around" was a clarification but staff would have no objection to the use of the word "across".

Mrs. Thonen suggested the following wording: Storm water management techniques shall be provided as determined by the Director of DEM".

Since there were no speakers to address this issue, Chairman Smith closed the public hearing.

Mr. Ribble moved to grant the request subject to the revised development conditions: 1-7 shall remain the same. Condition 8 shall be revised as follows: An evergreen hedge, six (6) feet in height, shall be planted across the proposed parking in the front yard in order to screen the lot and cars from adjacent properties. The hedge shall be six (6) feet high measured from the parking lot pavement at the time of planting. Conditions 9-11 shall remain the same. Condition 12 shall be revised as follows: Stormwater management techniques shall be provided as determined by the Director, DEM. Conditions 13-15 shall remain the same.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 74-M-047-2 by ST. BARNABAS EPISCOPAL CHURCH, under Section 3-103 of the Zoning Ordinance to amend S 47-74 for church and related facilities to allow expansion of sanctuary and replacement of storage shed, on property located at 4801 Ravensworth Road, Tax Map Reference 71-3((1))1, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 16, 1988; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the applicant is the owner of the land.
- 2. The present zoning is R-1.
- 3. The area of the lot is 6.4413 acres of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 8-303 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans. Any plan submitted to the Department of Environmental Management pursuant to this Special Permit shall conform to the approved plat and these conditions.
5. The proposed one story addition shall be architecturally compatible in with the existing church facility regarding style, color, and materials.
6. Right-of-way necessary for road improvements to forty-five (45) feet from the centerline of Ravensworth Road shall be provided for public street purposes and shall convey to the Board of Supervisors in fee simple.
7. Ancillary easements shall be provided along the site frontage on Ravensworth to facilitate road improvements.
8. An evergreen hedge, six (6) feet in height, shall be planted across the proposed parking in the front yard in order to screen the lot and cars from adjacent properties. The hedge shall be six (6) feet high measured from the parking lot pavement at the time of planting.
9. Additional plantings shall be installed between the building addition and the lot line. The existing vegetation shall be deemed to satisfy the Transitional Screening requirement along all lot lines given the current level of development on the site. This condition shall not preclude the applicant from providing a six foot high evergreen hedge across the proposed front parking lot. The hedge shall measure six feet high from the pavement at the time of planting.
10. The Barrier requirement shall be waived.
11. The maximum seating capacity of the sanctuary shall be 309 with a corresponding minimum of 78 and a maximum of 122 parking spaces.
12. Stormwater management techniques shall be provided as determined by the Director, DEM.
13. A trail shall be provided in accordance with Article 17, Site Plans, unless specifically waived by DEM.
14. Clearing and grading shall be limited to fifteen (15) feet around the structures and the parking lot.
15. The existing light poles shall be shielded if necessary so as to prevent light or glare from projecting on adjacent properties.

These conditions incorporate all previous Development Conditions. This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date\* of the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mrs. Day seconded the motion.

The motion carried by a vote of 4-0 with Messrs. Hammack and Mrs. Thonen not present for the vote; Mr. DiGiulian absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on February 24, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 304, February 16, 1988, (Tape 2), Scheduled case of:

9:30 A.M. BELLEAU WOOD, INC. SP 87-S-090, application under Sect. 3-303 of the Zoning Ordinance to allow subdivision sales office, located at 9205 Northedge Drive, on approximately 13,062 square feet of land, zoned R-3, Springfield District, Tax Map 97-2((5))41.

Heidi Belofsky, Staff Coordinator, presented the staff report and advised the Board that due to the lack of adequate parking, staff was recommending denial of the request.

Rebecca Carr, 5252 Lynngate Court, Burke, Virginia, appeared before the Board as the representative of the applicant and explained the request as outlined in the statement of justification as submitted with the application.

Chairman Smith noted that the garage was converted to living space without the applicant having first obtained a building permit.

Ms. Belofsky pointed out that there was not sufficient room to construct additional parking spaces on site.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Following a discussion among the Board members, Mr. Hammack moved to defer the application for three weeks to allow the applicant time to convert the living space back to a garage.

Staff suggested March 8, 1988 at 12:15 P.M. There being no objection it was so ordered.

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Page 304, February 16, 1988, (Tape 3), Reconsideration of:  
CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS - ANNANDALE VIRGINIA STAKE, SP 87-S-065

At this time, Mrs. Day moved that the Board reconsider its action and vote at its next meeting on February 23, 1988 at 11:15 A.M. Mr. Hammack seconded the motion which passed unanimously with Mrs. Thonen not present for the vote; Mr. DiGiulian absent from the meeting.

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At 1:20 P.M. the Board recessed for lunch and reconvened the meeting at 2:25 P.M.

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Page 304, February 16, 1988, (Tape 3), Scheduled case of:

9:40 A.M. AIRSTON CORPORATION OF VIRGINIA, SP 87-S-071, application under Sect. 3-303 of the Zoning Ordinance to allow subdivision sales office and waiver of the dustless surface requirement, located at 5400 and 5402 Ashcomb Court and 13999 Cabells Mill Drive, on approximately 48,713 square feet of land, zoned R-3, Springfield District, Tax Map 54-2((4))21, 22, 23, 24. (DEFERRED FROM 1/5/88 - NOTICES NOT IN ORDER)

Chairman Smith polled the audience to determine whether or not the applicant or applicant's representative was present and there being no reply, Mrs. Thonen moved to pass over the application until the end of the agenda to allow staff time to try and contact the applicant.

Mr. Hammack seconded the motion which passed unanimously with Mr. Ribble not present for the vote; Mr. DiGiulian absent from the meeting.

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Page 305, February 16, 1988, (Tape 3), Scheduled case of:

9:50 A.M. JOHN H. STOKES III, VC 87-M-149, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed Lot 1 having a lot width of 43 feet (100 ft. min. lot width required by Sect. 3-206), located at 4340 Old Columbia Pike, on approximately 2.4158 acres of land, zoned R-2, Mason District, Tax Map 71-2((1))59.

Lori Greenlief, Staff Coordinator, presented the staff report and advised the Board an identical application had been filed on October 28, 1986. Due to the need for further negotiations regarding the EQC and because the applicant was checking into the accessory dwelling unit section of the Ordinance, the applicant withdrew the original application. She further added that staff had three concerns with this application: 1) A portion of the site should be preserved in its natural state. 2) A minor site distance problem to the south. 3) The applicant has reasonable use of the land without a variance.

Mr. Stokes, 4132, Whispering Lane, Annandale, Virginia, appeared before the Board and explained the request as outlined in the statement of justification which was submitted with the application. He noted that the lot was narrow at the street frontage and that strict application of the Zoning Ordinance would not permit building on proposed lot 1. This would not permit reasonable use of the rear portion of the property because there is no access to that part of the property. Mr. Stokes indicated that the Park Authority was willing to swap land so that he would have the required frontage but he has been unable to get further cooperation from the Park Authority.

Chairman Smith stated that he would like to defer this application to allow staff and the applicant time to try to resolve the issue with the Park Authority.

Mrs. Thonen moved to defer the application to March 8, 1988 at 12:30 P.M. so that staff could inquire as to when the Park Authority would be willing to swap land with the applicant.

There being no objection, it was so ordered; Mr. Ribble not present for the vote; Mr. DiGiulian absent from the meeting.

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Page 305, February 16, 1988, (Tape 3), Scheduled case of:

10:00 A.M. HUNTER DEVELOPMENT COMPANY OF FAIRFAX, INC., SPA 87-S-011-1, application under Sect. 3-503 of the Zoning Ordinance to amend SP 87-S-011 for subdivision sales office to permit relocation of temporary parking spaces and waiver of dustless surface requirement, located at 5801-T Rockdale Court, on approximately 0.24432 acres of land, zoned R-5 and WS, Springfield District, Tax Map 54-4((8))pt. K. (DEFERRED FROM 12/15/87 - NOTICES NOT IN ORDER)

Chairman Smith announced that the Board had received a letter from the applicant requesting withdrawal of the application.

There being no objection, it was so ordered with Mr. Ribble not present for the vote; Mr. DiGiulian absent from the meeting.

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Page 305, February 16, 1988, (Tape 3), Scheduled case of:

10:10 A.M. NV LAND, INC, SP 87-S-039, application under Sect. 3-C03 of the Zoning Ordinance to allow a Country Club located at Union Mill Road and Compton Road, on approximately 169.6344 acres of land, zoned R-C, Springfield District, Tax Map 74-2((1)) pt. 17; 74-4((1))2, 3, 4, 5; and 85-1((1))3.

application under Sect. 3-C03 of the Zoning Ordinance to allow a community swimming pool and tennis courts, located at Union Mill Road and Compton Road, on approximately 6.78421 acres of land, zoned R-C and WS, Springfield District, Tax Map 74-2((1))pt. 13 and 74-4((1))pt. 2A.

In Marilyn Anderson's absence, Kevin Guinaw, Staff Coordinator, advised the Board that the applicant was requesting a deferral of SP 87-S-039. Staff suggested a date of March 15, 1988 at 10:00 A.M.

Mr. Hammack so moved with Mrs. Day seconding the motion which passed unanimously with Mr. Ribble not present for the vote; Mr. DiGiulian absent from the meeting.

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Chairman Smith announced that the applicant in NV Land, Inc., SP 87-S-052, had requested a withdrawal of the application.

Mrs. Thonen so moved and Mr. Hammack seconded the motion which passed unanimously with Mr. Ribble not present for the vote; Mr. DiGiulian absent from the meeting.

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Page 306, February 16, 1988, (Tape 3), Scheduled case of:

10:20 A.M. SULLY TECH PARTNERS LIMITED PARTNERSHIP AND OLYMPUS GYM, SP 87-S-089, application under Sect. 5-504 of the Zoning Ordinance to allow a health club, located at 14119 Sullyfield Circle, on approximately 4.79731 acres of land, zoned I-5, WS, AN, HC, Springfield District, Tax Map 34-3((5))F-2.

Kevin Guinaw, Staff Coordinator, presented the staff report and advised the Board that staff was recommending approval of the request subject to the development conditions contained in the staff report.

Lisa Whitfield, 3050 Chain Bridge Road, Fairfax, Virginia, appeared before the Board and stated that the applicant agreed with the development conditions.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mrs. Day stated the applicant had met the standards of the Zoning Ordinance for a special permit and therefore moved to grant the request subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-S-089 by SULLY TECH PARTNERS LIMITED PARTNERSHIP AND OLYMPUS GYM, under Section 5-504 of the Zoning Ordinance to allow a health club, on property located at 14119 Sullyfield Circle, Tax Map Reference 34-3((5))F-2, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 16, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicants are the owner and lessee.
2. The present zoning is I-5, WS, AN, HC.
3. The area of the lot is 4.79731 acres of land.
4. The applicants meet the various requirements of the Comprehensive Plan with parking and the Zoning Ordinance.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 8-503 of the Zoning Ordinance.

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NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans. Any plan submitted to the Department of Environmental Management (DEM) pursuant to this Special Permit shall conform with the approved Special Permit plat and these conditions.
5. There shall be a minimum of forty (40) parking spaces associated with this use provided on site. All parking for this use shall be on site. A revised parking tabulation shall be provided to the Department of Environmental Management at the time of site plan review, prior to the issuance of a Non-Residential Use Permit.
7. There shall be a maximum of five (5) employees associated with this use on site at any one time.
8. There shall be a maximum of 105 patrons on site at any one time.
9. Any signs erected shall be in conformance with Article 12 of the Zoning Ordinance, Signs.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date\* of the Special Permit unless the activity authorized has been established, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Hammack seconded the motion.

The motion carried by a vote of 5-0 with Mr. Ribble not present for the vote; Mr. DiGiulian absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on February 24, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 307, February 16, 1988, (Tape 3), Scheduled case of:

10:30 A.M. EVELYN H. DAVIS, VC 87-M-160, application under Sect. 18-401 of the Zoning Ordinance to allow construction of dwelling to 27.8 ft. from front lot line (30 ft. min. front yard required by Sect. 3-407), located at 4006 Medford Drive, on approximately 8,888 square feet of land, zoned R-4, Mason District, Tax Map 60-3((43))2.

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report, and suggested the following additional condition: "That the siding used on the porch should be the same as that on the house".



Frank Hammill, Jr., 4608 24th Place, N.E., Washington, D.C., appeared before the Board as the representative for the applicant. He advised the Board that the proposal would not impact on the neighborhood and would improve the property. Mr. Hammill submitted a petition from the neighbors in support of the application. He also noted the irregular shape of the lot.

Evelyn Davis, 4006 Medford Drive, Annandale, Virginia, the applicant, appeared before the Board and reiterated Mr. Hammill's remarks.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. Hammack stated that the applicant had satisfied the standards for a variance and also noted the irregular shape of the lot and the topographical conditions. Therefore, Mr. Hammack to grant the request subject to the development conditions.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-M-160 by EVELYN H. DAVIS, under Section 18-401 of the Zoning Ordinance to allow construction of dwelling to 27.8 ft. from front lot line, on property located at 4006 Medford Drive, Tax Map Reference 60-3((43))2, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 16, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-4.
3. The area of the lot is 8,888 square feet of land.
4. The unusual condition in this property is that the house faces what is logically the rear of the property and the front yard is in fact the rear yard of the property. In addition, it has ingress and egress easements across the actual front yard of the property.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;
  - F. An extraordinary situation or condition of the subject property, or
  - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.

8. That the character of the zoning district will not be changed by the granting of the variance.

9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mrs. Thonen seconded the motion which carried by a vote of 5-0 with Mr. Ribble not present for the vote; Mr. DiGiulian absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on February 24, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 309, February 16, 1988, (Tape 3), After Agenda Item: #1

Waiver of the 12 month limitation on rehearing  
SMC LEARNING CENTERS LIMITED PARTNERSHIP  
Originally submitted as U. S. Home Corporation, SP 87-S-037

Staff submitted copies of the notification forms to the Board, as required by the BZA's policy on waiving the 12 month limitation on rehearing an application.

John Cahill, 3110 Fairview Park, Fairfax, Virginia, appeared before the Board and stated that a transportation study had been done and the application would be improved.

Mrs. Thonen moved to grant the request for Waiver of the 12 month limitation on rehearing the above referenced application.

Mrs. Day seconded the motion which passed unanimously with Mr. Ribble not present for the vote; Mr. DiGiulian absent from the meeting.

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Page 309, February 16, 1988, (Tape 4), After Agenda Item #2:

Little Pinmit Run Stream Valley Appeal

Jane Gwinn, Zoning Administrator, appeared before the Board and stated that it was her opinion that the appellant had submitted new material raising new issues after the 30 day filing date had passed. However, she requested the Board take action on this matter at its next meeting to allow her time to notify the applicant of her decision that the new material was not timely filed.

There being no objection, it was so ordered to take this matter up on February 23, 1988 at 11:00 A.M.

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9:40 A.M. AIRSTON CORPORATION OF VIRGINIA, SP 87-S-071, application under Sect. 3-303 of the Zoning Ordinance to allow subdivision sales office and waiver of the dustless surface requirement, located at 5400 and 5402 Ashcomb Court and 13999 Cabells Mill Drive, on approximately 48,713 square feet of land, zoned R-3, Springfield District, Tax Map 54-2((4))21, 22, 23, 24. (DEFERRED FROM 1/5/88 - NOTICES NOT IN ORDER)

As the applicant's representative was now present, the Board held the public hearing on the above referenced application.

Lori Greenlief, Staff Coordinator, presented the staff report and advised the Board that staff was recommending approval of the request subject to the development conditions contained in the staff report.

Valerie Barton Clem, 42 Walker Road, Great Falls, Virginia, appeared before the Board as the applicant's representative for the applicant, agreed with all of the development conditions.

Ms. Greenlief stated that staff had determined that the request for waiver of dustless surface was not necessary as there house was already constructed.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Mrs. Thonen moved to grant the request subject to the development conditions as modified.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-S-071 by AIRSTON CORPORATION OF VIRGINIA, under Section 3-303 of the Zoning Ordinance to allow subdivision sales office and waiver of the dustless surface requirement (THE BOARD DID NOT GRANT THE WAIVER OF THE DUSTLESS SURFACE), on property located at 5400 and 5402 Ashcomb Court and 13999 Cabells Mill Drive, Tax Map Reference 54-2((4))21, 22, 23, 24, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 16, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 48,713 square feet of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 8-808 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED IN PART with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

4. The hours of operation shall be limited to 12:00 p.m. to 5:00 p.m., daily.
5. Two parking spaces shall be provided on each of Lots 21, 23 and 24 for a total of six spaces. A sign shall be posted at each driveway of the model homes on these lots which directs visitors to park in the driveways or garages of the model homes. In addition, a sign shall be posted at the walkway to the sales office on Lot 22 which states that visitor parking is located in the driveways/garages of the model homes.
6. This special permit shall be granted for a period of three (3) years from the final approval date of the resolution.
7. The models on Lots 21, 23, and 24 shall not be sold before the expiration of this special permit or before the use is terminated whichever comes first unless a special permit amendment is granted which deletes the affected land area from this special permit.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Hammack seconded the motion which carried by a vote of 5-0 with Mr. Ribble not present for the vote; Mr. DiGiulian absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on February 24, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 311, February 16, 1988, (Tape 4), After Agenda #3:

Request for Additional Time  
Temple Baptist Church  
SPA 85-D-009-1  
10-2(1)7

Mr. Hammack moved to grant the request for additional six months.

Mrs. Thonen and Mrs. Day seconded the motion which passed by a vote of 5-0 with Mr. Ribble not present for the vote; Mr. DiGiulian absent from the meeting. The new expiration date is July 8, 1988.

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Page 311, February 16, 1988, (Tape 4), After Agenda #4:

Reconsideration of the Frazier Resolution from February 9, 1988

Mr. Hammack stated that the conditions placed on the Frazier application on February 9, 1988 were reasonable therefore he moved to grant all of the Resolutions from February 9, 1988.

Mrs. Thonen requested a correction be made in the Frazier Resolution in that she had not made and seconded the motion.

She then seconded Mr. Hammack's motion which which passed by a vote of 5-0 with Mr. Ribble not present for the vote; Mr. DiGiulian absent from the meeting.

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As there was no other business to come before the Board, the meeting was adjourned at 3:42 P.M.

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Patti M. Hicks  
Patti M. Hicks, Clerk to the  
Board of Zoning Appeals

Daniel Smith  
Daniel Smith, Chairman  
Board of Zoning Appeals

SUBMITTED: 4/12/88

APPROVED: 4/19/88

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, February 23, 1988. The following Board Members were present: Chairman Daniel Smith; Ann Day; John DiGiulian; Paul Hammack; Robert Kalley; John Ribble; and Mary Thonen.

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Chairman Smith called the meeting to order at 9:22 A.M. Mrs. Day led the prayer.

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Page 313, February 23, 1988, (Tape 1), Scheduled case of:

9:00 A.M. RAYMOND H. MILKMAN, SPR 82-D-098-1, application under Sect. 3-103 of the Zoning Ordinance to renew S-82-P-098 for home professional office (research) located at 6726 Lucy Lane on approximately 62,492 square feet of land, zoned R-1, Dranesville District, Tax Map 21-4((4))31.

Neidi Belofsky, Staff Coordinator, presented the staff report.

Raymond H. Milkman, 6726 Lucy Lane, McLean, Virginia, came forward and outlined his request as set forth in the statement of justification submitted with his application.

As there were no questions or speakers to address this application, Chairman Smith closed the public hearing.

Mr. Hammack made a motion to grant SPR 82-D-098-1 as he believed that the applicant had presented testimony showing compliance with the standards for a Special Permit and subject to the development conditions being implemented.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Renewal Application SPR 82-D-098-1 by RAYMOND H. MILKMAN, under Section 3-103 of the Zoning Ordinance to renew S 82-P-098 for home professional office (research), on property located at 6726 Lucy Lane, Tax Map Reference 21-4((4))31, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 23, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 62,492 square feet of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-903 and 8-907 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

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4. This use shall be subject to the provisions set forth in Article 17, Site Plans. Any plan submitted to the Department of Environmental Management (DEM) pursuant to this Special Permit shall conform with the approved Special Permit plat and these conditions.
5. Transitional screening and barrier requirements shall be modified provided the existing trees and vegetation remain undisturbed.
6. The maximum number of employees shall be two (2).
7. The visitors to this property in connection with this use shall be limited to one (1) at a time with a total of no more than five (5) per week.
8. The hours of operation shall be limited to 9:00 A.M. and 5:00 P.M., Monday through Friday.
9. There shall be no exterior changes to the property in connection with this use.
10. Signage shall be limited to the existing sign which is 1 foot X 2 2/2 foot attached to the dwelling.
11. This Special Permit is granted for a period of five (5) years and shall automatically expire without notice on January 18, 1992.
12. The home professional office shall be limited to 450 square feet of the lower level of the dwelling.

These conditions incorporate all previously approved Development Conditions.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date\* of the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Ribble seconded the motion which carried by a vote of 7-0.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 2, 1988. This date shall be deemed to be the final approval date of this special permit.

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Mrs. Thonen expressed concern that possibly the applicants are not clear as to whether or not they are to obtain building permits once a Special Permit or Variance has been granted.

Jana Kelsey, Chief of the Special Permit and Variance Branch, explained that each applicant receives a letter describing in detail the types of permits they must obtain prior to any construction. She indicated she did not know how much more could be done, but stated that staff would consider any suggestions the Board might have.

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Page 314, February 23, 1988, (Tape 1), Scheduled case of:

9:15 A.M. THOMAS A. TRUDEAU, VC 87-S-162, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 14.3 feet from rear lot line (25 ft. min. rear yard req. by Sect. 3-307) located at 4102 Gumwood Court on approximately 10,956 square feet of land, zoned R-3(C), Springfield District, Tax Map 45-1((2))695.

Heidi Belofsky, Staff Coordinator, presented the staff report.

Thomas A. Trudeau, 4102 Gumwood Court, Chantilly, Virginia, thanked the Board for allowing him to appear. He stated that this request will be in harmony with the neighborhood and asked the Board to grant his Variance.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Mrs. Thonen made a motion to grant VC 87-S-162 as she believed that this is a very minimal request, that the applicant had met the criteria for a Variance especially as the lot has an irregular shape, that she is impressed with the architectural compatibility of the house and porch. The approval is subject to the development conditions.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-S-162 by THOMAS A. TRUDEAU, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 14.3 feet from rear lot line, on property located at Tax Map Reference 45-1((2))695, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 23, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the co-owner of the land.
2. The present zoning is R-3(C).
3. The area of the lot is 10,956 square feet of land.
4. The request is very minimal.
5. That the lot has an irregular shape.
6. That the design of the house and porch is architecturally impressive.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;
  - F. An extraordinary situation or condition of the subject property, or
  - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.



NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.
4. The exterior of the addition shall be architecturally compatible with the existing dwelling and shall be similar in style, utilizing the same color aluminum siding.

Mr. DiGiulian seconded the motion which carried by a vote of 6-1 with Chairman Smith voting nay.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 2, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 316, February 23, 1988, (Tape 1), Scheduled case of:

9:30 A.M. YOUNG HO KIM, SPR 83-D-040-1, application under Sect. 3-303 of the Zoning Ordinance to renew SP 83-D-040 for antique shop located at 6919 Old Dominion Drive on approximately 11,250 square feet of land, zoned R-3, Draneville District, Tax Map 30-2((7))(11)9. (NOTICES NOT IN ORDER)

Lori Greenlief, Staff Coordinator, presented the staff report. Mrs. Greenlief explained that the applicant had informed staff that he had not received the notification packet, and therefore had not prepared notices to the adjoining property owners. She suggested a short deferral period as the applicant has not met two of the development conditions of the previous Special Permit.

Mr. DiGiulian made a motion to defer SPR 83-D-040-1 until March 22, 1988 at 10:20 A.M. as suggested by staff. Mrs. Thonen and Mr. Ribble seconded the motion which carried by a vote of 7-0.

Chairman Smith stated that he would not support this application if the development conditions of the previous Special Permit were not complied with prior to the next public hearing.

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Page 316, February 23, 1988, (Tape 1), After Agenda Item:

Thorsen Construction, VC 88-V-031  
Out-of-Turn Hearing

Lori Greenlief, Staff Coordinator, noted that staff had received an out-of-turn hearing request from Thorsen Construction. She added that the Variance granted to the applicant in April 1986 by the Board had expired prior to the applicant recording the subdivision. Staff suggested a public hearing of April 12, 1988.

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Page 316, February 23, 1988, (Tape 1), Scheduled case of:

9:45 A.M. GREAT FALLS SWIM AND TENNIS CLUB, INC., SPA 82-D-019-5, application under Sect. 3-103 of the Zoning Ordinance to amend SP 82-D-019 for community recreation facilities to replace previously approved gazebo with expanded gazebo, located at 761 Walker Road on approximately 5.5244 acres of land, zoned R-1, Draneville District, Tax Map 13-1((1))27.

Lori Greenlief, Staff Coordinator, presented the staff report. Mrs. Greenlief stated that staff recommended approval of SPA 82-D-019-5 subject to the development conditions being implemented which carry forward all previously approved development conditions.

Norman Hess, 10108 Sanders Court, Great Falls, Virginia, came forward and explained that this gazebo will replace one that has deteriorated and will be constructed in the same location as the existing one.

Chairman called for speakers either in support or in opposition to this request and hearing no reply closed the public hearing.

Mrs. Day made a motion to grant SPA 82-D-019-5 as she believed the applicant had presented testimony showing compliance with the standards for a Special Permit, this request is only to replace an existing gazebo, there is no trail requirement at this time, and subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 82-D-019-5 by GREAT FALLS SWIM AND TENNIS CLUB, INC., under Section 3-103 of the Zoning Ordinance to amend SF 82-D-019 for community recreation facilities to replace previously approved gazebo with expanded gazebo, on property located at 761 Walker Road, Tax Map Reference 13-1((1))27, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 23, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 5.5244 acres of land.
4. This request is for the gazebo only.
5. The request is harmony with the standards.
6. There is no trail requirement at this time.
7. The dustless surface requirement is still in effect.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 8-403 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. Transitional Screening shall be maintained along all lot lines. The existing chain link fence which encircles the pool and tennis courts shall remain to satisfy the barrier requirement.

6. The hours of operation for the facility shall be, as follows:
- o Tennis Courts & Platform  
Tennis Courts: 7:00 a.m. to 10:00 p.m.
  - o Swimming Pool Regular  
Hours: 9:00 a.m. to 9:00 p.m.
  - o Adult Swim (18+ yrs)  
6:00 a.m. to 8:00 a.m.  
(Monday through Sat.)
  - o Swim Team Practice  
and meets: 8:00 a.m. to 9:00 a.m.  
(Monday through Sat.)
7. After-hour parties for the swimming pool shall be governed by the following:
- o Limited to six (6) per year
  - o Limited to Friday, Saturday, and pre-holiday evenings
  - o Shall not exceed beyond 12:00 midnight
  - o A written request shall be submitted at least ten (10) days in advance to the Zoning Administrator for each individual party or activity
  - o Request shall be approved for only one (1) such party at a time and such requests shall be approved only after the successful conclusion of a previous after-hour party.
8. No bullhorns, loudspeakers, radios, or setting up of facilities shall be permitted before 9:00 a.m. These devices may be used at or after 8:00 a.m. on the two to four occasions of a swim meet at the facility.
9. All loudspeakers, bullhorns, and lighting shall be directed on site.
10. There shall be no more than four (4) "A" level swim meets per year at this facility.
11. There shall be a minimum of sixty-seven (67) parking spaces and a maximum of one hundred and eighteen (118) parking spaces provided on site.
12. All activities shall comply with the provisions of Chapter 108 of the County Code, Noise Ordinance, and the glare performance standards in the Zoning Ordinance.
13. The maximum number of family memberships shall be four hundred (400).
14. Bicycle racks shall be provided to accommodate a minimum of twenty-five (25) bicycles.
15. All gravel surface areas shall be maintained in good condition at all times in accordance with standards approved by the Director, DEM. There shall be a uniform grade in all areas and adequate cover of gravel uniformly spread over the entire area.
16. All required handicapped parking spaces shall be maintained with a dustless surface and shall be signed in accordance with the provisions of the Zoning Ordinance.
17. There shall be annual inspections of the gravel parking areas to ensure compliance with the conditions of this permit, the applicable provisions of the Zoning Ordinance and Chapter 103 of the Fairfax County Code, Air Pollution Control.
18. The approval of the waiver of the dustless surface requirement shall be valid until June 19, 1989.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date\* of the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. DiGiulian seconded the motion which carried by a vote of 7-0.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 2, 1988. This date shall be deemed to be the final approval date of this special permit.

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As there was time before the next scheduled case, Mr. Hammack made a motion to go into Executive Session to discuss legal matters. Mrs. Day and Mrs. Thonen seconded the motion which carried by a vote of 7-0.

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11:00 A.M. CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS - ANNANDALE VIRGINIA STAKE, SP 87-S-065, application under Sect. 3-103 of the Zoning Ordinance to allow a church and related facilities, located in South Run Subdivision, Section I, on approximately 168,916 square feet of land, zoned R-1, WSP0D, Springfield District, Tax Map 88-3((6))F. (DEFERRED FROM 12/8/87)

Due to his having to leave prior to the end of the agenda, Mr. Hammack explained that the Board would take action on SP 87-S-065 and that his original motion to grant was still on the floor. Chairman Smith called for the vote and the motion failed by a vote of 3-3-1 with Chairman Smith and Messrs. Hammack and Kelley voting aye; Mrs. Day, Mrs. Thonen, and Mr. Ribble voting nay; and Mr. DiGiulian abstaining.

Mrs. Thonen then made a motion to grant the applicant a waiver of the 12-month time limitation. Messrs. DiGiulian and Hammack seconded the motion which carried by a vote of 7-0.

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10:00 A.M. METROPOLITAN CONSTRUCTION CO., VC 87-V-148, application under Sect. 18-401 of the Zoning Ordinance to allow construction of dwelling in a floodplain to 12 ft. from a street line of a corner lot (30 ft. min. front yard required by Sect. 3-307), located at 6400 Potomac Avenue, on approximately 7,000 square feet of land, zoned R-3, Mount Vernon District, Tax Map 83-4((2))(28)17 and 18. (TO BE HEARD CONCURRENT WITH SE 86-V-093)

Lori Greenlief, Staff Coordinator, presented the staff report. Mrs. Greenlief explained that the Special Exception had not yet been heard by the Board of Supervisors but that the applicant had requested that the Variance application go forward. She pointed out that Development Condition Number 4 stated that "... If a special exception is not approved by the Board of Supervisors, this approval shall be deemed null and void."

Masoud Kavianpour, 11732 Mossy Creek Lane, Reston, Virginia, President of Metropolitan Construction, came forward and explained that due to the exceptional narrowness of the lot, a house could not be constructed without a Variance.

As there were no speakers to address this request, Chairman Smith closed the public hearing.

Mr. DiGiulian moved to grant VC 87-V-148 as he believed that the subject request meets the standards for a Variance especially 2(D) as the property has an exceptional shape and is a long and narrow lot which fronts on two streets, and that the applicant cannot build on the lot without a Variance. He stated that approval should be subject to the development conditions contained in the staff report.

As the motion to grant failed by a vote of 2-3, Mrs. Thonen made a motion to grant the applicant a waiver of the 12-month time limitation on rehearing the application. Mr. DiGiulian seconded the motion which carried by a vote of 5-0 with Messrs. Hammack and Kelley not present for the vote.

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**MOTION TO GRANT FAILED**

**COUNTY OF FAIRFAX, VIRGINIA**

**VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS**

In Variance Application VC 87-V-148 by METROPOLITAN CONSTRUCTION CO., under Section 18-401 of the Zoning Ordinance to allow construction of dwelling in a floodplain to 12 ft. from a street line of a corner lot, on property located at 6400 Potomac Avenue, Tax Map Reference 83-4((2))(28)17 and 18, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 23, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 7,000 square feet of land.
4. That the subject property is unusually long and narrow and fronts on two streets.
5. The house cannot be built on the lot without a variance.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property had exceptional shape at the time of the effective date of the Ordinance.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching consideration as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific structure shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.

3. A Building Permit shall be obtained prior to any construction.
4. This approval should not be construed as support for the special exception application pending before the Planning Commission and the Board of Supervisors. If a special exception is not approved by the Board of Supervisors, this approval shall be deemed null and void.

Mr. Ribble seconded the motion which FAILED by a vote of 2-3 with Messrs. Ribble and DiGiulian voting aye; Chairman Smith, Mrs. Day and Mrs. Thonen voting nay; Messrs. Hammack and Kelley not present for the vote.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 2, 1988. This date shall be deemed to be the final approval date of this variance.

11

Page 321, February 23, 1988, (Tapes 1 and 2), Scheduled case of:

10:15 A.M. LUTHERAN CHURCH OF THE REDEEMER/FAIRFAX COUNTY/MCLEAN COMMUNITY CENTER, SPA 79-D-143-1, application under Sect. 3-403 of the Zoning Ordinance to amend S 143-79 for a church and related facilities to permit addition of a temporary public use (youth center) and parking lot lighting to existing facilities, located at 1545 Chain Bridge Road, on approximately 6.22 acres of land, zoned R-4, Dranesville District, Tax Map 30-4(11) 12.

Lori Greenlief, Staff Coordinator, presented the staff report. She stated that staff recommends approval of this application subject to the development conditions contained in the staff report with a revision to a portion of condition number 9 which should read "3,200 square feet." She added that staff's only concern is that the modular trailers be adequately screened, which is addressed in development condition #5.

Vicky Via, 1234 Ingleside Avenue, McLean, Virginia, Director of Youth Activities for the McLean Community Center, which is an agency of Fairfax County, appeared before the Board on behalf of the applicant. Ms. Via explained that the church and community center are requesting an amendment to the Special Permit held by the church to allow a temporary use for a teen center and permission to install parking lights. She added that the teen center is a two year trial project which was generated by citizens' concern that many teens have no place to meet and socialize. The applicants believe this to be an appropriate site as there is ample parking, the site is centrally located in the district served by the community center and is adjacent to the central business district of McLean, is near a high school, and the cost is minimal. In closing, Ms. Via corrected the number of proposed employees to reflect one full time and two season employees. She suggested an amendment to development condition number 11 which would then read "... within 2 years and 30 days of the first day of operation" or something to that effect.

Mrs. Greenlief indicated staff's agreement with this amendment.

Ms. Via introduced the next speaker Ilene Lilless, 1160 Old Meade Court, McLean, Virginia. Ms. Lilless came forward and stated that there is a great need for a center of this type in McLean and this will show the youth of the community that the citizens are interested in their welfare.

Cliff Shumaker, 9711 Meadowlark Road, McLean, Virginia, member of the Lutheran Church Council, voiced support of the church. He added that the church is willing to work with the citizens in order to assure that this project is a success.

Jane Strouss, 1316 Rockland Terrace, McLean, Virginia, represented the McLean Citizens Association Education Committee, and supported the request.

As there were no additional speakers in support of the request, Chairman Smith called for speakers in opposition to the request and the following came forward: Lewis Stephens, 1547 Candlewick Court, McLean, Virginia; Lawrence McWilliams, 1520 Westmoreland Street, McLean, Virginia; Jean Bergoust, 1548 Westmoreland Street, McLean, Virginia; and John Herman, 7307 Terrace Drive, Alexandria, Virginia, spoke on behalf of his father, George Herman, an adjacent property owner.

The citizens' opposition was based on the noise which would be generated and the additional traffic. They suggested that the project be relocated to the Lewinsville Park which they believed would be a perfect location for this type of use.

During rebuttal, Cliff Shumaker assured the neighbors that the church would continue to cooperate with them to alleviate their concerns.

Following the rebuttal, Mr. Ribble stated that he was uneasy about the transportation concerns brought up by the citizens. He then made a motion to defer this application and request that the Office of Transportation visit the site in the evening and make a report to the Board.

Following a discussion among the Board and staff regarding the transportation issues, Mrs. Greenleaf suggested a date and time of March 22, 1988 at 10:40 A.M.

Mr. DiGiulian seconded the motion which carried by a vote of 6-0 with Mr. Hammack not present for the vote.

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Page 322, February 23, 1988, (Tape 2):

Church of Jesus Christ of Latter Day Saints - Annandale Virginia Stake  
SP 87-S-065

At this time Chairman Smith explained to the citizens who were present that in view of the fact that one of the Board members had to leave prior to the time this case had been scheduled, the Board had acted on this application earlier in the day. He stated that the Board had reaffirmed its action of February 16, 1988 but had granted the applicant a waiver of the 12-month time limitation.

Jane Kelsey, Chief, Special Permit and Variance Branch, clarified for the record that this would require the applicant to file an entirely new application if they so desired.

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Page 322, February 23, 1988, (Tape 2), Scheduled case of:

10:30 A.M. FREDERICK ZENONE, VC 87-P-161, application under Sect. 18-401 of the Zoning Ordinance to allow construction of additions to dwelling to 37.4 feet from one street line and 32.4 feet from another street line of a corner lot (40 ft. min front yard req. by Sect. 3-107), located at 2237 Williams Avenue on approximately 28,000 square feet of land, zoned R-1, Providence District, Tax Map 39-3((11))(B)E, F, G, H, 1 thru 5, 24, 28.

Kathy Reilly, Staff Coordinator, presented the staff report.

Frederick Zenone, 2237 Williams Avenue, Vienna, Virginia, applicant, came forward and stated that he believed that his situation was unique due to the way the house is situated. He added that his architect was present and could better respond to questions from the Board.

Susan Watkins, 1179 Crest Lane, McLean, Virginia, architect for the applicant, explained that the subject lot is a railroad lot which is smaller than the requirement for a R-1 District and has two front yards. She added that the existing dwelling is located almost entirely within a front yard and thus requires a Variance.

As there were no speakers to address this application, Chairman Smith closed the public hearing.

Mr. DiGiulian made a motion to grant VC 87-P-161 as he believed that the applicant had presented compliance with the standards for a Variance, specifically 2(F), and subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-P-161 by FREDERICK ZENONE, under Section 18-401 of the Zoning Ordinance to allow construction of additions to dwelling to 37.4 feet from one street line and 32.4 feet from another street line of a corner lot, on property 2237 Williams Avenue located at Tax Map Reference 39-3((11))(B)E, F, G, H and 1 through 5, 24, and 28, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 23, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 28,000 square feet of land.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property had an exceptional size at the time of the effective date of the Ordinance in that the lot is smaller than is now required for the R-1 District.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific additions shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. DiGiulian seconded the motion which carried by a vote of 6-0 with Mr. Hammack not present for the vote.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 2, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 323, February 23, 1988, (Tape 2), Scheduled case of:

10:45 A.M. COLUMBIA BAPTIST CHURCH, SPA 79-M-031-2, application under Sect. 3-403 of the Zoning Ordinance to amend S-31-79 for a church and related facilities to permit continuation of use of trailer classroom without term located at 6200 Indian Run Parkway on approximately 5.0 acres of land, zoned R-4, Lee District, Tax Map 81-1(1)9B.

As no one was present to represent the church, the Board passed over the case in order that staff might contact the applicant.

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324  
Page 324, February 23, 1988, (Tape 2), Scheduled case of:

11:00 A.M. RICHARD E. WARD APPEAL, A 87-S-010, an appeal of Zoning Administrator's determination regarding the commercial area of a PDH-3 zoned property, located at 7820 Hoopes Road, on approximately 11.8 acres of land, zoned PDH-3, Springfield District, Tax Map 89-4((1))21 and part of 22.

Jane Gwinn, Zoning Administrator, told the Board that a letter had been received from the applicant stating that he wished to withdraw his Appeal.

Mrs. Thonen moved to allow the withdrawal of A 87-S-010. Mr. DiGiulian seconded the motion which carried by a vote of 6-0 with Mr. Hammack not present for the vote.

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Page 324, February 23, 1988, (Tape 2), Scheduled case of:

11:00 A.M. LITTLE PERMIT RUN APPEAL - Review of additional information which was submitted by appellant after the filing of the Appeal.

Jane Gwinn, Zoning Administrator, referenced her memorandum to the Board dated February 16, 1988 which stated that the information submitted by the Appellant should not be incorporated into the Appeal as it had not been submitted within the 30 day time frame.

Marian Agnew, 1740 Dumbarton, McLean, Virginia, attorney for the appellant, came forward and argued that the amendment had been filed within 30 days and therefore should be made a part of Appeal, A 87-D-012. She stated that following a meeting with Ms. Agnew and the citizens, Ms. Gwinn rendered an opinion, fourteen months later, on the same day that the subdivision plan was approved, basically denying any major reduction in density.

Chairman Smith interrupted Mrs. Agnew to point out to her that the only issue before the Board today was whether or not the additional information was filed prior to the expiration of the 30 day time period.

In response to questions from Chairman Smith Ms. Gwinn explained that any decision of any official regarding the Zoning Ordinance could be appealed to the Board of Zoning Appeals. She added that under the Subdivision Ordinance there is no appeal.

Following further discussion, Mr. DiGiulian made a motion that the amendment of a A 87-D 012 was not timely filed and therefore could not be made a part of the original Appeal. Mr. Ribble seconded the motion which carried by a vote of 6-0 with Mr. Hammack not present for the vote.

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Page 324, February 23, 1988, (Tape 2), Scheduled case of:

Columbia Baptist Church, SPA 79-M-031-2

The Board had passed over this case earlier in the agenda in order for staff to contact the applicant. Kevin Guinaw, Staff Coordinator, informed the Board that he had spoken with the applicant and apparently there had been some confusion as the applicant did not believe that he had to appear at the public hearing.

Following a discussion among the Board members, Mrs. Thonen made a motion to defer SPA 79-M-031-2 to March 1, 1988 at 8:00 P.M. Mr. DiGiulian seconded the motion which carried by a vote of 6-0 with Mr. Hammack not present for the vote.

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Page 324, February 23, 1988 (Tape 2), After Agenda Item:

Approval of Resolutions for February 16, 1988

Mrs. Thonen moved to accept the Resolutions as submitted.

Jane Kelsey, Chief, Special Permit and Variance Branch, suggested that the finding of fact number 4 in Sully Tech Limited Partnership Resolution be amended to read, "The applicants meet the various requirements of th Comprehensive Plan with parking and the Zoning Ordinance."

Mrs. Thonen agreed to the amendment with Mrs. Day seconding the motion which carried by a vote of 6-0 with Mr. Hammack not present for the vote.

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Page 325, February 23, 1988, (Tape 2), After Agenda Item:

The Charles E. Smith Companies/The Artery Organization Partnership Appeal

Mrs. Thonen moved to accept the above referenced Appeal as being complete and timely filed and scheduled the public hearing for April 19, 1988 at 9:15 A.M..

Mr. Ribble seconded the motion which carried by a vote of 6-0 with Mr. Hammack not present for the vote.

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Page 325, February 23, 1988, (Tape 2), After Agenda Item:

Salco Mechanical Contractors Appeal

Mrs. Thonen moved to accept the above referenced Appeal as being complete and timely filed and scheduled the public hearing for April 26, 1988 at 9:20 A.M.

Mrs. Day seconded the motion which carried by a vote of 6-0 with Mr. Hammack not present for the vote.

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Page 325, February 23, 1988, (Tape 2), Information Item:

Home Professional Work Shop

Mr. Ribble made a motion that the Board recess to the conference room in order to discuss the proposed Home Professional Office Amendment to the Zoning Ordinance. Hearing no objection, the Chair so ordered.

The Board recessed at 12:27 p.m. and reconvened at 1:00 p.m.

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As there was no other business to come before the Board, the meeting was adjourned at 1:05 P.M.

Betsy S. Huett  
Betsy S. Huett, Deputy Clerk to the  
Board of Zoning Appeals

Daniel Smith  
Daniel Smith, Chairman  
Board of Zoning Appeals

SUBMITTED: 6/2/88

APPROVED: 6/9/88

326

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, March 1, 1988. The following Board Members were present: Daniel Smith, Chairman; Ann Day; Paul Hammack; Robert Kelley and John DiGiulian, Vice-Chairman. John Ribble and Mary Thonen were absent from the meeting.

Chairman Smith opened the meeting at 8:15 P.M. and Mrs. Day led the prayer.

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Page 326, March 1, 1988, (Tape 1), Scheduled case of:

8:00 P.M. VIGUEN R. & TERESA TER-MINASSIAN, VC 87-D-164, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed lot 1A having a lot width of 20.15 feet (150 feet min. lot width required by Sect. 3-106) located at 1025 Spring Hill Road on approximately 2.1958 acres of land, zoned R-1, Dranesville District, Tax Map 20-4((14))1.

Chairman Smith announced that the applicant in the above referenced application had requested a deferral.

Kevin Guinaw, Staff Coordinator, explained that the applicant and staff were trying to resolve outstanding issues and suggested a new public hearing date of March 22, 1988 at 11:00 A.M.

There being no objection, it was so ordered.

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Page 326, March 1, 1988, (Tape 1), Scheduled case of:

8:00 P.M. COLUMBIA BAPTIST CHURCH, SPA 79-M-031-2, application under Sect. 3-403 of the Zoning Ordinance to amend S-31-79 for a church and related facilities to permit continuation of use of trailer classroom without term located at 6200 Indian Run Parkway on approximately 5.0 acres of land, zoned R-4, Lee District, Tax Map 81-1((1))9B. (DEFERRED FROM 2/23/88)

As the applicant's representative was not present the Board passed over the application until the end of the Agenda.

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Page 326, March 1, 1988, (Tape 1), Scheduled case of:

8:15 P.M. G. THOMAS CATOR, SP 88-P-005, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow dwelling to remain 15.7 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-107) located 10326 Hickory Forest Drive, on approximately 28,195 square feet of land, zoned R-1, Providence District, Tax Map 37-4((19))21A.

8:15 P.M. G. THOMAS CATOR, VC 87-P-090, application under Sect. 18-401 of the Zoning Ordinance to allow construction of an open deck addition to dwelling to 4.0 ft. from rear lot line (13 ft. rear yard req. by Sects. 2-412 and 3-107) and a roofed deck addition to 5.0 ft. from rear lot line (25 ft. rear yard req. by Sect. 3-107) on a through lot, located at 10326 Hickory Forest Drive, on approximately 28,195 square feet of land, zoned R-1(C), Providence District, Tax Map Reference 37-4((19))21A.

Kevin Guinaw, Staff Coordinator, presented the staff report and advised the Board that staff recommended approval of the special permit application subject to the development conditions contained in the staff report.

Thomas Cator, 10326 Hickory Forest Drive, Oakton, Virginia, appeared before the Board in and explained his request as outlined in the statement of justification submitted with the application. With regard to the Special Permit, he stated that the error had been made by the builder. Mr. Cator further stated that a variance should be granted due to the narrowness and unusual shape of the lot. He concluded that he had the support of his the neighbors.

Since there were no speakers to address this issue, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. Hammack noted the unusual citing of the house which was to accommodate easements and wetlands and therefore moved to grant VC 87-P-090 subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-P-090 by G. THOMAS CATOR, under Section 18-401 of the Zoning Ordinance to allow construction of an open deck addition to dwelling to 4.0 from rear lot line and a roofed deck addition to 5.0 from rear lot line on a through lot, on property located at 10326 Hickory Forest Drive, Tax Map Reference 37-4((19))21A, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 1, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-1(C).
3. The area of the lot is 28,195 square feet of land.
4. The unusual citing of the house on the lot accommodates the easements and wetlands.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;
  - F. An extraordinary situation or condition of the subject property, or
  - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific open deck and roofed deck additions shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mrs. Day and Mr. DiGiulian seconded the motion.

The motion carried by a vote of 4-1 with Chairman Smith voting nay; Mrs. Thonen and Mr. Ribble absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 9, 1988. This date shall be deemed to be the final approval date of this variance.

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Prior to making the motion concerning the Special Permit, Mr. Hammack stated that the applicant had complied with the standards for a special permit and therefore moved to grant the request subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-P-005 by G. THOMAS CATOR, under Section 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow dwelling to remain 15.7 ft. from rear lot line, on property located at 10326 Hickory Forest Drive, Tax Map Reference 37-4((19))21A, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 1, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-1(C).
3. The area of the lot is 28,195 square feet of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law: THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-903 and 8-914 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is for the location and the specific dwelling shown on the plat included with this application and is not transferable to other land.
2. A building permit reflecting the location of the dwelling shall be obtained.

Mrs. Day and Mr. DiGiulian seconded the motion which carried by a vote of 5-0 with Mrs. Thonen and Mr. Ribble absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 9, 1988. This date shall be deemed to be the final approval date of this special permit.

8:30 P.M. CHRISTIAN ASSEMBLY CHURCH, SPA 84-P-055-2, application under Sect. 3-203 of the Zoning Ordinance to amend S-80-P-110 and SP 84-P-055 for church and related facilities and private school of general education to permit building addition to existing facilities located at 8200 Bell Lane on approximately 7.6698 acres of land, zoned R-2, Providence District, Tax Map 39-4(1)1 and 39-4(2)1, 2, 3 and 4.

Kevin Guinaw, Staff Coordinator, presented the staff report and advised the Board that there were no outstanding land use or transportation issues and staff therefore was recommending approval of the application subject to the development conditions contained in the staff report.

Richard Alley, 108 Patrick Street, S.W., Vienna, Virginia, appeared before the Board as the representative of the applicant. He advised the Board that he was in agreement with the development conditions contained in the staff report.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. DiGiulian stated that the applicant had met the standards for a special permit and therefore moved to grant the application subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 84-P-055-2 by CHRISTIAN ASSEMBLY CHURCH, under Section 3-203 of the Zoning Ordinance to amend S 80-P-110 and SP 84-P-055 for church and related facilities and private school of general education to permit building addition to existing facilities, on property located at 8200 Bell Lane, Tax Map Reference 39-4(1)1 and 39-4(2)1, 2, 3, 4, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 1, 1988; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the applicant is the owner of the land.
- 2. The present zoning is R-2.
- 3. The area of the lot is 7.6698 acres of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 8-307 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

These conditions incorporate all applicable conditions of the previous special permits approved for this use.

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
- 2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. There shall be a maximum daily enrollment of 99 students in the school of general education.
6. There shall be a maximum of 179 parking spaces, and the total number of seats in the main worship area shall be 400 which can be expanded to 600 seats. Sixteen (16) parking spaces shall be made available for the exclusive use of the school during the hours the school is in session.
7. Transitional Screening 1 shall be provided along the entire southern and western lot lines, and along the northern lot line in the area extending from the western lot line 761 feet eastward. Existing vegetation shall be used where possible to satisfy the screening requirement, provided it is supplemented where necessary to meet the Ordinance requirements of Transitional Screening 1. Additional plantings along the northern lot line, if necessary, may be deferred until the time when the property to the north is developed. Along the southern lot line, the transitional screening yard shall be modified to allow existing parking spaces to remain within the transitional screening yard. The existing six-foot chainlink fence shown on the special permit plat shall be allowed to remain within the transitional screening yards on the southern, western and northern boundaries. The remaining barrier requirements shall be waived. Foundation plantings around the existing building and the new building addition shall be provided in order to minimize visual impacts on the adjacent properties. The nature amount and location of all required plantings shall be determined by the County Arborist.
8. Interior parking lot landscaping shall be provided in accordance with Article 13.
9. A landscape plan shall be submitted for review and approval by the County Arborist. The plan shall include limits of clearing, tree preservation, transitional screening, foundation plantings and interior parking lot landscaping.
10. Hours of operation for the school of general education shall be from 9:00 A.M. to 3:30 P.M., Monday through Friday.
11. The two classroom trailers shall be removed by September 10, 1990 or prior to the issuance of a non-residential use permit for the building addition approved in this special permit amendment, whichever occurs first.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date\* of the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Hammack seconded the motion.

The motion carried by a vote of 5-0 with Mrs. Thonen and Mr. Ribble absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 9, 1988. This date shall be deemed to be the final approval date of this special permit.

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8:00 P.M. COLUMBIA BAPTIST CHURCH, SPA 79-M-031-2, application under Sect. 3-403 of the Zoning Ordinance to amend S-31-79 for a church and related facilities to permit continuation of use of trailer classroom without term located at 6200 Indian Run Parkway on approximately 5.0 acres of land, zoned R-4, Lee District, Tax Map 81-1(1)9B. (DEFERRED FROM 2/23/88)

Kevin Guinaw, Staff Coordinator, presented the staff report and stated that the trailer use should not be permanent and without term. He also added that evergreen plantings should be provided as addressed in the development conditions. Mr. Guinaw concluded that staff was recommending approval subject to the development conditions.

Mr. DiGiulian pointed out that the trailer could not be seen as it was in a secluded area therefore the plantings may not be necessary.

Chairman Smith questioned whether or not the skirting requirements had been met and if the trailer was tied down.

Lewis Baker, 850 N. Abingdon Street, N. Arlington, Virginia, appeared before the Board as the representative of the applicant and advised the Board that he agreed with all the development conditions.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mrs. Day stated that the trailer could not be seen, therefore the condition requiring the evergreen plantings shall be deleted. Mrs. Day also stated that the application had met the standards for a special permit and moved to grant the request subject to the revised development conditions with a new condition 13: The trailer shall meet all applicable requirements of the County and State including those related to tie down and skirting.

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#### SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 79-M-031-2 by COLUMBIA BAPTIST CHURCH, under Section 3-403 of the Zoning Ordinance to amend S 31-79 for a church and related facilities to permit continuation of use of trailer classroom without term, on property located at 6200 Indian Run Parkway, Tax Map Reference 81-1(1)9B, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 1, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-4.
3. The area of the lot is 5.0 acres of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 8-303 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

These conditions incorporate all applicable previous special permit conditions.

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.



3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The maximum seating capacity in the main worship area shall be one hundred (100).
6. Thirty (3) parking spaces shall be provided.
7. The trailer shall only be used as a classroom or for other church related purposes.
8. No more than twenty-five (25) adults shall use the trailer at any one time.
9. Any future remodeling of the trailer shall incorporate the following acoustical attributes:
  - o Exterior walls shall have a laboratory sound transmission class (STC) of at least 39, and
  - o Doors and windows shall have a laboratory sound transmission class (STC) of at least 28. If "windows" function as the walls, then they shall have the STC specified for exterior walls.
  - o Adequate measures to seal and caulk between surface shall be provided.
10. The existing vegetation shall remain undisturbed except for removal of dead and for dying trees as approved by the County Arborist.
11. The use of the trailer shall be permitted for three years from the date of approval of this special permit.
12. The property shall be made available for inspection by Fairfax County personnel during normal working hours.
13. The trailer shall meet all applicable requirements of the County and State including those related to tie down and skirting.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date\* of the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. DiGiulian seconded the motion.

The motion carried by a vote of 5-0 with Mrs. Thonen and Mr. Ribble absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 9, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 333, March 1, 1988, (Tape 1), After Agenda Item #1:

Request for Additional Time  
Peter and Norma Mae Nordlie  
VC 85-C-082

Mr. Hammack moved to grant the applicant's request for additional with the new expiration date being March 30, 1988.

Mrs. Day seconded the motion which passed unanimously with Mrs. Thonen and Mr. Ribble absent from the meeting.

At this time, Peter Nordlie, 1870 Hunter Mill Road, came forward and explained that March 30, 1988 would not be sufficient and stated that he would need at least 90 days.

Mr. Hammack moved to reconsider his motion and there being no objection, it was so ordered.

Mr. Hammack then moved to grant the request with the new expiration date being June 30, 1988.

Mrs. Day seconded the motion which passed unanimously with Mrs. Thonen and Mr. Ribble absent from the meeting.

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Page 333, March 1, 1988, (Tape 1), After Agenda Item #2:

OUT OF TURN HEARING REQUEST  
Kamal S. Wilhelm  
VC 88-D-033

Mr. Hammack moved to deny the request. Mrs. Day seconded the motion which passed unanimously with Mrs. Thonen and Mr. Ribble absent from the meeting.

At this time, Mr. Kamal Wilhelm, 3870 Waythorn Place, Fairfax, Virginia, appeared before the Board to personally request the out of turn hearing. However, the Board did not change its decision to deny the request.

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Page 333, March 1, 1988, (Tape 1), After Agenda Item #3:

Request for Reconsideration of Board Action to deny an OTH  
Thorsen Construction  
VC 86-V-002

Mr. DiGiulian moved to deny the request for reconsideration of its decision on February 23, 1988 to deny an out of turn hearing.

Mr. Hammack seconded the motion which passed unanimously with Mrs. Thonen and Mr. Ribble absent from the meeting.

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Page 333, March 1, 1988, (Tape 1), After Agenda Item #4:

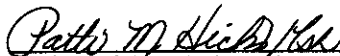
Approval of Resolutions for February 23, 1988

Mr. DiGiulian moved approval of the Resolutions with the correction to the Zenone Resolution which should show Mr. Ribble and Mrs. Thonen as seconding the motion.

Mr. Hammack seconded the motion which passed unanimously with Mrs. Thonen and Mr. Ribble absent from the meeting.

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As there was no other business to come before the Board, the meeting was adjourned at 9:27 P.M.

  
Patti M. Hicks, Clerk to the  
Board of Zoning Appeals

  
Daniel Smith, Chairman  
Board of Zoning Appeals

SUBMITTED: 4/12/88

APPROVED: 4/19/88

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, March 8, 1988. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack; Robert Kelley; and John Ribble. Mary Thonen was absent from the meeting.

Chairman Smith opened the meeting at 9:10 A.M. and Mrs. Day led the prayer.

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Page 334, March 8, 1988, (Tape 1), Scheduled case of:

9:00 A.M. FIRST BAPTIST CHURCH OF MERRIFIELD, SP 87-P-073, application under Sects. 3-303 and 8-901 of the Zoning Ordinance to allow addition of building to existing church and related facilities, additional use as a child care center, and waiver of the dustless surface requirement, located at 8122 Ransell Road, on approximately 36,169 square feet of land, zoned R-3, Providence District, Tax Map 49-4((1))36 and 49-4((3))8, SA. (DEFERRED FROM 1/12/88 - NOTICES NOT IN ORDER)

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report and stated the church was requesting waivers of the dustless surface, transitional screening yard, and stormwater management requirements. The church is also is requesting a deferral of road improvements or dedication of additional right-of-way.

The applicant's representative, Allen Gibson, 10200 Marriott Court, Fairfax, Virginia, came forward and explained this request does not involve any major construction to the church. The child care center, which will accommodate 40 to 60 children, will be located in the basement of the church. He stated that the church is requesting waivers of the land dedication and transitional screening as the land dedication will eliminate much needed parking spaces and transitional screening is not necessary on one side of the property as it abuts the Merrifield Garden Center.

Following questions from the Board regarding the transitional screening requirement, Mrs. Hamblin-Katnik explained that transitional screening is required on property which is adjacent to land which is zoned residential.

Lynnwood Graham, pastor of the church, 4208 Sanwan Drive, Fairfax, Virginia, came forward and read a written statement into the record. Mr. Graham stated that he had been pastor of the church since May 1983 and since that time the church has grown dramatically and would like its growth to coincide with the services it provides to the community. The church would like to defer providing the transitional screening until such time as the church is in a better financial position.

As the applicant had not had time to review the development conditions, Mrs. Day made a motion to defer SP 87-P-073 until March 15, 1988. Mr. Hammack seconded the motion.

Members of the Board expressed concern that staff does not always provide the applicant a copy of the proposed development conditions prior to the public hearing.

Chairman Smith called for the vote and the Board voted 6-0 to defer SP 87-P-073 March 15, 1988. Mrs. Thonen was absent from the meeting

Jane Kelsey, Chief, Special Permit and Variance Branch, explained that Mrs. Hamblin-Katnik could not be present on March 15 and requested that the Board defer this case to March 22, 1988 at 11:15 A.M.

Mrs. Day asked if the applicant had any objections, and hearing none the Board so moved.

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Page 334, March 8, 1988, (Tape 1), Scheduled case of:

9:15 A.M. RICHARD R. & KERRY L. HOFFMANN, SP 87-A-092, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow 13'5" high shed to remain 3 and 1/2" from side lot line and 8'6" from rear lot line (12 foot min. side yard, 13'5" min. rear yard required by Sects. 3-307 and 10-104), located at 5520 Queensberry Avenue on approximately 10,640 square feet of land, zoned R-3, Annandale District, Tax Map 79-2((3))(27)18.

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report.

Richard Hoffmann, 5520 Queensberry Avenue, Springfield, Virginia, co-applicant, stated that the shed was constructed two years ago, is stained to match the exterior of the house, and is surrounded by plantings. He added that the covenants for his subdivision does not address setback requirements and the neighbors have signed a petition in support of this request.

Eleanor Trainor, 5519 Queensberry Avenue, Springfield, Virginia, supported the request and stated that the applicants have upgraded the property, maintained it well, and it is a pleasure to look at the property.

Chairman Smith called for speakers in opposition and hearing no reply closed the public hearing.

Mr. Hammack made a motion to grant SP 87-A-092 as he believed that the applicant had satisfied the standards for a Special Permit and that the error had been made in good faith. The approval was subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-A-092 by RICHARD R. AND KERRY L. HOFFMANN, under Section 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow 13 feet 5 inches high shed to remain 3 feet and 1/2 inches from side lot line and 8 feet and 6 inches from rear lot line, on property located at 5520 Queensberry Avenue, Tax Map Reference 79-2((3))(27)18, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 8, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicants are the owners of the land.
2. The present zoning is R-3.
3. The area of the lot is 10,640 square feet of land.
4. The error was done in good faith and is not creating an unsafe condition.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-903 and 8-914 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This special permit is approved for the location and the shed shown on the plat included with this application and is not transferable to other land.
2. Landscaping with the intent of screening the shed to the rear and sides shall be provided as determined by the County Arborist.
3. The shed shall be painted in nonobjectionable colors compatible with the residence, as it is at the present time, and maintained in good condition by the applicant at all times, or the shed shall be subject to removal.

Mrs. Day and Mr. Ribble seconded the motion.

The motion carried by a vote of 4-1 with Chairman Smith voting nay; Mr. DiGiulian not present for the vote; Mrs. Thonen absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 16, 1988. This date shall be deemed to be the final approval date of this special permit.

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9:30 A.M. ROBERT J. MCCORMICK, VC 87-A-163, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 10.6 feet from rear lot line of a corner lot (15 foot minimum side yard required by Sect. 3-207) located at 4035 Hadley Lane on approximately 15,877.7 square feet of land, zoned R-2, Annandale District, Tax Map 58-4((22))13A.

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report.

The applicant, Robert J. McCormick, 4035 Hadley Lane, Fairfax, Virginia, presented his statement of justification as submitted with his application and agreed with the development conditions.

There were no speakers to address this application, therefore Chairman Smith closed the public hearing.

Mr. Ribble made a motion to grant VC 87-A-163 as he believed that the lot has an exceptional shape as it is a corner lot, that the house is situated in such a way on the lot which makes it difficult to construct the addition without a variance, and the addition encroaches into the setback on only one corner. The approval is subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-A-163 by ROBERT J. MCCORMICK, under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 10.6 feet from rear lot line of a corner lot, on property 4035 Hadley Lane, located at Tax Map Reference 58-4((22))13A, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 8, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-2.
3. The area of the lot is 15,877.7 square feet of land.
4. The lot has an exceptional shape as it is a corner lot and the house is situated in such a way on the lot that makes it difficult to construct the addition without a Variance.
5. The addition encroaches into the setback only one corner.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;
  - F. An extraordinary situation or condition of the subject property, or
  - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or

B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.

7. That authorization of the variance will not be of substantial detriment to adjacent property.

8. That the character of the zoning district will not be changed by the granting of the variance.

9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mrs. Day seconded the motion which carried by a vote of 5-0 with Mr. DiGiulian not present for the vote; Mrs. Thonen absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 16, 1988. This date shall be deemed to be the final approval date of this variance.

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Page <sup>337</sup>, March 8, 1988, (Tape 1), Scheduled case of:

9:45 A.M. ELLISON L. GRIMSLEY, JR. AND DEBORAH GRIMSLEY, VC 88-A-001, application under Sect. 18-401 of the Zoning Ordinance to allow construction of carport and building addition to dwelling to 3.9 ft. from side lot line (7 ft. min. side yard req. by Sects. 3-307 and 2-412) located at 8304 Miss Anne Lane, on approximately 13,894 sq. ft. of land, zoned R-3, Annandale District, Tax Map 70-1((6))79

Heidi Belofsky, Staff Coordinator, presented the staff report.

Deborah Grimsley, 8304 Miss Anne Lane, Annandale, Virginia, co-applicant, came forward and explained that this addition would provide protection for her vehicles from the inclement weather. She pointed out that similar variances have been granted in her neighborhood.

Mrs. Day noted one letter of opposition that had been received from one of the applicant's neighbors. Chairman Smith directed staff to enter this letter into the record.

In response to a question from Chairman Smith, Mrs. Grimsley explained they have chosen this location as there is an existing concrete slab.

Because there were no speakers, Chairman Smith closed the public hearing.

Mr. Kelley made a motion to grant VC 88-A-001 as he believed the applicant had satisfied the standards for a Variance, specifically that the lot has an exceptional shape. The approval was subject to the development conditions contained in the staff report

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-A-001 by ELLISON L. GRIMSLEY, JR. AND DEBORAH GRIMSLEY, under Section 18-401 of the Zoning Ordinance to allow construction of carport and building addition to dwelling to 3.9 feet from side lot line, on property located at 8304 Miss Anne Lane, Tax Map Reference 70-1((6))79, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 8, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicants are the owners of the land.
2. The present zoning is R-3.
3. The area of the lot is 13,894 square feet of land.
4. That the lot has an exceptional shape.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;
  - F. An extraordinary situation or condition of the subject property, or
  - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.

- 3. A Building Permit shall be obtained prior to any construction for the approved carport.
- 4. The exterior of the addition, including the roof, shall be architecturally compatible with the existing dwelling and shall be similar in style, color, and materials, utilizing brick and/or aluminum siding to match the existing dwelling.
- 5. If the applicant is unable to provide documentation that a building permit was approved for the deck in the rear yard, a building permit shall be obtained before the variance resolution is released to the applicant.

Messrs. DiGiulian and Ribble seconded the motion.

The motion carried by a vote of 5-1 with Chairman Smith voting nay; Mrs. Thonen absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 16, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 339, March 8, 1988, (Tapes 1 and 2). Scheduled case of:

10:00 A.M. A. JAMES FIRTH, VC 88-D-002, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 7.1 ft. from side lot line (12 ft. min. side yard required by Sect. 3-307) located at 6606 Quinten Street, on approximately 10,907 square feet of land, zoned R-3, Dranesville District, Tax Map 40-2((31))26.

Lori Greenlief, Staff Coordinator, presented the staff report.

A. James Firth, 6606 Quinten Street, Falls Church, Virginia, applicant, began by thanking staff for their assistance in preparing the application. He explained that he planned to construct the addition so that it would look like a part of the existing house. He stated that there were no objections from his neighbors.

Following questions from the Board, Mr. Firth explained that he was requesting an addition of this size to provide additional living space above the garage. He pointed out that the addition would abut the adjacent neighbor's house where a bedroom is located. He added this is the only location that an addition can be constructed due to a slope in the rear yard.

Chairman Smith closed the public hearing as there were no speakers to address this request nor any further questions.

Mr. Hammack made a motion to deny VC 88-D-002 as he did not believe that the applicant had satisfied the standards for a Variance. He added that he could not agree with an addition of this size even though the neighbors are in support of this request.

As the motion failed by a vote of 3-3, Mr. Firth came forward and requested a waiver of the 12-month time limitation. Mrs. Day made a motion to grant the applicant of VC 88-D-002 a waiver of the 12-month time limitation. Mr. Ribble seconded the motion which carried by a vote of 4-2 with Chairman Smith and Mr. Hammack voting nay; Mrs. Thonen absent from the meeting.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-D-002 by A. JAMES FIRTH, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 7.1 feet from side lot line, on property located at 6606 Quinten Street, Tax Map Reference 40-2((31))26, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 8, 1988; and



WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 10,907 square feet of land.
4. The applicant has not presented testimony showing compliance with the standards for a Variance.
5. That the requested addition is too large even though there are no objections from the neighbors.

This application does not meet all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance.

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;
  - F. An extraordinary situation or condition of the subject property, or
  - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has not satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED.

Mr. DiGiulian seconded the motion.

The motion carried by a vote of 3-3 with Chairman Smith and Messrs. DiGiulian and Hammack voting aye; Mrs. Day and Messrs. Kelley and Ribbie voting nay; Mrs. Thonen absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 8, 1988. The Board waived the 8-day time limitation.

The Board also granted the applicant a waiver of the 12-month time limitation for refiling a new application.

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11:00 A.M. LITTLE PIMMIT RUN STREAM VALLEY ASSOCIATION, INC.--MARIAN K. AGNEW, ESQ., PRESIDENT, LITTLE PIMMIT RUN STREAM VALLEY ASSOCIATION, INC. APPEAL, A 87-D-012, to appeal the Zoning Administrator's determination that the density allowed by DEM for proposed Solitaire Subdivision is correct based on the amount of land in the floodplain and adjacent steep slopes and the provision of Sect. 2-308 of the Zoning Ordinance, located on Roseann Lane, on approximately 16.9 acres of land, zoned R-2, Dranesville District, Tax Map 31-3((3L))4.

(A copy of a verbatim transcript is contained in the file.)

Jane Gwinn, Zoning Administrator, referenced her memorandum to the Board of Zoning Appeals dated March 3, 1988.

Marion Agnew, attorney for the appellant, 1740 Dumbarton Street, McLean, Virginia, came forward to address the Board.

Prior to her presentation, Chairman Smith questioned Ms. Agnew as to how the Little Pimmit Run Stream Valley Association was an aggrieved party. Ms. Agnew explained that the officers of the Association are abutting property owners, therefore it is appropriate that the appeal be filed on behalf of the Association.

Chairman Smith asked for a ruling from Karen Harwood, Assistant County Attorney, who was present. Ms. Harwood disagreed that the Association was an aggrieved party but stated that since Ms. Agnew is listed on the application the Board could proceed with the public hearing.

Ms. Agnew stated that she had anticipated this issue might come up and had researched the law library. She argued that for a petitioner to be aggrieved it must be shown that they are adversely affected such as the abutting property owners.

Chairman Smith asked Ms. Agnew to begin her ten minute presentation.

Ms. Agnew presented slides of the site and pointed out how the developer is lowering the top of the slope and pushing it closer to the floodplain. She contended that the Zoning Administrator and the Department of Environmental Management (DEM) gave the developer more density than he was entitled to according to the restrictions in the zoning code for ecologically sensitive areas, steep slope, and floodplain. She stated that the developer had calculated 29 building lots, DEM had calculated 30 building lots, and the appellant had calculated only 22 building lots. She added that she believed DEM had acted improperly and overstepped its authority by using faulty procedures to approve the higher density and that the Zoning Administrator had failed in her duty to implement the purpose of the Zoning Ordinance and Steep Slope and Floodplain Ordinance. Therefore, she requested that the Board reverse the Zoning Administrator's opinion and rescind all approvals until additional studies are conducted to substantiate the Zoning Administrator's decision.

Chairman Smith called for speakers in support of the appellant and the following came forward: Alison Graham, 6155 Callista Lane, McLean, Virginia; Don Fiske, 6244 North Kensington Street, McLean, Virginia, President of Franklin Area Citizens Association; Ron Hilkert, 1800 Dumbarton Street, McLean, Virginia; Patric G. Link, 6118 Franklin Park Road, McLean; Scott Fisher, 6116 Franklin Park Road, McLean, Virginia; Burke Kane, 6102 Franklin Park Road, McLean, Virginia; Pat Davenport, 1819 Briar Ridge Court, McLean, Virginia; and, Debbie Risseau, 1715 Chesterbrook Vale Court, McLean, Virginia.

The citizens disagreed with the number of buildable lots that were granted to the developer and were concerned with the additional traffic that would be generated by this subdivision. They also expressed concern that by the developer adjusting the floodplain lines this might somehow affect their properties.

Chairman Smith called for speakers in support of the Zoning Administrator's position. Jerry Emrich, attorney for Driscoll Development Corporation, came forward. He stated that he believed the Zoning Administrator's interpretation and that the developer is entitled to the number of building lots that have been stipulated by DEM.

William Matthews, engineer for the developer, came forward and displayed charts for the Board's review. He stated he had discussed these figures with DEM and with the surveying firm for the appellant and they had agreed with the figures.

In response to questions from the Board, Claude Cooper, Director of DEM, replied that the stream could have shifted over the years, however the cross sectional area of the stream would remain the same and the 100 year elevation would still be accurate.

In response to comments by one of the speakers, Ms. Harwood clarified for the record that the citizen had been unable to review the requested documents due to timing. She explained that the documents were being compiled at Ms. Agnew's request under the Freedom of Information Act and therefore were not available for his review.

During closing comments, Ms. Gwinn stated it should be noted that this property is currently zoned R-2 and that the request was for a subdivision which did not require a special exception. She added that she did not believe that the allegations brought against DEM were an issue before the Board as the Board is not an appellant body on the Subdivision Ordinance. She added that she resented Ms. Agnew's comments that she had rubber stamped DEM's approval as she had discussed this with several agencies before she had made her decision.

As there were no further comments, Chairman Smith closed the public hearing.

Mr. DiGiulian made a motion to uphold the Zoning Administrator's determination that the density allowed by DEM for the subdivision is correct.

Mr. Ribble seconded the motion which carried by a vote of 5-1 with Mrs. Day voting nay; Mrs. Thonen absent from the meeting.

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Page 342, March 8, 1988, (Tape 2), Scheduled case of:

11:30 A.M. OSWALD AND MARLENE BACHER APPEAL, A 86-V-012, to appeal the Zoning Administrator's determination that a quick-service food store and fast food restaurant which have been established within the existing service station are in violation of the Zoning Ordinance, located 8570 Backlick Road, on approx. 30,325 square feet, zoned I-6, Mount Vernon District, Tax Map 99-4((1))7. (TO BE HEARD CONCURRENT WITH REZONING. DEF. FROM 3/10/87, 6/9/87 AND 10/27/87)

William H. Hansberger, attorney with the law firm of Hansberger & Testerman, 10523 Main Street, Fairfax, Virginia, came forward and requested a six months deferral in order to resolve an outstanding issue regarding the Springfield Bypass. He noted that the Zoning Administrator agreed with this request.

Jane Kelsey, Chief, Special Permit and Variance Branch, suggested a date and time of September 13, 1988 at 11:00 A.M. She pointed out that notices would need to be done at that time.

Hearing no objection, the Chair so ordered.

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Page 342, March 8, 1988, (Tapes 2 and 3), Scheduled case of:

12:00 Noon PETE SCAMARDO, VC 87-D-129, application under Sect. 18-401 of the Zoning Ordinance to allow 7.5 foot high fence to remain in side and rear yards (7 ft. max. height for fence in side or rear yards required by Sect. 10-104), located at 8302 Bernane Forest Court, on approximately 36,018 square feet of land, zoned R-1, Bransville District, Tax Map 29-1((9))49. (DEFERRED FROM 1/5/88 AND 1/12/88)

Lori Greenlief, Staff Coordinator, stated the applicant is requesting approval to allow a fence in excess of 7 feet to remain in the rear and side yards. She added this application had been deferred from January 5, 1988 to allow staff to further discuss the method of fence height measurement with the Zoning Administrator. It was deferred the second time to allow the applicant to work with his neighbor, to allow the Zoning Administrator to be present to respond to questions, and to allow the Board members to make a site visit if they wished.

Mrs. Day questioned staff as to whether or not the applicant and his neighbor had resolved the drainage issue.

The applicant's attorney, Michael J. Giguere, attorney with the law firm of McGuire, Woods, Battle, and Boothe, 8280 Greensboro Drive, Suite 900, Tysons Corner, Virginia, came forward and stated an agreement had been reached and the neighbor had submitted a letter in support.

Chairman Smith closed the public hearing.

Mrs. Day made a motion to grant the request as she believed that the fence is an attractive addition to the property and because an agreement has now been reached between the applicant and his neighbor.

Mr. Hammack seconded the motion for purposes of discussion.

Mr. Ribble suggested adding a development condition to ensure that the applicant keeps his agreement with the contiguous property owner.

Mrs. Day accepted the amendment which read, "The applicant shall abide by the agreement he has made with Dr. Ellwood relative to screening and drainage of the contiguous lot."

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-D-129 by PETE SCAMARDO, under Section 18-401 of the Zoning Ordinance to allow 7.5 feet high fence to remain in side and rear yards, on property located at 8302 Bernane Forest Court, Tax Map Reference 29-1((9))49, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 8, 1988; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the applicant is the beneficiary of a trust held in the name of John Engle.
- 2. The present zoning is R-1.
- 3. The area of the lot is 36,018 square feet of land.
- 4. The applicant has satisfied the standards for a Variance.
- 5. The contiguous property owner is now in agreement with the request.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

- 1. That the subject property was acquired in good faith.
- 2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;
  - F. An extraordinary situation or condition of the subject property, or
  - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
- 3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
- 4. That the strict application of this Ordinance would produce undue hardship.
- 5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
- 6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
- 7. That authorization of the variance will not be of substantial detriment to adjacent property.
- 8. That the character of the zoning district will not be changed by the granting of the variance.
- 9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific fence shown on the plat included with this application and is not transferable to other land.
2. The applicant shall abide by the agreement he has made with Dr. Ellwood relative to screening and drainage of the contiguous lot.

Mr. Hammack seconded the motion.

The motion carried by a vote of 4-2 with Chairman Smith and Mr. DiGiulian voting nay; Mrs. Thonen absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 16, 1988. This date shall be deemed to be the final approval date of this variance.

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Page <sup>344</sup> 346 March 8, 1988, (Tape 3), Scheduled case of:

12:15 P.M. BELLEAU WOOD, INC. SP 87-S-090, application under Sect. 3-303 of the Zoning Ordinance to allow subdivision sales office, located at 9205 Northedge Drive, on approximately 13,062 square feet of land, zoned R-3, Springfield District, Tax Map 97-2((5))41. (DEFERRED FROM 2/16/88 FOR ADDITIONAL INFORMATION)

Jane Kelsey, Chief, Special Permit and Variance Branch, presented the staff report in the absence of the Staff Coordinator, Heidi Belofsky. She stated that this case had been deferred in order for the applicant to show that adequate parking could be provided. The applicant does not agree with staff's suggestion that the garage be converted from the sales office back to a garage now in order to provide the parking.

Mike Kledzik, Director of Housing for Van Metre, 5252 Lyngate Court, Burke, Virginia, came forward to represent the applicant. He stated that the sales office has ten to fifteen visitors per week with two employees, who are residents of the subdivision and walk to work. He requested the Board's indulgence in allowing the sales office to remain open for approximately another 24 months because to convert the garage now would be very costly.

Following a discussion among the Board and staff, Ms. Kelsey stated that the development conditions stipulate that the garage be converted now in order to provide the parking. She added that the applicant has received a Notice of Violation from the Zoning Enforcement Branch.

Mr. Kledzik stated that he would comply with whatever the Board required.

Chairman Smith closed the public hearing as there was no further comments.

Mr. Ribble made a motion to grant SP 87-S-090 as he believed that the applicant has presented testimony showing compliance with the standards for a special permit. The approval was subject to the development conditions contained in the staff report being implemented.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-S-090 by BELLEAU WOOD, INC., under Section 3-303 of the Zoning Ordinance to allow subdivision sales office, on property located at 9205 Northedge Drive, Tax Map Reference 97-2((5))41, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 8, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 13,062 square feet of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 8-808 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The hours of operation shall be limited to 10:00 a.m. to 5:00 p.m. daily
6. The maximum number of employees one site at any one time shall be limited to two (2).
7. The garage shall be converted back to its originally intended use and purpose as vehicle parking. All parking shall be on site.
8. This Special Permit shall expire automatically, without notice on August 16, 1989.
9. Any sign or method of identification shall conform with Article 12 of the Zoning Ordinance, Signs with respect to limitations on dimensions. Such signage shall not in any way detract from the residential character and appearance of the neighborhood.
10. Any outdoor lighting shall be located, oriented and shielded so as to prevent light or glare from projecting onto adjacent properties.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date\* of the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Kelley seconded the motion.

The motion carried by a vote of 4-0 with Messrs. DiGiulian and Hammack not present for the vote; Mrs. Thonen absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 8, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 346, March 8, 1988, (Tape 3), Scheduled case of:

12:30 P.M. JOHN H. STOKES III, VC 87-M-149, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed Lot 1 having a lot width of 43 feet (100 ft. min. lot width required by Sect. 3-206), located at 4340 Old Columbia Pike, on approximately 2.4158 acres of land, zoned R-2, Mason District, Tax Map 71-2(1)59. (DEFERRED FROM 2/16/88 FOR ADDITIONAL INFORMATION)

Chairman Smith called the applicant forward and asked if the land trade with the Park Authority had taken place.

The applicant, John Stokes, 4132 Whispering Lane, Annandale, Virginia, explained he met with the Park Authority and the County Attorney on February 4, 1988 and the County Attorney's office indicated that they had no objection to the land trade. He stated that it might take a minimum of 90 days to complete the paper work. Mr. Stokes suggested the Board proceed with the public hearing prior to the "land trade" as a variance will still be needed to create a better subdivision.

Mr. Kelley voiced his objection to proceeding as the measurements of the lots are not certain at this point.

Lori Greenleaf, Staff Coordinator, explained that the Board could proceed with this application today because the variance would be for a specific amount of feet. She added if the applicant did acquire additional land it would make the variance a lesser amount of feet. She did point out if the variance were to be granted the applicant could not alter the lot lines.

Chairman Smith stated that he believed that the application should be deferred for the 90 days in order to achieve a better subdivision plan.

Mr. Kelley made a motion to defer this case to June 14, 1988 at 9:00 A.M. as suggested by staff.

Mrs. Day seconded the motion which carried by a vote of 6-0 with Mrs. Thonen absent from the meeting.

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Page 346, March 8, 1988, (Tape 3),

Ms. Agnew came forward to voice her objection to not being given rebuttal time earlier in the public hearing when the Board took action on the Little Pimmit Run Stream Valley Association Appeal.

Following a discussion among the Board and the County Attorney, Chairman Smith informed Mr. Agnew that the Board had followed the established procedures for hearing an appeal.

Karen Harwood, Assistant County Attorney, asked the Board to pass over this to allow her time to consult with the County Attorney's office on whether or not this might require readvertising and a new public hearing.

Jane Kelsey, Chief, Special Permit and Variance Branch, asked the Board to defer action on the second appeal of Little Pimmit Run Stream Valley until Ms. Harwood returned.

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Page 346, March 8, 1988, (Tape 3), After Agenda Item:

National Memorial Park, Inc. Appeal

Jane Kelsey, Chief, Special Permit and Variance Branch, suggested a public hearing date of May 17, 1988 at 11:00 A.M.

Hearing no objection, the Chair so ordered.

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Page 346, March 8, 1988, (Tape 3), After Agenda Item:

Paul DiGiammarino Appeal

Chairman Smith informed the Board members that staff had suggested a public hearing date and time of May 24, 1988 at 11:00 A.M. Hearing no objection, the Chair so moved.

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Page 347, March 8, 1988, (Tape 3), After Agenda Item:

The Jonathan Corporation Appeal

Chairman Smith noted this was an information item as the appellant's attorney had requested that it not be scheduled at this time. The Board agreed to allow this appeal application to remain pending until the Zoning Administrator and the appellant decided it should be scheduled.

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Page 347, March 8, 1988, (Tape 3), After Agenda Item:

Lexington Estates Appeal

Jane Gwinn, Zoning Administrator, asked that the Board defer any action on this appeal to allow time for the appellant's attorney to review the memorandum.

The Board deferred action until March 15, 1988.

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Page 347, March 8, 1988, (Tape 3), After Agenda Item:

Harbor View, VC 83-V-147 through VC 83-V-150  
Additional Time

Mrs. Day made a motion to grant the applicant an additional 12 months as suggested by staff. The new expiration date will be December 6, 1988.

Mr. Hammack seconded the motion which carried by a vote of 6-0 with Mrs. Thonen absent from the meeting.

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Page 347, March 8, 1988, (Tape 3), After Agenda Item:

Resolutions for March 1, 1988

Mrs. Day made a motion to approve the resolutions from the March 1, 1988 public hearing of the Board of Zoning Appeals as submitted.

Hearing no objection, the Chair so moved.

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Page 347, March 8, 1988, (Tape 3), After Agenda Item:

Out-of-Turn Hearing, David Brent, VC 88-M-026

Jane Kelsey, Chief, Special Permit and Variance Branch, explained that the applicant's financing approval is good only until the end of May and the contract with Pool Pros stipulates that the pool be constructed prior to May 15, 1988.

Mr. Hammack made a motion to grant the out-of-turn hearing for April 12, 1988 as suggested by staff. Mr. Kelley seconded the motion which carried by a vote of 4-2 with Chairman Smith and Mr. Ribble voting nay; Mrs. Thonen absent from the meeting.

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The Board recessed at 1:30 P.M. and reconvened at 1:50 P.M.

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With regard to Ms. Agnew's earlier objection concerning rebuttal time in the Little Pimmit Run Stream Valley Association Appeal, Chairman Smith explained that the Board followed the same procedure it always follows when hearing Appeals.

Ms. Agnew argued that she should have been allowed to rebut the comments from Mr. Matthews about their surveyor's report

Mr. Hammack stated that he did not believe that the appellant had shown that the Zoning Administrator had erred in her determination. He added that the appellant's surveyor could have attended the public hearing but that the Board could not tell a speaker what to submit into the record.

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Page 348, March 8, 1988, (Tape 3), After Agenda Item:

Little Pimmit Run Stream Valley Association, Inc. Second Appeal

Mr. Hammack made a motion to uphold the Zoning Administrator's determination that the Little Pimmit Run Stream Valley Association was not an aggrieved party.

Mr. DiGiulian seconded the motion which carried by a vote of 5-1 with Mrs. Day voting nay; Mrs. Thonen absent from the meeting.

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Page 348, March 8, 1988, (Tape 3), Adjournment:

As there was no other business to come before the Board, the meeting was adjourned at 2:05 P.M.

Betsy S. Hirtt  
Betsy S. Hirtt, Deputy Clerk to the Board of Zoning Appeals

Daniel Smith  
Daniel Smith, Chairman Board of Zoning Appeals

SUBMITTED: 9/13/88

APPROVED: 9/20/88

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The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, March 15, 1988. The following Board Members were present: Daniel Smith, Chairman; Ann Day; Paul Hammack; Robert Kelley; John Ribble and Mary Thonen. John DiGiulian, Vice-Chairman was absent from the meeting.

Chairman Smith opened the meeting at 9:24 A.M. and Mrs. Day led the prayer.

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Page 349, March 15, 1988, (Tape 1), Scheduled case of:

9:00 A.M. ELIZABETH M. WOLFSON, VC 87-A-117, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 15.2 feet from rear lot line (25 ft. min. rear yard required by Sect. 3-307), located at 9200 Burnette Drive, on approximately 9,118 square feet of land, zoned R-3(C), Annandale District, Tax Map 69-4((15))13. (DEFERRED FROM 12/8/87 AND 1/12/88)

Chairman Smith announced that the Board was in receipt of a letter requesting withdrawal of the above referenced application.

Mrs. Thonen moved to allow the applicant to withdraw the application. Mr. Hammack seconded the motion which passed unanimously with Mr. Ribble not present for the vote; Mr. DiGiulian absent from the meeting.

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Page 349, March 15, 1988, (Tape 1), Scheduled case of:

9:15 A.M. CHILDREN'S WAY SCHOOLS BY REV. ROGER W. VERLEY, SPR 81-C-034-1, application under Sect. 3-103 of the Zoning Ordinance to renew S 81-C-034 for child care center, located at 2558 Flint Hill Road, on approximately 1.145 acres of land, zoned R-1, Centreville District, Tax Map 38-3(1)30, 30A. (DEFERRED FROM 1/12/88)

In the Staff Coordinator's, Claudia Hamblin-Katnik, absence, Jane Kelsey, Chief, Special Permit and Variance Branch, presented the staff report and advised the Board that there were significant outstanding land use issues related to lack of adequate landscaping, buffering and transitional screening. She added that the Zoning Ordinance would require only 12 parking spaces.

Charles Curran with the firm of Bean, Kinney, Korman, Hylton and Moore, 2000 North 14th Street, Arlington, Virginia, representative of the applicant, appeared before the Board and explained the request as outlined in the statement of justification submitted with the application. He added that there had been no complaints about the school, nor were they proposing any changes to the school. Mr. Curran submitted letters in support of the application. He stated that the applicant would agree to screen on the north and west side over a several year period. With regard to the south and west side of the property which is vacant and heavily wooded, Mr. Curran requested a waiver of the 25 foot screening requirement by the pond on the south side. Mr. Curran requested that the applicant not be required to move the play area on the south side until that area is developed, at which time the play area could be moved to the center of the lot. He stated that the applicant was willing to move the two parking spaces in the front which are within the 25 foot screening area. The two parking spaces would be moved towards the back of the driveway. Mr. Curran requested that only seven parking spaces be required as there had been no significant traffic problems over the past seven years. He further explained that current entrance was satisfactory and stated that the applicant would comply with the Virginia Department of Highway's (VDOT) decision regarding the entrance. With regard to the dedication of five additional feet along Flint Hill Road and dedication of easements, Mr. Curran stated that the existing traffic patterns have not changed, therefore this condition is not necessary.

Following a question from Mr. Hammack, Mr. Curran stated that he had just received the development conditions proposed by staff. Mr. Hammack and Chairman Smith expressed the opinion that staff should not withhold development conditions from the applicant even though staff is recommending denial of the application.

Jane Kelsey, Chief, Special Permit and Variance Branch, advised the Board that it was the Office of Comprehensive Planning's policy not to distribute development conditions to the applicant or the public when staff was recommending denial of an application.

Chairman Smith called for speakers and M.A. Ahrarian, 2550 Flint Hill Road, Vienna, Virginia, appeared before the Board in support of the application and asked if a term would be set for the special permit.

Chairman Smith stated that based on the recommendation by staff it would be without term. Mr. Curran added that the applicant would agree to a five year term.

The following speakers appeared before the Board in support of the application: Deborah Sparks, 10331 Emerald Rock Drive, Oakton, Virginia, and Jane Turner Censer, 4122 Lenox Drive, Fairfax, Virginia.

Mr. Curran reiterated that with regard to Condition 8, the applicant is requesting seven parking spaces on the site. Concerning Condition 9, the applicant is requesting that the transitional screening along the southern lot line by the play area be provided at such time as development occurs along the southern lot line. At that time, a barrier would be provided in accordance with the last sentence of Condition 10. He stated that the applicant opposed Condition 11.

Mrs. Day pointed out that the site had a residential appearance with screening and was in an older neighborhood. She added that the lot was only one lot from Route 123 and a traffic light. Mrs. Day further stated that the County needed child care centers and that the this center provided quality care for the children, it was in a good location and screening was provided in the front

In closing, Ms. Kelsey stated that the parking area should be striped, however staff could not recommend a reduction in the number of parking spaces. She added that dedication was necessary as the use could impact Flint Hill Road if the enrollment were increased. Ms. Kelsey further stated that the entrance should accommodate the traffic at the site's maximum development and added that safety was of primary importance.

Since there were no other speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mrs. Day pointed out that the Board had received letters in support of the application and noted that it was a quality school. She also stated that the site was in an isolated and screened area. She moved to approve the request subject to the development conditions as modified: Condition 8: There shall be seven parking spaces to be provided on site and they shall stripe the parking area. The two spaces in the front shall be moved farther back. At the time the woods which are adjacent to this property are developed the applicant shall provide screening and the barrier requirements. The pool area is to be cleaned of all refuse. With regard to Condition 9: Transitional Screening along the north side with plantings spaced over a two year period with the screening waived around the pool. The play area is to be screened at the time the adjacent woods are developed. Conditions 10 and 11 are to be deleted with a new condition that the term be for a period of 5 years.

Following a discussion by the Board, Mrs. Day amended the motion as follows:  
Condition 8: There shall be 7 parking spaces and all parking shall be provided on site. The parking area shall be striped. The parking spaces at the front of the site shall be moved farther back. Should enrollment be increased to 60 students, the applicant shall provide 2 additional parking spaces. Condition 9: Transitional Screening shall be provided along the north side with plantings spaced over a two year period. At the time the woods are developed to the south, the applicant shall provide screening as required and the existing chain link fence shall remain. The pool area shall be cleaned of all refuse. Condition 10: The barrier requirement along the northern and western lot lines shall be fulfilled by the existing six foot board on board fence. The barrier adjacent to Flint Hill Road shall be waived to ensure the residential character of the area.  
Condition 11: The term shall be five (5) years.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Renewal Application SPR 81-C-034-1 by CHILDREN'S WAY SCHOOLS BY REVEREND ROGER W. VERLEY, under Section 3-103 of the Zoning Ordinance to renew between S 81-C-034 for child care center, on property located at 2558 Flint Hill Road, Tax Map Reference 38-3((1))30, 30A, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 15, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the lessee.
2. The present zoning is R-1.
3. The area of the lot is 1.145 acres of land.
4. The use is the same as in the original application.
5. They are not anticipating any changes.
6. It is a quality school.
7. The area is isolated and screened.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-303 and 8-305 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The hours of operation shall be limited to 6:30 a.m. to 6:30 p.m., Monday through Friday.
6. The child care center shall have a maximum daily enrollment of 60 children with no more than 60 children on site at any one time.
7. There shall be a maximum of 8 employees on site at any one time.
8. There shall be 7 parking spaces and all parking shall be provided on site. The parking area shall be striped. The parking spaces at the front of the site shall be moved farther back. Should enrollment be increased to 60 students, the applicant shall provide 2 additional parking spaces.
9. Transitional Screening shall be provided along the north side with plantings spaced over a two year period. At the time the woods are developed to the south the applicant shall provide screening as required and the existing chain link fence shall remain. The pool area shall be cleaned of all refuse.
10. The barrier requirement along the northern and western lot lines shall be fulfilled by the existing six foot board on board fence. The barrier adjacent to Flint Hill Road shall be waived to ensure the residential character of the area.
11. The term shall be five (5) years.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date\* of the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Hammack seconded the motion.

The motion carried by a vote of 6-0 with Mr. DiGiulian absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 23, 1988. This date shall be deemed to be the final approval date of this special permit.

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9:30 A.M. VULCAN MATERIALS COMPANY, SPA 82-V-091-1, application under Sect. 8-101 and 7-305 of the Zoning Ordinance to renew and amend S 82-V-091 for stone quarrying, crushing, sales, associated quarrying activities, and accessory uses, located at 9800 Ox Road, on approximately 225.94 acres of land, zoned R-1, I-6, N-R, Mount Vernon District, Tax Map 112-2((1))pt. of 8, pt. of 9, and pt. of 11, 12, 13; 106-4((1))pt. 54. (DEFERRED FROM 1/19/88 FOR PUBLIC HEARING)

Kavin Guinaw, Staff Coordinator, presented the staff report which recommends approval of the application. He advised the Board that staff was suggesting a change in Condition 39 to read as follows: The Environmental Quality Corridors located on the northeastern and northwestern portions of the site, as generally delineated on the special permit plat, shall remain undisturbed. No vegetation shall be removed, except for dead or dying trees. Final delineation of the EQC's shall be made by the OCP, in concert with the Director of the Department of Environmental Management, based upon new topographic information to be submitted by the applicant.

Mike Giguere of McGuire, Woods, Battle and Boothe located at 8280 Greensboro Drive, McLean, Virginia, appeared before the Board and stated that he was in agreement with all of the proposed development conditions.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Mr. Kelley moved to grant the request subject to the revised development conditions.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 82-V-091-1 by VULCAN MATERIALS COMPANY, under Sections 8-101 and 7-305 of the Zoning Ordinance to renew and amend S 82-V-091 for stone quarrying, crushing, sales, associated quarrying activities and necessary uses, on property located at 9800 Ox Road, Tax Map Reference 112-2((1))pt. 8, pt. 9, pt. 11, pt. 12, pt 13; 106-4((1))pt. 54, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 15, 1988; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the applicant is the lessee.
- 2. The present zoning is R-1, I-6, N-R.
- 3. The area of the lot is 225.94 acres of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 8-105 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

These conditions incorporate all relevant conditions from the previous approvals of this use.

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
- 2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. Landscaping and screening shall be provided in accordance with the master reclamation plan submitted with this application subject to the approval of the County Arborist.
6. This permit is granted for a period of five (5) years with annual review by the Zoning Administrator for compliance with conditions set forth in this permit by this Board.
7. The bond of \$2,000 per acre to insure restoration of the property shall be continued for the duration of this operation.
8. The Permittee shall absorb one hundred percent (100%) of the cost of enforcement service as determined by the Zoning Administrator.
9. Blasting vibrations shall be limited to a maximum resultant peak particle velocity of 0.4 inches per second in the earth at any privately-owned occupied structure not on the quarry property, except not more than one in ten shots can go over 0.4 with the limit being no more than 0.6.
10. The peak overpressure from any blast shall be limited to 0.0092psi (130 dB) at any privately-owned occupied structure not on the quarry property.
11. Earth vibration produced by the quarry from sources other than blasting shall not exceed 0.05 inches per second at any privately-owned structure not on quarry property.
12. Airborne noise produced by the quarry from sources other than blasting shall not exceed at any privately-owned occupied structure not on quarry property, 58 dB(A) in residential areas, or 65 dB(A) in commercial areas.
13. Prior to the commencement of operations in the expansion area, an additional air quality monitoring station shall be provided by the applicant and installed as necessary and as required by the County Health Department to demonstrate the attainment and maintenance of ambient PM10 and TSP air quality standards.
14. Paved roads and other paved areas within the confines of the quarry will be watered and cleaned with heavy duty cleaning equipment to adequately control dust. If upon operation of the new expansion area, on-site dust cannot be adequately controlled by a single watering truck, the applicant shall add a second watering truck to its dust control system or take other appropriate measures to control increased dust emissions. Unpaved areas subject to quarry traffic will be treated with calcium chloride as often as needed. A truck washdown facility shall be installed as shown on the special permit plat.
15. The applicant will install, maintain and operate dust control equipment on all portions of its processing plant so as to adequately control dust.
16. All conveyors will continue to be covered, if necessary to meet applicable standards.
17. No drilling, blasting or crushing shall be performed other than during the hours between 7:00 A.M. and 6:00 P.M. Monday through Saturday. Blasting shall occur only between the hours of 10:00 A.M. and 6:00 P.M. Monday through Friday, and all blasts shall be coordinated to wind and other atmospheric conditions in order to minimize as far as possible any adverse effect upon the Town of Occoquan or other privately-owned occupied dwellings. The Zoning Enforcement Branch of the Office of Comprehensive Planning shall be notified at least four (4) hours prior to each blast.
18. Saturday work shall generally be confined to sales of materials and drillings between the hours of 7:00 A.M. to 6:00 P.M. and repair work. Crushing and processing shall not be permitted except with the express prior approval of the Zoning Administrator.

19. All blasting material shall be handled and stored in accordance with standards and regulations established by the United States Bureau of Mines. The applicant shall indicate the location of all explosives magazines to the Zoning Enforcement Branch of the Office of Comprehensive Planning. No magazine shall be stored within the northern expansion area.
20. Vulcan Materials Company, Inc. will take all steps appropriate or as required for deadening sounds of vibrating screens and plant operations during all periods of plant operation.
21. In the event any feasible equipment or means of controlling the dust from blasts becomes available to the industry, the quarry operator shall install and use the same as soon as available to them.
22. Supervision during blasting and discipline of personnel shall be exercised diligently to prevent flying rock.
23. All operations at the quarry shall conform to all applicable performance standards and regulations.
24. The Zoning Administrator, or designated agent, shall inspect the premises monthly to determine that the quarry is being operated in compliance with all the foregoing restrictions.
25. These conditions shall be met on the entire operation.
26. Work on Sundays shall be confined to repairs on the processing plant, items of equipment and the operation in general.
27. Any expense associated with the operation and maintenance of the seismograph shall be at the expense of the Vulcan Materials Company.
28. If stockpiles prove to be a problem, the Zoning Administrator may require that additional protective steps be taken to ensure compliance with conditions.
29. The applicant shall conform to the restoration plan as submitted.
30. No blasting, drilling or extraction shall be permitted on the parcel leased from the United States of America and known as Tax Map 112-2((1))13.
31. This approval includes the barge loading facilities and the operation thereof located on the north side of the Occoquan River adjacent to the site.
32. A portable crusher shall be permitted for eighteen (18) months and shall be located as shown on the special permit plat. After 18 months, approval shall be obtained from the Zoning Administrator for the continued use of the portable crusher. An adequate dust suppression system shall be provided on the portable crusher to prevent point source emissions from the crusher, screens, shakers and the various conveyers.
33. Two-way communication equipment shall be provided for use by zoning inspectors while conducting site inspections.
34. A copy of water quality data submitted to the Commonwealth of Virginia under the National Pollutant Discharge Elimination System (NPDES) shall be submitted to the Office of Comprehensive Planning on an annual basis.
35. Full-width right and left turn lanes shall be constructed into the site entrance from Ox Road. Adequate pavement transitions shall be provided at the end of these lanes as required by VDOT.
36. The applicant shall provide adequate sight distance to meet VDOT requirements by raising or lowering the appropriate section of Ox Road to the north of the site entrance.
37. The applicant shall construct a service drive along Ox Road unless this requirement is waived by the Board of Supervisors.
38. An acceleration lane, with additional channelization at the entrance, shall be provided northbound on Ox Road. Pavement transitions and the length of the acceleration lane shall be to VDOT standards.

39. The Environmental Quality Corridors located on the northeastern and northwestern portions of the site, as generally delineated on the special permit plat, shall remain undisturbed. No vegetation shall be removed, except for dead or dying trees. Final delineation of the EQC's shall be made by the OCP, in concert with the Director of the Department of Environmental Management, based upon new topographic information to be submitted by the applicant.
40. A stormwater management and erosion and sediment control plan shall be prepared for the expansion area.
41. A berm shall be constructed in the northern expansion area as shown on the special permit plat. The berm shall be a minimum of 20 feet in height and shall be planted with vegetation as determined by the County Arborist.
42. The applicant shall revise all applicable State and Federal permits for air quality compliance and water quality control, and shall provide the County Office of Comprehensive Planning with a record of any complaints or violations related to these permits.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date\* of the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mrs. Day seconded the motion which carried by a vote of 5-0 with Mr. Hammack not present for the vote; Mr. DiGiulian absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 23, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 355, March 15, 1988, (Tape 2), Scheduled case of:

10:10 A.M. NV LAND, INC, SP 87-S-039, application under Sect. 3-C03 of the Zoning Ordinance to allow a Country Club located at Union Mill Road and Compton Road, on approximately 169.6344 acres of land, zoned R-C, Springfield District, Tax Map 74-2((1)) pt. 17; 74-4((1))2, 3, 4, 5; and 85-1((1))3. (DEFERRED FROM 2/16/88 - NOTICES NOT IN ORDER)

Chairman Smith announced that the Board was in receipt of a letter from the applicant requesting withdrawal of the above referenced application.

Mrs. Thonen moved to allow the applicant to withdraw the application. Mrs. Day seconded the motion which passed by a vote of 4-0 with Messrs. Hammack and Ribble not present for the vote; Mr. DiGiulian absent from the meeting.

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Page 355, March 15, 1988, (Tape 2), Scheduled case of:

11:00 A.M. RANDOLPH WILLIAMS, INC. APPEAL, A 87-D-011, application to appeal the Zoning Administrator's determination that proposed dwelling does not meet the R-1 District minimum side yard requirement, located 7105 Country Meadow Court, on approximately 20,859 square feet of land, zoned R-1, Tax Map 21-3((1))pt. 63 and 64.

Chairman Smith announced that the Board was in receipt of a letter from the appellant requesting withdrawal of the above referenced application.

Mrs. Thonen moved to allow the appellant to withdraw the application. Mrs. Day seconded the motion which passed by a vote of 4-0 with Messrs. Hammack and Ribble not present for the vote; Mr. DiGiulian absent from the meeting.

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Page 356, March 15, 1988, (Tape 2), After Agenda Item #1:

Out of Turn Hearing Request  
Mary Jane DeStefano - VC 88-A-046

Mr. Hammack moved to grant the request for an out of turn hearing for Variance Application VC 88-A-046 to May 10, 1988.

Mr. Ribble seconded the motion which passed unanimously with Mr. DiGiulian absent from the meeting.

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Page 356, March 15, 1988, (Tape 2), After Agenda Item #2:

Out of Turn Hearing Request  
Scarborough Corporation and Crofton Commons Homeowners Association  
VC 88-S-042 and SP 88-S-024

Mrs. Thonen moved to grant the request for an out of turn hearing for Scarborough Corporation and Crofton Commons Homeowners Association, VC 88-S-042 and SP 88-S-024.

Mr. Hammack seconded the motion which passed unanimously with Mr. DiGiulian absent from the meeting.

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Page 356, March 15, 1988, (Tape 2), After Agenda Item #3:

Jonathan Corporation Appeal

Chairman Smith noted that the appellant in this case had requested that Board not schedule this appeal at this time. The Board agreed.

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Page 356, March 15, 1988, (Tape 2), After Agenda Item #4:

Appeal Acceptance Request  
Lexington Estates

Mrs. Thonen moved to deny the request for appeal as the application had not been timely filed.

Mr. Hammack seconded the motion which passed unanimously with Mr. DiGiulian absent from the meeting.

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Page 356, March 15, 1988, (Tape 2), After Agenda Item #5:

Request for Withdrawal  
Southland Corporation Appeal  
A 87-W-061

Mrs. Thonen moved to accept the request by the appellant to withdraw A 87-W-061.

Mr. Hammack seconded the motion which passed unanimously with Mr. DiGiulian absent from the meeting.

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Page 356, March 15, 1988, (Tape 2), After Agenda Item #6:

Approval of Resolutions from March 8, 1988

Mr. Hammack moved approval of the Resolutions for March 8, 1988 with the exception of the Firth Resolution. Mr. Hammack stated that he would like staff to clarify the zoning of the property before a final decision is made.

Mr. Ribble seconded the motion which passed unanimously with Mr. Kelley not present for the vote; Mr. DiGiulian absent from the meeting.

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11:30 A.M. CHILD FAMILY SERVICES, INC., SP 87-L-076, application under Sect. 3-2003 of the Zoning Ordinance to allow a child care center, located at 6272 and 6276 Edsall Road, on approximately 8.3643 acres of land, zoned R-20, Lee District, Tax Map Reference 72-4(1)31. (DEFERRED FROM 1/26/88 FOR PUBLIC HEARING)

Kevin Guinaw, Staff Coordinator, presented the staff report and advised the Board that the applicant proposed to locate the child care center in the Edsall Park Apartment complex. He added that all of staff's concerns had been addressed by the applicant. Mr. Guinaw pointed out that the issue of parking was addressed by a development condition which required the applicant to apply to the Board of Supervisors for a shared parking agreement between the child care center and the Edsall Park Management. He added there was an agreement between the applicant and Edsall Park Management which stated that the residents of Edsall Park shall always have use of the play area. He concluded that staff was recommending approval of the request subject to the development conditions contained in the addendum to the staff report.

Mr. Hammack expressed concern about the location of the play area and that the residents may not have use of it.

Larry Olerich, Vice-Chairman, Child and Family Services, representative of the applicant, appeared before the Board and stated that the applicant agreed with all the development conditions suggested by staff with the exception of Condition 10. He noted that the area where staff was requesting screening was an area that was undeveloped. Mr. Olerich stated that at such time that area is developed, the applicant would agree to provide screening.

Erwina Olerich, Chairman, Child and Family Services, appeared before the Board and explained the operation of Child and Family Services.

Following a discussion between Mr. Hammack and Mr. Olerich, Mr. Hammack stated that he could not support the application as presented due to the configuration of the play area. He added that the entire play area should be fenced.

Since there were no other speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mrs. Thonen stated that more open space would be better as it would allow more room for "action" activities such as kick ball. She added that the coordinated use of the play area was good. Mrs. Thonen moved to grant the request subject to the revised development conditions: In Condition #9: The word "square" be deleted. In Condition 10: Delete and renumber the remaining conditions.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-L-076 by CHILD FAMILY SERVICES, under Section 3-203 of the Zoning Ordinance to allow a child care center, on property located at 6272 and 6274 Edsall Road, Tax Map Reference 72-4(1)31, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 15, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the lessee.
2. The present zoning is R-20.
3. The area of the lot is 8.3643 acres of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-303 and 8-305 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.

2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. Maximum daily enrollment shall be 80 children, ages 2 1/2 to 12 years old. The approved child care center shall primarily serve the residents of Edsall Station. Of the maximum daily enrollment, the number of students who are not residents of Edsall Station shall not exceed 32.
6. The applicant shall obtain approval by the Board of Supervisors of a shared parking agreement with the Edsall Station Apartments under the provisions of Sect. 11-102 of the Zoning Ordinance in order to provide required parking for the child care center use. A minimum of 10 parking spaces shall be provided for the child care center use.
7. Hours of operation shall be from 6:00 A.M. to 6:30 P.M., Monday through Friday. All arrivals prior to 7:00 A.M. shall be congregated in one of the two center locations, subject to the capacity constraint of each center as specified by the Health Department.
8. The maximum number of employees on site at any one time shall be ten (10).
9. The outdoor play area shall be fenced as required by the Health Department and shall be located a minimum distance of fifty feet from buildings 6276 and 6274. The play area shall be operated in accordance with the agreement between the applicant and the management of Edsall Station Apartments submitted with this Special Permit application.
10. This special permit is approved for a period of five (5) years.
11. Revised plats shall be submitted showing the location of the play area prior to the issuance of the final Resolution for this Special Permit approval.
12. A right-turn taper shall be constructed at the site entrance subject to approval by VDOT.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date\* of the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Ribble seconded the motion.

The motion carried by a vote of 5-1 with Hammack voting nay; Mr. DiGiulian absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 23, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 359, March 15, 1988, (Tape 2), Scheduled case of:

11:45 A.M. MELVIN HOTTMAN, VC 87-M-151, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 20.7 feet from a street line of a corner lot (30 ft. min. front yard required by Sect. 3-307), located at 4111 Wynnwood Drive, on approximately 12,570 square feet of land, zoned R-3 and HC, Mason District, Tax Map Reference 60-4((24))7. (DEFERRED FROM 1/26/88 FOR AMENDED APPLICATION REDUCING VARIANCE)

Chairman Smith announced that the Board was in receipt of a letter requesting that the above referenced application be withdrawn.

Mrs. Thonen moved to grant the request.

Mr. Hammack seconded the motion which passed unanimously with Messrs. Kelley and Ribble not present for the vote; Mr. DiGiulian absent from the meeting.

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Page 359, March 15, 1988, (Tape 2), Scheduled case of:

12:00 Noon DONALD R. DEGRANGE SP 87-P-087, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to min. yard requirements based on error in building location to allow 9 ft. high shed to remain 8.3 ft. from side lot in and 2.5 ft. from rear lot line (12 ft. min. side yard, 9 ft. min rear yard req. by Sects. 3-307 and 10-104), located at 9305 Glenbrook Road, on approximately 11,527 square feet of land, zoned R-3, Providence District, Tax Map 58-2 ((11))50. (DEFERRED FROM 2/9/88)

In Staff Coordinator, Claudia Hamblin-Katnik's absence, Jane Kelsey, Chief, Special Permit and Variance Branch, presented the staff report and advised the Board that it was staff's opinion that there was adequate area for the shed to be relocated.

Donald DeGrange, 9305 Glenbrook Road, Fairfax, Virginia, the applicant, appeared before the Board and explained the request as outlined in the statement of justification submitted with the application. He further explained that he was unaware that the shed exceeded the height requirements or that he did not meet the setback requirements. Mr. DeGrange added that the shed was placed in the best location due to large tree stumps on one side of the yard and large trees on the other side. Mr. DeGrange concluded that he tried to put up the best shed possible and to move the shed would bring it closer to his neighbors' homes.

Mrs. Day noted that the shed seemed well screened and Mr. Ribble pointed out that the shed was located in the most logical place.

Chairman Smith called for speakers and Norman Weiss, 9106 Glenbrook Road, Fairfax, Virginia, President, Mantua Citizens Association, appeared before the Board in support of the application with the following condition: That the Arborist review the screening from the neighbor's house at 9303 Glenbrook Road, and from the Glenbrook Road.

Irene Simms, 3330 Prince William Drive, Chairman, Architectural Review Committee, Mantua Citizens Association, appeared before the Board and stated that there was not enough screening for the shed. She added that the Architectural Review Committee's decision was pending until the BZA took action.

In rebuttal, Mr. DeGrange stated that he agreed to provide additional screening.

Following a question from Mr. Hammack, Mr. DeGrange stated that he would agree to provide some kind of evergreen trees along the section of fence that extends from the rear of his house.

Since there were no other speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. Hammack stated that the applicant had met the standards for the proposed use. He moved to grant the request subject to the revised development conditions: Condition 2 shall be deleted as proposed and revised as follows: That screening of the shed shall be provided from Glenbrook Road with at least one evergreen tree at least six feet in height and from the side and rear as determined by the County Arborist. Condition 3: The shed shall be maintained in its present or a similar coloring and good condition at all times or it shall be subject to removal.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-P-087 by DONALD DeGRANGE, under Section 8-901 of the Zoning Ordinance to allow reduction to min. yard requirements based on error in building location to allow 9 ft. high shed to remain 8.3 ft. from side lot line and 2.5 ft. from rear lot line, on property located at 9305 Glenbrook Road, Tax Map Reference 58-2(11)50, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 15, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 11,527 square feet of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-903 and 8-914 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This special permit is approved for the location and the shed shown on the plat included with this application and is not transferable to other land.
2. Screening of the shed shall be provided from Glenbrook Road with at least one evergreen tree six feet in height and from the side and rear as determined by the County Arborist.
3. The shed shall be maintained in its present or a similar coloring and good condition at all times or it shall be subject to removal.


Mrs. Thonen seconded the motion which carried by a vote of 5-1 with Chairman Smith voting nay.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 23, 1988. This date shall be deemed to be the final approval date of this special permit.

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As there was no other business to come before the Board, the meeting was adjourned at 12:55 P.M.

  
Patti M. Hicks, Clerk to the  
Board of Zoning Appeals

  
Daniel Smith, Chairman  
Board of Zoning Appeals

SUBMITTED: 7/7/88

APPROVED: 7/12/88

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, March 22, 1988. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack; Robert Kelley; and John Ribble; Mary Thonen.

Chairman Smith opened the meeting at 9:10 A.M. and Mrs. Day led the prayer.

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Page 361, March 22, 1988, (Tape 1), Scheduled case of:

9:00 A.M. PLASEIED & ASSOCIATES, VC 87-D-153, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into three (3) lots, proposed lot 2 having a lot width of 10 ft. (150 ft. min. lot width req. by Sect. 3-106) as approved in VC 85-D-091, expired, located at 931 Seneca Road, on approximately 3.79 acres, zoned R-1, Dranesville District, Tax Map Reference 6-4(1)31 (DEFERRED FROM 1/26/88)

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report and stated the applicant could subdivide this lot into two lots by right. It is staff's opinion that this particular request does not meet the nine standards necessary for a variance as set forth in the staff report.

Kurt Gleeson, 7616 Willow Point Drive, Falls Church, Virginia, represented the applicant and stated a previous application on this property was approved by the Board in February 1986. At that time one of the development conditions stated that the applicant, Plaseied Associates, must record a subdivision plat within eighteen months. In the process of the present applicant, R. L. Wilson, contracting to purchase this property the recording did not take place, additional time was not requested, and the variance expired.

Mr. Gleeson continued by stating that the subdivision plat had received preliminary approval, the recommendations that were brought out during the last application have been accommodated into the subdivision plat, construction drawings have been approved for the proposed dedication for road improvements, and all bonding papers are in place. He added that the subdivision would have one common entrance and the houses would set back from the road.

In response to questions from the Board, Mrs. Hamblin-Katnik replied that the request before the Board today was only for the minimum lot width. She added the easement for a driveway would be shared by all the houses.

The applicant, Robert L. Wilson, 713 Clear Spring Road, Great Falls, Virginia, stated that he and his father have been in the construction business for several years. He stated this is the best configuration for the driveway as it provides the best sight distance even though he is aware the Great Falls Citizens Association objects because the Association believes it will be precedent setting.

Chairman Smith called for speakers in support of the request and hearing no reply called for speakers in opposition to the request.

Martha Harris, Chairman of the Planning and Zoning Committee, Great Falls Citizens Association came forward and stated that the Association had voted unanimously not to support this request on January 21, 1988. She stated that this opposition was based on the Association's belief that the applicant has not met Pars. 2, 3, 4, 5, 6, and 9 of Sect. 18-401 of the Zoning Ordinance, that it would set an undesirable precedent, and that the applicant could develop the property without a variance.

During rebuttal, Mr. Gleeson stated the applicant could subdivide the property into two lots by right but that would require the construction of two driveways. There would be a covenant on record for an egress/ingress easement, the road would be privately maintained by the owners of the subdivision, and all lots will be served by well and septic. He added that the sight distance has been accommodated into the plat and will meet all Virginia Department of Transportation requirements and a trail easement will be dedicated to the Park Authority.

As there was no further discussion, Chairman Smith closed the public hearing.

Mr. Hammack made a motion to grant VC 87-D-153 as he believed that the applicant has presented testimony showing compliance with the standards for a variance especially that the lot has an unusual shape. This approval was subject to the development conditions contained in the staff report with the following new addition:

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-D-153 by PLASEIED & ASSOCIATES, under Section 18-401 of the Zoning Ordinance to allow subdivision into three (3) lots, proposed Lot 2 having a lot width of 10 feet, on property located at 931 Seneca Road, Tax Map Reference 6-4(1)31, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 22, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicants are the owners of the land.
2. The present zoning is R-1.
3. The area of the lot is 3.79 acres of land.
4. That the lot has an unusual shape which justifies the granting of a Variance in the R-1 District.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;
  - F. An extraordinary situation or condition of the subject property, or
  - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the subdivision of one lot into 3 lots as shown on the plat submitted with this application.

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless this subdivision has been recorded among the land records of Fairfax County, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. Only one (1) entrance to all 3 lots shall be allowed from Seneca Road. The driveway easements shall be recorded with deeds to the lots to ensure future access to these lots via a common driveway.
4. The driveway to the proposed lots shall be constructed in accordance with the Public Facilities Manual.
5. Construction of the entrance shall meet Virginia Department of Transportation (VDOT) sight distance requirements.
6. Dedication of right-of-way for public street purposes shall be provided to accommodate the realignment of Seneca Road. The amount of dedication and alignment shall be determined by the Director, Department of Environmental Management at the time of subdivision plat review. In addition, the applicant shall provide temporary grading easements for future road improvements.
7. A TK, Type II 6 foot trail within a 10 foot easement shall be provided along the east side of Seneca Road.

Mrs. Thonen seconded the motion.

The motion carried by a vote of 4-2 with Chairman Smith and Mrs. Day voting nay; Mr. Ribble abstaining.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 30, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 363, March 22, 1988, (Tape 1), Scheduled case of:

9:20 A.M. SOUTH RUM BAPTIST CHURCH, SP 87-S-078, application under Sect. 3-103 of the Zoning Ordinance to allow church and related facilities, located at 8708 and 8712 Selgar Drive, on approximately 10.2 acres of land, zoned R-1, Springfield District, Tax Map 89-3((3))2. (DEFERRED FROM 1/26/88)

Chairman Smith explained that the notices were not in order in this case.

Jane Kelsey, Chief, Special Permit and Variance Branch, suggested a date and time of April 26, 1988 at 12:15 P.M.

Hearing no objections, the Board so moved.

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Page 363, March 22, 1988, (Tape 1), Scheduled case of:

9:40 A.M. THOMAS J. RAMSEY, VC 88-V-005, application under Sect. 18-401 of the Zoning Ordinance to allow construction of dwelling 25.0 ft. from front lot line (30 ft. min. front yard required by Sect. 3-407) located at 2202 Woodmont Road, on approximately 8,883 square feet of land, zoned R-4, Mount Vernon District, Tax Map 83-3((14))(17)2. (OTH GRANTED 2/2/88. TO BE DEFERRED FROM 3/22/88 - NOTICES NOT IN ORDER)

Jane Kelsey, Chief, Special Permit and Variance Branch, stated the notices were not in order in this case and suggested a date and time of April 19, 1988 at 11:00 A.M.

Lori Greenlief, Staff Coordinator, explained the applicant had been out of town during the time that the notices were due, therefore the notices had not been prepared.

Hearing no objections, the Board so moved to defer this application.

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10:00 A.M. WILLIAM H. FRASCA (AREA, INC.), SP 87-D-082, application under Sect. 3-303 of the Zoning Ordinance to allow a home professional office, located at 1450 Dolley Madison Boulevard, on approximately 13,906 square feet of land, zoned R-3, Dranesville District, Tax Map 30-3(1)2. (DEFERRED FROM 2/9/88)

Kevin Guinaw, Staff Coordinator, presented the staff report and stated it is staff's opinion this use would disrupt the residential character of the area. For these and other reasons outlined in the staff report, staff recommended denial of SP 87-D-082.

Keith Martin with the law firm of Walsh, Colucci, Malinchak, Emrich, and Lubeley, P.C., 950 North Glebe Road, Arlington, Virginia, represented the applicant. He explained the applicant is requesting a home professional which will be located in the basement of his house. The applicant has tried to address each of staff's concerns by eliminating the additional employee, correcting the plat to show the side yard, and limiting the number of business visitors to three per day.

To address the transportation issues, the applicant has relocated the two parking spaces to the Elm Street side of the house on the existing driveway, has agreed to widen the Ingleside entrance, and to provide the right-of-way along Ingleside Avenue. Mr. Martin disagreed with staff that this use would disrupt the residential character of the neighborhood as there is a child care center and library in the same vicinity. There has been a pedestrian bridge approved which will link the north side of Route 123 to the McLean Central Business District and a house opposite the applicant's property has been condemned.

In response to questions from the Board, Mr. Martin explained that the pedestrian bridge will be located in front of the applicant's house.

Mrs. Day pointed out that the day care center and library are beneficial to the neighborhood but the applicant's request is a business venture.

As there were no speakers to speak in support of the request, Chairman Smith called for speakers in opposition to the request.

Cheryl Bell, 1229 Ingleside Avenue, McLean, Virginia, President of the Beverly Manor Citizens Association, came forward and opposed the application. She stated the Association is opposed the application for several reasons, but the main reason is the Comprehensive Plan mandates there will be no commercial use "jumping" Dolley Madison Boulevard into the R-3 residential neighborhood of Beverly Manor. She added Beverly Manor is one of the oldest residential neighborhoods in McLean and host a number of community facilities, such as the McLean Community Center, a library, a park, a home for the retarded, and a children's academy. The Park Authority has assured the Association that the pedestrian bridge will be heavily landscaped and will open Ingleside Avenue into the park thus providing a view from the Ingleside Avenue directly into McLean Central Park. In closing, she asked the Board to deny this request as she believes that this request will set an undesirable precedent, that it will present a commercial appearance, and that without the number of business visitors being monitored it might possibly develop into a larger number.

During rebuttal, Mr. Martin stated there will be no visual impact on the neighborhood. He disagreed that the children's academy is a low impact use because it does charge for its services and does generate additional traffic in a residential neighborhood.

Mr. Guinaw pointed out the pedestrian bridge is a Public Works project and its objective is to provide pedestrian access from the residential areas through the park to the commercial business district.

Chairman Smith closed the public hearing as there were no additional comments.

Mrs. Thonen moved to deny SP 87-D-092 as she does not believe it meets the standards for a special permit, the use will not be in harmony with the zoning district, and the use will adversely impact the neighborhood.

Mr. Hamneck stated that he would support the motion for denial as this is a very sensitive area in McLean and there is adequate office space available to the applicant in the area.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-D-082 by WILLIAM H. FRASCA (AREA, INC.), under Section 3-303 of the Zoning Ordinance to allow a home professional office, on property located at 1450 Dolley Madison Boulevard, Tax Map Reference 30-3(1)2, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 22, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 13,906 square feet of land.
4. The use will have an adverse impact on the neighborhood and will not be in harmony with the zoning district.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has not presented testimony indicating compliance with the general standards for Special Permit Uses and the additional standards for this use as contained in Sections 8-903 and 8-907 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED.

Mr. DiGiulian seconded the motion which carried by a vote of 7-0.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 30, 1988.

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Page 365, March 22, 1988, (Tape 1), Scheduled case of:

10:20 A.M. YOUNG HO KIM, SPR 83-D-040-1, application under Sect. 3-303 of the Zoning Ordinance to renew SP 83-D-040 for antique shop located at 6919 Old Dominion Drive on approximately 11,250 square feet of land, zoned R-3, Dranesville District, Tax Map 30-2((7))(11)9. (DEFERRED FROM 2/23/88 - NOTICES NOT IN ORDER)

Lori Greenleaf, Staff Coordinator, presented the staff report and stated staff recommends approval of SPR 83-D-040-1 as the applicant has now complied with all the development conditions placed on the previous special permit including the removal of the free standing sign.

Wul Soon Kim, 6919 Old Dominion Drive, McLean, wife of the applicant came forward. She read a written statement into the record on behalf of her husband who could not be present due to unforeseen circumstances.

There were no speakers to address this request and Chairman Smith closed the public hearing.

Mr. DiGiulian moved to grant SPR 83-D-040-1 as he believed the applicant has presented testimony indicating compliance with the standards for a special permit. The approval was subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Renewal Application SPR 83-D-040-1 by YOUNG HO KIM, under Section 3-303 of the Zoning Ordinance to renew SP 83-D-040 for antique shop, on property located at 6919 Old Dominion Drive, Tax Map Reference 30-2((7))(11)9, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 22, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the co-owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 11,250 square feet of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-703 and 8-704 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. There shall be five (5) parking spaces provided in the lot to the rear of the dwelling. No parking spaces shall be located in any required side or rear yard.
6. The existing six (6) foot high stockade fence shall be retained and the broken boards on the east side shall be replaced to ensure no visual break in the fencing.
7. Transitional Screening and barrier requirements may be modified provided additional evergreen plantings are provided in the twelve (12) foot strips between the stockade fencing and the eastern, western and southern lot lines. Plants shall be at least eight (8) feet in height and shall be located as shown on the special permit plat approved in conjunction with SP 83-D-040 and submitted with this application.
8. There shall be no freestanding sign associated with this use. One (1) building-mounted sign may be erected in accordance with Article 12 of the Zoning Ordinance provided it is no more six (6) square feet in size. The existing freestanding sign shall be removed.
9. This special permit shall expire on December 31, 1989.
10. The entrance width shall meet Virginia Department of Transportation standards.
11. The hours of operation shall be limited to 10:00 a.m. to 4:00 p.m., Monday through Saturday.
12. The planting as required by the special permit shall be installed and a new Non-Residential Use Permit shall be issued by June 23, 1988 or this special permit shall become null and void.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Mrs. Day and Mr. Ribble seconded the motion which carried by a vote of 5-0 with Messrs. Hammack and Kelley not present for the vote.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 30, 1988. This date shall be deemed to be the final approval date of this special permit.

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10:40 A.M. LUTHERAN CHURCH OF THE REDEEMER/FAIRFAX COUNTY/MCLEAN COMMUNITY CENTER, SPA 79-D-143-1, application under Sect. 3-403 of the Zoning Ordinance to amend S 143-79 for a church and related facilities to permit addition of a temporary public use (youth center) and parking lot lighting to existing facilities, located at 1545 Chain Bridge Road, on approximately 6.22 acres of land, zoned R-4, Dranesville District, Tax Map 30-4((1))12. (DEFERRED FROM 2/23/88)

Chairman Smith noted for the record that this case had been deferred from February 23, 1988 for additional information from staff.

Lori Greenlief, Staff Coordinator, stated the information requested by the Board had been included in its package. This information consisted of an accident report for the previous three years from the police department, a study by the Office of Transportation counting the number of vehicles through the intersection and establishing a level of service calculation for the intersection, and a traffic study submitted by the applicant. She stated there were some discrepancies between the two studies but noted that the Office of Transportation agreed the use can be established without causing any noticeable change to the traffic flow at the intersection. The Planning Commission determined on March 9, 1988 that 456-D-88-6, the proposed public facility use, is in substantial accord with the provisions of the Comprehensive Plan.

As there were no questions from the Board, Chairman Smith closed the public hearing.

Mrs. Day moved to grant SPA 79-D-143-1 as she believed the applicant had presented testimony showing compliance with the standards for a special permit. The approval was subject to the development conditions in the staff report being implemented.

Mr. Ribble stated that he would support the motion and he was pleased to see the traffic study had reinforced staff's recommendation as it had been one of his major concerns.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Renewal Application SPR 79-D-143-1 by LUTHERAN CHURCH OF THE REDEEMER/FAIRFAX COUNTY/MCLEAN COMMUNITY CENTER, under Section 3-403 of the Zoning Ordinance to amend S 143-79 for a church and related facilities to permit addition of a temporary public use (youth center) and parking lot lighting to existing facilities, on property located at 1545 Chain Bridge Road, Tax Map Reference 30-4((1))12, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 22, 1988; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the church is the owner of the land, County of Fairfax is the lessee of a portion of the church, and McLean Community Center is the user of the leased space.
- 2. The present zoning is R-4.
- 3. The area of the lot is 6.22 acres of land.
- 4. The use will be in harmony with the Comprehensive Plan.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-303 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

- 1. This approval is granted to the applicants only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
- 2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall

require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. A single row of evergreens, eight (8) feet in height, shall be planted along the northern lot line in the area of the proposed temporary building. The purpose of these plantings shall be to lessen the visual impact of the temporary use. The type and location shall be coordinated and approved by the County Arborist at the time of site plan review.
6. The hours of operation for the teen center shall be limited to:
  - o During the School Year:
    - Monday through Thurs.: 3:00 p.m. - 10:00 p.m.
    - Friday: 3:00 p.m. - midnight
    - Sat.: noon - midnight
  - o During the Summer:
    - Monday through Thurs.: 1:00 p.m. - 10:00 p.m.
    - Friday and Saturday: 1:00 p.m. - midnight
7. The proposed lights shall be in accordance with the following:
  - o The combined height of the light standards and fixtures shall not exceed twelve (12) feet.
  - o The lights shall be a low-intensity design which focuses the light directly onto the subject property.
  - o Shields shall be installed, if necessary, to prevent the light from projecting beyond the facility.
8. Any signs provided shall be in accordance with Article 12 of the Zoning Ordinance, Signs.
9. The size of the proposed structure shall not exceed 3200 square feet.
10. There shall be eighteen (18) parking spaces provided for the teen center.
11. The temporary structure shall be removed within thirty days of July 30, 1990. The area under lease shall be restored to its current state in accordance with the lease agreement.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date\* of the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Messrs. DiGiulian and Ribbie seconded the motion which carried by a vote 7-0.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 30, 1988. This date shall be deemed to be the final approval date of this special permit.

Page 369, March 22, 1988, (Tape 1), After Agenda Item:

Poor Sisters of St. Joseph, SPA 80-M-078-2  
Out-of-turn Hearing

Jane Kelsey, Chief, Special Permit and Variance Branch, explained to the Board this applicant had received prior special permit approval but had inadvertently let the permit expire.

Mrs. Day moved to grant the applicant an out-of-turn hearing for May 10, 1988. Mr. DiGiulian seconded the motion which carried by a vote of 4-3 with Mrs. Thonen, Chairman Smith, and Mr. Hammack voting nay.

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Page 369, March 22, 1988, (Tape 1), After Agenda Item:

Montessori Childrens' Center/Fiaza Haniffs, SP 88-A-029  
Out-of-turn Hearing

Mr. Hammack made a motion to deny an out-of-turn hearing to the applicant in SP 88-A-029.

Mrs. Thonen seconded the motion which carried by a vote of 7-0.

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Page 369, March 22, 1988, (Tape 1), After Agenda Item:

Hollin Meadows Swim & Tennis Club, SPA 84-V-012-1  
Out-of-turn Hearing

Mr. Ribble made a motion to deny the applicant's request for an out-of-turn hearing.

Mr. DiGiulian and Mrs. Thonen seconded the motion which carried by a vote of 7-0.

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Page 369, March 22, 1988, (Tape 1), After Agenda Item:

Old Reston Partnership, VC 88-C-051  
Out-of-turn hearing

Jane Kelsey, Chief, Special Permit and Variance Branch, explained in this application the County had overlooked the fact that after the 15 foot dedication the building would be located too close to the property line.

Mr. DiGiulian made a motion to grant the applicant's request for an out-of-turn. The public hearing was scheduled for May 17, 1988 at 10:15 A.M.

Mrs. Thonen seconded the motion which carried by a vote of 7-0.

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Page 369, March 22, 1988, (Tape 1), Scheduled case:

11:00 A.M. VIGUEN R. & TERESA TER-MIHASSIAN, VC 87-D-164, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed lot 1A having a lot width of 20.15 feet (150 feet min. lot width required by Sect. 3-106) located at 1025 Spring Hill Road on approximately 2.1958 acres of land, zoned R-1, Dranesville District, Tax Map 20-4((14))1. (DEF. FROM 3/1/88 TO RESOLVE OUTSTANDING ISSUES)

Kevin Guinaw, Staff Coordinator, brought the Board's attention to a memorandum from the Zoning Administrator's office which asks that the Board defer any action on this request. He added that the proposed subdivision is located in a cluster subdivision which was approved prior to the present Zoning Ordinance. Since the Zoning Ordinance now requires a special exception for cluster subdivisions, staff believes that the applicant's request would result in an intensification of the existing cluster subdivision use which requires a special exception.

Patrick Via, attorney with the law firm of Hazel, Thomas, Fiske, Beckhorn, and Hanes, P.O. Box 547, Fairfax, Virginia, represented the applicant. He stated the applicant does not agree with the Zoning Administrator's determination and is trying to decide whether or not to file an appeal. He added that he agreed with the deferral.

Jane Kelsey, Chief, Special Permit and Variance Branch, discussed the possibility of deferring this indefinitely.

Chairman Smith stated that he did not want the County to incur the expense of readvertising if it was not necessary.

Page 370, March 22, 1988, (Tape 1), (Viguen R. & Teresa Ter-Minassian, VC 87-D-164, continued from Page 369)

Ms. Kelsey then suggested a public hearing date and time of June 21, 1988 at 9:30 A.M. Hearing no objection, the Chair so ordered.

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Page 370, March 22, 1988, (Tape 1), After Agenda Item:

Resolutions for March 15, 1988

Mr. Kelley made a motion to approve the Resolutions as submitted except for the Firth Resolution which would be reconsidered.

Mr. Ribble seconded the motion which carried by a vote of 7-0.

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Page 370, March 22, 1988, (Tape 2), After Agenda Item:

Reconsideration

A. James Firth, VC 88-D-002

Lori Greenlief, Staff Coordinator, stated that on March 15, 1988 the applicant requested the Board reconsider its action to deny his application. She noted two discrepancies in the testimony as follows: 1) the property is zoned R-3 and was not developed under the cluster provisions of the Ordinance, therefore a 12 foot minimum side yard is required, and 2) the dwelling on the adjacent property is located 16 feet from the shared lot line rather than 7.6 feet.

In response to questions from the Board, Mrs. Greenlief explained there is a difference of 4 feet in the minimum side yards between conventional and R-3 zoning and the cluster provisions of the R-3 district.

Mr. Hammack made a motion to deny the applicant's request for reconsideration and approve the resolution. There was no second.

Following a discussion among the Board members regarding the reconsideration, Mr. DiGiulian made a motion to reconsider the Board's action in VC 88-D-002.

Mrs. Thonen seconded the motion.

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The Board recessed at 11:15 A.M. and reconvened at 11:30 A.M.

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Ms. Kelsey told the Board that J. Patrick Taves, Assistant County Attorney, was on his way to the Board room to discuss procedural issues. The Board indicated they wished to proceed with the case.

Mr. Hammack called for the question.

Chairman Smith called for the vote. The motion to reconsider carried by a vote of 4-3 with Mrs. Day and Messrs. DiGiulian, Kelley, and Ribble voting aye; Chairman Smith, Mrs. Thonen, and Mr. Hammack voting nay.

Mr. Hammack made a motion to withdraw his original motion to deny. Mr. DiGiulian, seconder of the motion, agreed.

Mr. DiGiulian made a motion to grant VC 88-D-002 as he believed the applicant had satisfied the standards for a variance and subject to the development conditions being implemented.

Mr. Hammack stated he could not support the motion as he believed the building would be too large for what is intended for the R-3 District.

Mrs. Thonen noted for the record that she was not at the original public hearing but has read the staff report and therefore eligible to vote on the case. She added she could not agree with an addition of this size because she believed it would impact the neighborhood.

Chairman Smith stated he also could not support the motion to grant.

As there was no further discussion, Chairman Smith called for the vote. The motion carried by a vote of 4-3 with Mrs. Day and Messrs. DiGiulian, Kelley, and Ribble voting aye; Chairman Smith, Mrs. Thonen, and Mr. Hammack voting nay.

Mr. Kelley made a motion to waive the 8-day time limitation. Mr. DiGiulian seconded the motion which carried by a vote of 6-1 with Chairman Smith voting nay.

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Page 371, March 22, 1988, (Tape 2), Scheduled case of:

11:15 A.M. FIRST BAPTIST CHURCH OF HERRIFIELD, SP 87-P-073, application under Sects. 3-303 and 8-901 of the Zoning Ordinance to allow addition of building to existing church and related facilities, additional use as a child care center, and waiver of the dustless surface requirement, located at 8122 Ransall Road, on approximately 36,169 square feet of land, zoned R-3, Providence District, Tax Map 49-4((1))36 and 49-4((3))8, 8A. (DEFERRED FROM 1/12/88 - NOTICES NOT IN ORDER. DEFERRED FROM 3/8/88 IN ORDER TO ALLOW THE APPLICANT TO REVIEW THE DEVELOPMENT CONDITIONS)

Claudia Hamblin-Katnik, Staff Coordinator, stated staff had recommended denial of this application and the case was deferred to allow the applicant time to review the development conditions. She stated the applicant had indicated concurrence with development conditions numbers 1, 2, 3, 5, 7, 8, 9, 12, 17, and 18. She added the applicant does not want to comply with development conditions numbers 4, 6, 10, 11, 13, 14, 15, and 16.

She explained that the applicant does not wish to fulfill development condition number 6 relating to parking because they have indicated that there is an agreement with the property owner to the north to utilize their parking lot.

In response to questions from the Board concerning the parking agreement, Mrs. Hamblin-Katnik stated that no monies have changed hands, therefore the agreement has not been executed at this point in time. She added that the agreement is for weekdays in addition to Sundays for a period of 25 years.

Chairman Smith stated the church is an old and established church and has served the community for many years and he hoped the Board would grant the request.

The Board expressed a concern about the applicant selling a portion of the land after the special permit is granted. Jane Kelsey, Chief, Special Permit and Variance Branch, explained it is Zoning Administrator's interpretation that if any land area is removed from a special permit property it requires a special permit amendment requesting the reduction of land area.

Mr. Hammack made a motion to grant SP 87-P-073 as he believed the applicant had presented testimony showing compliance with the standards for a special permit. The approval was subject to the development conditions contained in the staff report with the deletion of conditions numbers 4, 6, 10, 11, 13, 14, 15, 16.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-P-073 by FIRST BAPTIST CHURCH OF HERRIFIELD, under Section 3-303 and 8-901 of the Zoning Ordinance to allow addition of building to existing church and related facilities, additional use as a child care center, and waiver of the dustless surface requirement, on property located at 8122 RansallXX Road, Tax Map Reference 49-4((1))36, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 22, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 36,169 square feet of land.
4. The applicant should not have to provide road improvements in connection with a day care center.
5. When the applicant sells any portion of its property, the applicant must apply for an Special Permit Amendment and at that time the Board will review the transportation and parking situation.



AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-303 and 8-305 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. The maximum seating capacity within the principle place of ownership shall be limited to 200.
5. The use of the trailer shall be limited to three years.
6. The hours of the child care center shall be limited to 6:30 A.M. to 6:30 P.M. Monday through Friday.
7. The enrollment of the child care center shall be limited to 60 children with no more than 60 children on site at any one time.
8. The barrier requirement shall be waived until such time that Lots 37 and 9 develop residentially. At the time of site plan review, an agreement shall be executed to provide for deferral and subsequent erection of the barrier.
9. All access to the child care center shall be from Porter Road.
10. All commercial uses between 60 and 200 feet from the centerline of Gallows Road shall meet the guidelines for the acoustical treatment of commercial structures within the highway noise impact zone with levels between 70 and 75 dBA Ldn.

All commercial uses between 200 and 620 feet from the centerline of Gallows Road shall meet the guidelines for acoustical treatment of commercial structures within the highway noise impact zone with levels between 65 and 70 dBA Ldn.

That portion of the existing building to be used for child care purposes shall meet the 45 dBA Ldn interior noise standard as the proposed child care facility is considered to be noise sensitive.

The following criteria apply to the existing building:

- o Exterior walls should have a laboratory sound transmission class (STC) of at least 45.
- o Doors and windows should have a laboratory sound transmission class (STC) of at least 37. If "windows" function as walls, then they should have the STC specified for exterior walls.
- o Adequate measures to seal and caulk between surfaces should be provided.

The outdoor recreation area shall meet the 65 dBA Ldn outdoor noise standard.

The following criteria apply to outdoor recreation areas within a highway noise impact zone with levels above 65 dBA Ldn:

- o In order to achieve a maximum exterior noise level of 65 dBA Ldn, noise attenuation structures, such as architecturally solid fencing, shall be provided for those outdoor recreation areas which are unshielded by topography or built structures. The method employed must be of sufficient height to adequately shield the impacted area from the source of the noise.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date\* of the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. DiGiulian seconded the motion which carried by a vote of 7-0.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 30, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 373, March 22, 1988, (Tape 2), Information Items:

Jane Kelsey, Chief, Special Permit and Variance Branch, explained that she had distributed a copy of the biographical sketches on file for the Board to make any changes that they wished. She added that this request had been prompted because the judges office was contacted by a newspaper wanting this information.

Mr. Hammack expressed a concern with not being given development conditions ahead of time even though staff is recommending denial. He stated that he believed by staff doing this it was undermining the Board and being unfair to the citizens.

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As there was no other business to come before the Board, the meeting was adjourned at 12:32 P.M.

Betsy S. Hirtt  
 Betsy S. Hirtt, Deputy Clerk to the  
 Board of Zoning Appeals

Daniel Smith  
 Daniel Smith, Chairman  
 Board of Zoning Appeals

SUBMITTED: 9/13/88

APPROVED: 9/20/88

The special meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, March 29, 1988. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack; Robert Kelley; John Ribble and Mary Thonen.

Chairman Smith opened the meeting at 9:08 A.M. and Mrs. Day led the prayer.

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Mr. James P. Zook, Director, Office of Comprehensive Planning, made the following statement:

"Mr. Chairman and Members of the Board of Zoning Appeals. I appreciate the opportunity to meet with you at our 1988 Annual Meeting. I think you would agree with me that last year's meeting resulted in a meaningful and productive exchange of ideas that was carried on throughout the past year. Overall, this is a successful forum for a dialogue between the Board of Zoning Appeals and Staff and I believe that such an annual meeting is beneficial to all participants.

Before beginning, I would like to mention some of the highlights and accomplishments of the past year.

I'm happy to report that during the past year the Special Permit and Variance Branch has been fully staffed and has functioned increasingly well. This, despite the fact that during the previous 12 months the number of applications processed by this Branch has increased by approximately 100. We have been able to process these additional cases while still meeting the 90 day time limitation set by the General Assembly in 1986, albeit only by the skin of our teeth. The staff reports have continued to be well researched and well documented. In fact, I believe that staff reports to the Board have been improved in quality and content, providing additional information that facilitates and supports the BZA's decision making process. We are also increasing our efforts to keep the BZA up-to-date on current and proposed County policies which might affect the Board's decision on applications and consequently the County's ultimate development.

Another positive step has been movement in the long awaited reclassification of the Clerk and Deputy Clerk positions. A desk audit has been completed and we are now awaiting a decision from the Office of Personnel which we are optimistic will be an affirmative decision.

Now to today's agenda. We have prepared the agenda to focus on those items on which the Board has requested additional information, with particular emphasis on the Department of Environmental Management. DEM will present a general overview of the agency followed by a discussion of how Special Permits and Variances are implemented.

In addition staff will discuss the Environmental Quality Corridor Policy which was only in draft at our last meeting, implementation of the noise ordinance, and other policy issues which you have requested that we discuss.

If there are other areas of interest or concern following the prepared program, we would be happy to answer questions or to schedule a follow-up meeting between appropriate staff and the BZA.

Before Mr. Birmingham begins his presentation, I would like to discuss an issue which I understand to be of concern to the BZA, that is, Development Conditions. In proposing development conditions, staff was trying to incorporate improvements which will mitigate potential impacts, make a proposed use compatible with the surrounding uses and, of course, ensure conformance with the Comprehensive Plan.

The Board of Supervisors had adopted the Zoning Ordinance, Public Facilities Manual, and a Comprehensive Plan all of which have gone through citizen review. Included in these are the recommendations for certain public improvements such as roads and trails. Approving a use without making provision for these improvements would not only be incongruent with the Plan but would also not be a service to the citizens in the community.

The Board was aware that we may include some requirements of the Zoning Ordinance or improvements typically required during the site plan process as conditions in order to make the applicant aware of as many considerations that may affect the design of a site as early as possible in the development process.

For example, if right-of-way dedication will be required at the time of site plan review, this dedication will change the boundary of the site and consequently may affect the ability of the development to meet yard requirements. This may result in a problem if the property is a constrained site.

Since the BZA approves uses in precise accordance with the plat, relocation of buildings could not be approved administratively to accommodate these changes and it

would be necessary for the applicant to come back to the Board of Zoning Appeals. This would be an inconvenience at best for the applicant. Therefore, we not only include the recommended condition for dedication in order for the use to be in conformance with the Plan, but also to assist the applicant.

Trails are also a requirement of the site plan process as well as an element of the Comprehensive Plan. Not providing for such a requirement at the time of approval and leaving it to DEM to require later may once again result in a conflict with the approved plan that could necessitate coming back to the Board of Zoning Appeals with a redesign of the site."

Mr. Zook continued by stating that he believed that staff would be doing a disservice to the applicant if it did not include these conditions as part of the recommended approval.

The second aspect of Development Conditions that has been raised by the Board is the inclusion of proposed development conditions when the staff recommends denial. In these cases staff had not included conditions in the staff report but have provided "back pocket" conditions to the BZA for its convenience, should the BZA wish to approve the application. As this has become a problem, staff would now include Development Conditions with denial reports solely for the convenience of the Board. He said he wanted to make it clear that this would not change staff's recommendation for denial. While the development conditions may mitigate some aspects of the proposal, they may not make the proposal harmonious with the Plan or other standards used to evaluate applications. He reiterated that staff would be providing these development conditions for the convenience of the BZA and to facilitate the process, but even with the inclusion of such conditions the recommendations on the application would not change from a denial to an approval. He said he hoped this new procedure would facilitate the Board's decision making process.

The first portion of the program was an overview of the Department of Environmental Management (DEM). The following represented DEM: Irving Birmingham, Director, Design Review Division; and, Paul Kraucunas, Deputy Director, Design Review.

Mr. Zook stated that Mr. Birmingham and Mr. Kraucunas had been requested to speak to the issues which the BZA previously requested and were relayed to them by memo. Those issues are:

An overview of the site plan and subdivision approval process with an emphasis on the implementation of special permits or variances which the BZA has approved. There were several specific issues regarding this process on which the BZA had requested information including:

- o When are site plan waivers approved and under what circumstances?
- o If a site plan waiver is approved, how are the conditions of the special permit implemented?
- o If a building permit was approved for a structure which was subsequently built in error, is it correct that a new building permit should be requested and approved in order for the BZA's approval of the error to be noted in the building permit record and a revised plat to also be included in the file of the property?
- o If a Trail is shown on the Trails Plan, when would DEM deem it appropriate to defer construction of the trail. Would dedication of an easement for the trail be required at the time of the approval of the site plan, or would that too be deferred until a later time.

Mr. and Mr. Kraucunas presented an overview of the duties and responsibilities of DEM and how that department related to the BZA issues.

Ms. Jane W. Gwinn, Zoning Administrator and Director, Zoning Administration Division (ZAD), discussed the problems which occur when building permits approved by ZAD are not in compliance with the building plans approved by DEM. She stated that she had instituted a policy of requiring a cross-check with construction plans which should minimize this problem.

Ms. Gwinn discussed the Noise Ordinance, contained in Chapter 108 of the Fairfax County Code. She stated that the Ordinance was enforced by the Zoning Enforcement Branch of ZAD and that a violation of this Code was a criminal misdemeanor. Ms. Gwinn presented examples of when and how the Ordinance was enforced.

Ms. Gwinn discussed accessory structures and stated that her office was in the process of a comprehensive look at the status of a Zoning Ordinance amendment regarding location of accessory sheds for residential lots, and that the issue was on the Zoning Ordinance amendment program for this year. This provision of the Zoning Ordinance was written

with single family detached dwellings in mind, but it was also applicable to single family attached dwellings (townhouses) which created implementation problems. In addition, if the shed was less than 150 square feet in size, no building permit was required and many times, the homeowner may believe that there are no location requirements. In order to inform the public, her office had developed a brochure which is available at libraries, the County's information counters, and other distribution centers. A tape is also available on the County information line.

Regarding the subject of how to measure fence height, Ms. Gwinn showed the Board a sketch of how different types of fences would be measured and indicated that if the fence was directly on top of a retaining wall, the height of the wall and the fence would be measured together; however, if the fence was offset from the wall any distance, even as little as 3 inches, only the fence would be measured, not the retaining wall.

Barbara Byron, Director, Zoning Evaluation Division, discussed why certain development conditions are proposed by staff for amendments to existing special permit uses which are on substandard sites. She indicated that many of the recommended conditions are requirements of the Zoning Ordinance and Public Facilities Manual which cannot be waived or modified. Other conditions address safety issues, such as sight distance, which in staff's opinion should be corrected prior to any expansion. And, in addition there are some instances where the site is substandard in that it does not currently meet Zoning Ordinance requirements; thus any expansion would exacerbate the deficiencies and would not meet the standards for the special permit.

Ms. Byron also discussed the advantages and disadvantages of including a requirement for trails as a development condition for special permit uses and the site plan waiver process regarding the requirement for trails. She proposed that staff return to the BZA with language for a development condition that would not preclude an applicant's ability to avail himself of the site plan waiver process. Staff was currently working on such language and will transmit to the Board as soon as it is finalized.

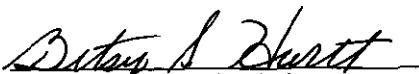
Richard Little, Director, Planning Division, OCF, explained the County's policies regarding the Environmental Quality Corridor (EQC), why the EQC definition was instituted, why it was important to implement it, and how it was implemented. He discussed the permitted uses within an EQC and some of the problems the County was having with the implementation of the EQC policy.

Mr. Zook stated that in an effort to continue the dialogue between the BZA and staff, and for the Board to be provided with the information to evaluate applications, that he hoped that the Board would review these issues and let him know which issues it would like addressed in additional detail. If there was any additional detail needed, he would then arrange to have the information presented to the Board by the appropriate staff.

Mr. Zook further stated that he believed that the dialogue that had been established between staff and the Board had been very productive and mutually beneficial, and that he looked forward to more of these type meetings.

The Board adjourned at 12:15 P.M.

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Betsy S. Hutt, Deputy Clerk  
Board of Zoning Appeals

  
Daniel Smith, Chairman  
Board of Zoning Appeals

SUBMITTED: October 4, 1988

APPROVED: October 11, 1988

377

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, April 5, 1988. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack; Robert Kelley; John Ribble and Mary Thonen.

Vice Chairman DiGiulian opened the meeting at 8:00 P.M. and Mrs. Day led the prayer.

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As there was time before the regularly scheduled cases the Board took action on the After Agenda Items.

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Page 377 April 5, 1988, (Tape 1), After Agenda Item #1:

Out of Turn Hearing Request  
John D. Lange, Jr.  
VC 88-D-028

Mrs. Thonen moved to deny the request for an out of turn hearing for John D. Lange, Jr., VC 88-D-028.

Mr. Ribble seconded the motion which passed by a vote of 5-0 with Mr. Hammack and Chairman Smith not present for the vote.

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Page 377 April 5, 1988, (Tape 1), After Agenda Item #2:

Out of Turn Hearing Request  
Happy Faces Child Development  
SP 88-V-035

Mrs. Thonen moved to deny the request for an out of turn hearing for SP 88-V-035, Happy Faces Child Development.

Mr. Ribble seconded the motion which passed by a vote of 5-0 with Mr. Hammack and Chairman Smith not present for the vote.

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Page 377 April 5, 1988, (Tape 1), After Agenda Item #3:

Out of Turn Hearing Request  
John and Inari Apinis  
VC 88-D-053

Mrs. Thonen moved to deny the request for an out of turn hearing for John and Inaria Apinis, VC 88-D-053.

Mr. Ribble seconded the motion which passed by a vote of 5-0 with Mr. Hammack and Chairman Smith not present for the vote.

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Page 377 April 5, 1988, (Tape 1), After Agenda Item #4:

Out of Turn Hearing Request  
Yvonne Mduom  
SP 88-M-039

Mrs. Thonen moved to deny the request for an out of turn hearing for Yvonne Mduom, SP 88-M-039.

Mr. Ribble seconded the motion which passed by a vote of 5-0 with Mr. Hammack and Chairman Smith not present for the vote.

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Page 377 April 5, 1988, (Tape 1), Scheduled case of:

8:00 P.M. FIRST VIRGINIA BANK APPEAL, A 87-P-004, under Sect. 18-301 of the Zoning Ordinance to appeal the Zoning Administrator's denial of sign permit applications for three (3) signs, based on Par. 1 of Sect. 12-203, located at 6400 Arlington Boulevard, on approximately 94,732 square feet of land, zoned PDC, Providence District, Tax Map 51-3((1))1E. (DEFERRED FROM 9/3/87 AT APPLICANT'S REQUEST, 11/5/87 AND 11/17/87)

Vice-Chairman DiGiulian announced that the Board was in receipt of a letter from the appellant requesting a deferral of the above referenced application due to pending action by the Board of Supervisors on a proposed Zoning Ordinance Amendment which would eliminate the need for the BZA to hear A 87-P-004.

Charles Chera, 108 Hillwood Avenue, Falls Church, Virginia, appeared before the Board and stated that he had no objection to the request for deferral as long as it was at a night meeting.

Mr. Ribble moved to defer A 87-P-004 to July 12, 1988 at 8:00 P.M.

Mrs. Thonen seconded the motion which passed by a vote of 5-0 with Mr. Hammack and Chairman Smith not present for the vote.

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At 8:10 P.M., the Board recessed the meeting until the next scheduled item at 8:30 P.M.

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Page 378, April 5, 1988, (Tape 1), Scheduled case of:

- 8:30 P.M. RICHARD M. ROBERTSON, VC 87-D-139, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into six (6) lots and an outlot, proposed Lots 4 and 5 having a lot width of 11.95 feet and 12.12 feet, respectively (80 ft. min. lot width required by Sect. 3-306), located at the intersection of Idylwood and Dulles Access Road, on approximately 2.4491 acres of land, zoned R-3, Dranesville District, Tax Map 40-1((1))10. (DEFERRED FROM 2/9/88)
- 8:30 P.M. RICHARD M. ROBERTSON, VC 87-D-140, application under Sect. 18-401 of the Zoning Ordinance to allow construction of dwelling on Proposed Lot 1, 25.8 feet from Dulles Airport Access Road right of way (200 ft. min. distance from right of way required by Sect. 2-414), located at the intersection of Idylwood and Dulles Access Road, on approximately 11,050 square feet of land, zoned R-3, Dranesville District, Tax Map 40-1((1))pt. 10. (TO BE HEARD CONCURRENT WITH VC 87-D-139 - DEFERRED FROM 2/9/88)
- 8:30 P.M. RICHARD M. ROBERTSON, VC 87-D-141, application under Sect. 18-401 of the Zoning Ordinance to allow construction of dwelling on proposed Lot 2, 26.0 feet from Dulles Airport Access Road right of way (200 ft. min. distance from right of way required by Sect. 2-414), located at the intersection of Idylwood and Dulles Access Road, on approximately 11,652 square feet of land, zoned R-3, Dranesville District, Tax Map 40-1((1))pt. 10. (TO BE HEARD CONCURRENT WITH VC 87-D-139 - DEFERRED FROM 2/9/88)
- 8:30 P.M. RICHARD M. ROBERTSON, VC 87-D-142, application under Sect. 18-401 of the Zoning Ordinance to allow construction of dwelling on proposed Lot 3, 25.1 feet from Dulles Airport Access Road right of way (200 ft. min. distance from right of way required by Sect. 2-414), located at the intersection of Idylwood and Dulles Access Road, on approximately 14,111 square feet of land, zoned R-3, Dranesville District, Tax Map 40-1((1))pt. 10. (TO BE HEARD CONCURRENT WITH VC 87-D-139 - DEFERRED FROM 2/9/88)
- 8:30 P.M. RICHARD M. ROBERTSON, VC 87-D-143, application under Sect. 18-401 of the Zoning Ordinance to allow construction of dwelling on proposed Lot 4, 31.3 feet from Dulles Airport Access Road right of way (200 ft. min. distance from right of way required by Sect. 2-414), located at the intersection of Idylwood and Dulles Access Road, on approximately 28,956 square feet of land, zoned R-3, Dranesville District, Tax Map 40-1((1))pt. 10. (TO BE HEARD CONCURRENT WITH VC 87-D-139 - DEFERRED FROM 2/9/88)
- 8:30 P.M. RICHARD M. ROBERTSON, VC 87-D-144, application under Sect. 18-401 of the Zoning Ordinance to allow construction of dwelling on proposed Lot 5, 42.7 feet from Dulles Airport Access Road right of way (200 ft. min. distance from right of way required by Sect. 2-414), located at the intersection of Idylwood and Dulles Access Road, on approximately 14,634 square feet of land, zoned R-3, Dranesville District, Tax Map 40-1((1))pt. 10. (TO BE HEARD CONCURRENT WITH VC 87-D-139 - DEFERRED FROM 2/9/88)
- 8:30 P.M. RICHARD M. ROBERTSON, VC 87-D-145, application under Sect. 18-401 of the Zoning Ordinance to allow construction of dwelling on proposed Lot 6, 56.2 feet from Dulles Airport Access Road right of way (200 ft. min. distance from right of way required by Sect. 2-414), located at the intersection of Idylwood and Dulles Access Road, on approximately 13,075 square feet of land, zoned R-3, Dranesville District, Tax Map 40-1((1))pt. 10. (TO BE HEARD CONCURRENT WITH VC 87-D-139 - DEFERRED FROM 2/9/88)

Lori Greenleaf, Staff Coordinator, advised the Board that the above referenced applications had been deferred previously to allow the applicant time to obtain information concerning floodplain and noise. She stated that a special exception was necessary to fill in the floodplain area and that it was staff's recommendation that the special exception be obtained prior to the public hearing for the variance requests.

John C. Testerman of 10523 Main Street, Fairfax, Virginia, appeared before the Board and requested that the Board take tentative action on the variance requests so that the applicant would not have to come back before the BZA again.

Mr. DiGiulian stated that it appeared that some fill in the floodplain area would be necessary and therefore moved to defer the above referenced applications until after the special exception could be obtained.

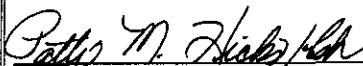
Mrs. Day seconded the motion.

Thomas Tillottson, 2100 Glen Spring Court, Falls Church, Virginia, appeared before the Board in support of the deferral but requested that the BZA reschedule the public hearing to a night meeting.

Staff suggested October 4, 1988 at 8:00 P.M. and Mr. DiGiulian so moved with Mr. Hammack seconding the motion which passed by a vote of 7-0.

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As there was no other business to come before the Board, the meeting was adjourned at 8:50 P.M.

  
Patti M. Hicks, Clerk to the  
Board of Zoning Appeals

  
Daniel Smith, Chairman  
Board of Zoning Appeals

SUBMITTED: 7/7/88

APPROVED: 7/12/88



The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, April 12, 1988. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack; Robert Kelley; John Ribble; and Mary Thonen.

Chairman Smith opened the meeting at 9:18 A.M. and Mrs. Day led the prayer.

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Page 380, April 12, 1988, (Tape 1), Scheduled case of:

9:00 A.M. MOHAMAD ALI ROUHANI, VC 88-S-021, application under Sect. 18-401 of the Zoning Ordinance to allow construction of a dwelling on the edge of floodplain (15 ft. min. yard requirement by Sect. 2-415) located at 6419 Spring Lake Drive, on approximately 30,985 square feet of land, zoned R-2, Springfield District, Tax Map 88-1((15))1. (OTH GRANTED 2/9/88)

Kevin Guinaw, Staff Coordinator, presented the staff report. He stated this identical application was filed last year but was withdrawn when the Zoning Administrator determined there was no floodplain on the property. Subsequent to that time, an appeal of the Zoning Administrator's decision was brought by Mary Allen, a contiguous property owner, before the Board of Zoning Appeals and the Board found there was floodplain on the property. The Zoning Administrator appealed the Board's decision to the Circuit Court, which ruled last week in the Zoning Administrator's favor. The court order has not yet been issued and becomes final in thirty days unless an appeal is filed, or if an appeal is filed, not until that appeal has run its course. Ms. Allen has indicated to the court that she does intend to file an appeal.

In response to questions from the Board, Mr. Guinaw replied that a building permit cannot be obtained until the final court order. He added that during discussions with the County Attorney, it was determined that legally the court decision is not final yet; therefore, there is still the question of floodplain.

Mr. Hammack stated he did not believe the Board had jurisdiction over this application until the final court decree was issued. The other Board members agreed.

Chairman Smith asked the applicant's representative to come forward to address the issue of the Board passing over this case to discuss the legal issues with the County Attorney.

Kenneth Moreland, 3313 Barbour Lane, Fairfax, Virginia, disagreed with the deferral as he believed it was unfair to delay the applicant any longer.

Mrs. Thonen explained that the Board wanted to pass over this application in order to determine whether or not the Board could act. She added they were not asking to defer the case to another day.

Jane Kelsey, Chief, Special Permit and Variance Branch, told the Board she had contacted Karen Harwood, Assistant County Attorney, who would be coming to the Board room.

Mr. Hammack argued he did not believe the Board should take action on this application until the court had issued an order. He made a motion to defer the case for a period of two weeks.

The Chairman requested a date and time from staff. Ms. Kelsey suggested April 26, 1988 at 12:45 P.M.

Mr. DiGiulian seconded the motion which carried by a vote of 7-0.

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Page 380, April 12, 1988, (Tape 1), Scheduled case of:

9:15 A.M. MYRON F. LAIBLE, VC 88-C-004, application under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 20.0 ft. from rear lot line (25 ft. min. rear yard required by Sect. 3-207) located at 2888 Franklin Oaks Drive, on approximately 13,000 square feet of land, zoned R-2, Centreville District, Tax Map 25-4((14))91A

Kevin Guinaw, Staff Coordinator, presented the staff report. The co-applicant, Myron Laible, 2888 Franklin Oaks Drive, Herndon, Virginia, came forward and explained he was requesting approval to construct a 12 foot by 19 foot screened porch on the rear of his house. He stated that because of the unique lot configuration and exceptional shallowness a variance of 5 feet was requested. There is only one abutting neighbor as the lots to the rear and to the other side of his house are owned by the homeowners association and overlook a water retention pond. The neighborhood architectural review committee has approved the addition and he stated he would comply with all applicable County building codes. He stated that the addition will be in harmony with the character of the neighborhood and the zoning district will not be changed.

In response to questions from the Board, Mr. Laible stated the screened porch could only be seen by the houses across the retention pond.

As there were no speakers to address this application, Chairman Smith closed the public hearing.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-C-004 by MYRON F. LAIBLE, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 20.0 feet from rear lot line, on property located at 2888 Franklin Oaks Drive, Tax Map Reference 25-4((14))91A, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 12, 1988; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the applicant is the co-owner of the land.
- 2. The present zoning is R-2.
- 3. The area of the lot is 13,000 square feet of land.
- 4. The lot is shallow and has an irregular shape.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

- 1. That the subject property was acquired in good faith.
- 2. That the subject property had exceptional shallowness at the time of the effective date of the Ordinance.
- 3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
- 4. That the strict application of this Ordinance would produce undue hardship.
- 5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
- 6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
- 7. That authorization of the variance will not be of substantial detriment to adjacent property.
- 8. That the character of the zoning district will not be changed by the granting of the variance.
- 9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

- 1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
- 2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.

3. A Building Permit shall be obtained prior to any construction.

Mr. Ribble seconded the motion which carried by a vote of 6-0 with Mr. Hammack not present for the vote.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on April 20, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 382, April 12, 1988, (Tape 1), Scheduled case of:

9:30 A.M. GT WAREHOUSING CO., INC. BY VICTOR G. TRAPASSO, EXECUTIVE VICE PRESIDENT, SP 87-C-091, application under Sect. 5-503 of the Zoning Ordinance to allow a commercial swimming pool and health club located at 13873 Park Center Road on approximately 12.61 acres of land, zoned I-5, WSP0D, AND ANIOD, Centreville District, Tax Map 24-2((1))22A.

Mr. DiGiulian noted for the record that his office had prepared the plats for this applicant. He stated that for this reason he would not participate in the Board's hearing on this application.

Kathy Reilly, Staff Coordinator, presented the staff report. She stated that in June 1982 the Board of Supervisors (BOS) approved a special exception for a motel with a health club, which was developed as a permitted accessory use to the motel located on the site and limited only to motel guests. In October, the BOS approved a special exception amendment to delete a note on the approved plats, which limited the use of the health club only to motel guests. This note was placed on the plats because of concerns regarding trip generation and parking requirements if the facility was opened to the public. By the BOS removing these restrictions, it allowed the applicant to apply to the Board of Zoning Appeals (BZA) for a special permit to allow a commercial health club and the BZA would then determine the appropriateness of this use at this site. Ms. Reilly stated it was staff's opinion that the traffic study submitted by the applicant did not satisfactorily address the transportation issues, therefore staff recommended denial of this application.

Several of the Board members commented they did not believe there would be any traffic or parking impact from the use, as it was a very suitable site for this type of use.

Ms. Reilly told the Board that Lee Yolton, with the Office of Transportation, was present if the Board had questions.

David Morrison, 8000 Towers Crescent Drive, McLean, Virginia, represented the applicant. He stated in 1982 the hotel and health club was approved by the BOS with a restriction that limited the health club to hotel guests only. He stated by 1986 it had become obvious that the health club was not being utilized to its full potential, and the applicant decided to open the health club to the general public. Following meetings with Barbara Byron, Director, Zoning Evaluation Division, Office of Comprehensive Planning, the applicant made application to amend the Special Exception and have the restriction removed. This was done in August 1987 which allowed the applicant to come before the BZA for a Special Permit.

Mr. Morrison added he believed this use is in line with the Comprehensive Plan and stated the applicant had added another twenty parking spaces to address staff's concern with regard to parking. With regard to the transportation issues, the applicant recognized there is a transportation problem in that area and had worked diligently in trying to get a Transportation Service District for the Route 28 Corridor. He stated that the applicant had hired a consultant, Kellerco, to prepare a transportation memorandum which showed that during peak hours there would be 62 trips in the evening and 38 trips in the morning. He added the health club will be utilized by commuters already on the road going to and from work and by people who work in the office complex. In closing, Mr. Morrison asked the Board to defer this application rather than deny if it did not agree that the applicant had adequately addressed the transportation issues.

In response to Mrs. Thonen's questions, Mr. Morrison replied that the applicant agreed with the development conditions with the exception of conditions 4, 5, and 6. He asked the Board to waive the site plan requirement as the structure already existed and to revise numbers 5 and 6 to read "this use is for the swimming pool and health club only".

Ms. Kelsey explained that staff had requested a revised site plan indicating the correct number of parking spaces so that all records throughout the County would correspond.

Chairman Smith stated that he did not foresee a transportation problem with this health club. Mr. Yolton explained that it was primarily a technical problem in trying to

calculate what the transportation impacts would be. Staff had indicated to the applicant that a traffic study should be submitted showing the impact resulting from the proposed use. The applicant did submit a traffic study but staff did not believe that it met the technical requirements that staff needed to assess the impact

Joe Kellarco, Vice President with Kellarco, 8320 Old Courthouse Road, Vienna, Virginia, came forward to address the transportation study and explained that his company had utilized the Office of Transportation's engineer trip generation guide to determine the trip generation.

Mr. Volton pointed out that the guidelines used by the applicant to determine trip generation was based on small racquet clubs as opposed to health clubs, therefore staff was concerned with the traffic impact.

Mr. Kelley stated that he believed that the applicant had bent over backwards to meet the requirements and that the Board was spending too much time on this application.

Mrs. Thonen disagreed that the applicants should submit indepth traffic studies with their applications to staff.

As there were no further comments or questions, Chairman Smith closed the public hearing.

Mrs. Thonen stated that she had reviewed the general standards with respect to this application and she believed that this application met those standards. Therefore, she moved to grant SP 87-C-091, subject to the development conditions contained in the staff report with the following modifications:

- "4. This use shall be subject to the provisions set forth in Article 17, Site Plans. The Board of Zoning Appeals (BZA) recommends waiver of the Site Plan.
- 5. There shall be a maximum of eleven (11) employees on the special permit property (commercial swimming pool and health club) at any one time.
- 6. There shall be a maximum of 257 persons on the special permit property (commercial swimming pool and health club) at any one time.
- 9. There shall be a minimum of eighty-one parking spaces on-site associated with this use."

Mr. Ribble commended the applicant's attorney for his presentation and stated he would support the motion.

Mr. Hammack stated he would also support the motion to grant.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-C-091 by GT WAREHOUSING CO., INC. BY VICTOR G. TRAPASSO, EXECUTIVE VICE PRESIDENT, under Section 5-503 of the Zoning Ordinance to allow a commercial swimming pool and health club, on property located at 13873 Park Center Road, Tax Map Reference 24-2((1))22A, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 12, 1988; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the applicant is the owner of the land.
- 2. The present zoning is I-5, WSPOD and ANIOD.
- 3. The area of the lot is 12.61 acres of land.
- 4. This is a good location for the health club.
- 5. That the use is in harmony with the general purpose of the Zoning Ordinance.
- 6. As the use is located in an office complex, the use will be utilized mainly by the people from the complex.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 8-503 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans. The Board of Zoning Appeals (BZA) recommends waiver of the Site Plans.
5. There shall be a maximum of eleven (11) employees on the special permit property (commercial swimming pool and health club) at any one time.
6. There shall be a maximum of 257 persons on the special permit property (commercial swimming pool and health club) at any one time.
7. The Environmental Health Division of the Fairfax County Health Department shall be notified before any pool waters are discharged during draining or clearing operations so that pool waters can be adequately treated. The recommended method of treatment should involve adding sufficient amounts of lime or soda ash to the acid cleaning solution to achieve a pH approximately equal to that of the receiving stream. The standard for dissolved oxygen shall be attained prior to the release of pool waters. The Virginia Water Control Board standards for the class II and III waters found in Fairfax County range in pH from 6.0 to 9.0. A minimum concentration of 4.0 milligrams per liter is required.
8. Any water discharged from the pool which is discolored or contains a high level of suspended solids shall be allowed to stand so that most of the solids settle prior to being discharged.
9. There shall be a minimum of eighty-one parking spaces on-site associated with this use.
10. Any signs erected shall be in conformance with Article 12 of the Zoning Ordinance.
11. These development conditions shall not relieve the applicant of the approved conditions contained in the four previous special exception applications.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date\* of the Special Permit unless the activity authorized has been established, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of the Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mrs. Day seconded the motion which carried by a vote of 6-0-1 with Mr. DiGiulian abstaining.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on April 20, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 385, April 12, 1988, (Tape 1), Scheduled case of:

9:45 A.M. THE SECOND GATE POST ESTATES HOMEOWNERS ASSOCIATION, SP 88-S-002, application under Sect. 3-C03 of the Zoning Ordinance to allow community swimming pool, located on Round Post Court, on approximately 5.12 acres of land, zoned R-C, Springfield District, Tax Map 64-2((4)(2)B. (NOTICES NOT IN ORDER)

Chairman Smith informed the Board that staff had received a letter from the applicant requesting a deferral.

Mrs. Thonen commented that she had not received a staff report in this case and pointed out that it was the Board's discretion whether or not to grant such a request.

Lori Greenlief, Staff Coordinator, explained that staff recommended that the applicant forego preparing the notices because many of the lots were still vacant and suggested a deferral in order to benefit the prospective purchasers.

The Board expressed its concern as to why the applicant did not meet the notice requirement as stipulated in the Zoning Ordinance and questioned why the developers could not add a note in the packets distributed to the public regarding such proposals.

Jane Kelsey, Chief, Special Permit and Variance Branch, stated that staff could not require the developers to comply with such a condition.

Chairman Smith polled the audience to determine if anyone was present who wished to address this application and the following came forward: Tom Zeberlein, 6724 Jade Post Lane, Centreville, Virginia, and Dale McCaskey, 6613 White Post Road, Centreville, Virginia.

The citizens opposed the deferral as they wished to have the applicant proceed with the construction of the pool.

The Board explained to the citizens they could not hear the application today because the applicant had not met the notice requirement.

As there were no further comments, Mrs. Thonen moved to defer this case to May 17, 1988 at 9:00 A.M. Mrs. Day seconded the motion which carried by a vote of 7-0.

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Page 385, April 12, 1988, (Tapes 1 and 2), Scheduled case of:

10:00 AM. PATRICK J. AND BETH C. NICHOLS, VC 88-D-008, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 4.1 ft. from side lot line, located at 9217 Weant Drive, on approximately 24,407 square feet of land, zoned R-E, Dranesville District, Tax Map 8-4((3))14

Heidi Belofsky, Staff Coordinator, presented the staff report.

Beth Nichols, 9217 Weant Drive, Great Falls, Virginia, co-applicant, outlined the justification as submitted with the application. She stated that she and her husband had considered locating the garage elsewhere on the lot but could not do so because the septic field runs the entire length of the lot and the lot is exceptionally narrow.

Chairman Smith asked the applicant if the size of the garage could be reduced. Mrs. Nichols replied that there was a chimney on the side of the house which juts out into the area of the proposed construction, therefore to reduce the size of the garage would not be feasible.

There were no speakers to address this application, therefore Chairman Smith closed the public hearing.

Mrs. Day made a motion to grant VC 88-D-008 based on the applicant's testimony indicating that this is the only location for the addition due to a septic field in the rear of the lot, that the lot is exceptionally narrow, and that the garage will match the exterior of the existing house as closely as possible. The approval was subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-D-008 by PATRICK J. AND BETH C. NICHOLS, under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 4.1 feet from side lot line, on property located at 9217 Weant Drive, Tax Map Reference 8-4((3))14, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 12, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicants are the owners of the land.
2. The present zoning is R-E.
3. The area of the lot is 24,407 square feet of land.
4. There is a septic field in the rear of the lot which prohibits construction of the garage.
5. The size of the garage cannot be reduced due to an 18 inch chimney which is located on that side of the house.
6. The materials used to construct the garage will match those on the exterior of the house as closely as possible.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;
  - F. An extraordinary situation or condition of the subject property, or
  - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.

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2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction for the approved carport.
4. The exterior of the addition, including the roof, shall be architecturally compatible with the existing dwelling and shall be similar in style, color, and materials, utilizing brick exterior to match the existing dwelling.

Mr. DiGiulian seconded the motion which carried by a vote of 5-1 with Chairman Smith voting nay; Mr. Hammack not present for the vote.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on April 20, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 387, April 12, 1988, (Tape 2), Scheduled case of:

10:15 A.M. GLENN W. RICKMAN, SP 88-V-004, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow enclosed carport addition to dwelling to remain 8.7 ft. from side lot line (12 ft. min. side yard required by Sect. 3-307) located at 2904 Preston Avenue, on approximately 6,500 square feet of land, zoned R-3, Mount Vernon District, Tax Map 93-1(18)(G)227

Heidi Belofsky, Staff Coordinator, presented the staff report.

William Schmidt, 6564 Loisdale Court, Suite 315, Springfield, Virginia, attorney for the applicant, came forward and stated that the applicant began the enclosure of the carport unaware that a building permit was needed. The applicant left on his honeymoon and when he returned he found a notice of violation issued by the County. When the applicant went to obtain the building permit, staff indicated that he needed a variance before continuing with the construction. In closing, Mr. Schmidt stated that this addition will provide additional living space for the applicant's family and will be architecturally compatible with the existing structure.

The applicant, Glenn Rickman, 2904 Preston Avenue, Alexandria, Virginia, came forward and told the Board that he had discussed this with his neighbors and they had voiced no objection to the proposed addition.

As there were no speakers to address this application, Chairman Smith closed the public hearing.

Mr. Ribble made a motion to grant SP 88-V-004 as he believed the applicant had presented testimony showing that the error was done in good faith.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Mr. Ribble made the following motion:

WHEREAS, Application No. SP 88-V-004 by GLENN W. RICKMAN under Section 8-901 of the Fairfax County Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow enclosed carport addition to dwelling to remain 8.7 feet from side lot line, on property located at 2904 Preston Avenue, Tax Map Reference 93-1(18)(G)227, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on April 12, 1988; and,

WHEREAS, the Board made the following conclusions of law:

1. The Board has determined that:



- A. The error exceeds ten (10) percent of the measurement involved, and
- B. The non-compliance was done in good faith, or through no fault of the property owner, or was the result of an error in the location of the building subsequent to the issuance of a Building Permit, if such was required, and
- C. Such reduction will not impair the purpose and intent of this Ordinance, and
- D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
- E. It will not create an unsafe condition with respect to both other property and public streets, and
- F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.
- G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED with the following limitations:

1. This Special Permit is approved for the location and the enclosed carport shown on the plat submitted with this application and is not transferable to other land.
2. An approved building permit for the enclosure of the carport shall be obtained prior to the continuation of any construction.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. This special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date\* of the Special Permit unless the building permit has been obtained, the construction has been completed, and the structure has been approved by the Director of Environmental Management, or unless additional time is approved by the Board of Zoning Appeals due to occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. DiGiulian seconded the motion which carried by a vote 6-0-1 with Chairman Smith abstaining.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on April 20, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 388, April 12, 1988, (Tape 2), Scheduled case of:

10:30 A.M. GALLOWAY UNITED METHODIST CHURCH, SP 88-P-001, application under Sect. 3-403 of the Zoning Ordinance for a church, cemetery, parsonage, and reduction to minimum yard requirement to allow the parsonage to remain 24.0 ft. from the front lot line based on error in building location (30 ft. min. required front yard), located at 306 E. Annandale Street, on approximately 57,042 square feet of land, zoned R-4, Providence District, Tax Map Reference 50-2(1)35

Haidi Belofsky, Staff Coordinator, presented the staff report and stated that the church planned to demolish the existing church building and construct a new building which would be located entirely in the City of Falls Church; to demolish the existing garage; to pave the existing parking lot; and, to utilize additional parking across Annandale Road by entering into a lease agreement with the owners of the office building. She added that the applicant was also requesting permission to allow the parsonage to remain 24 feet from the front lot line. She pointed out that minor grading may be needed at the entrance to the site in order to meet the Virginia Department of Transportation Highways (VDOT) sight distance standards. Staff was requesting 25 feet of transitional screening along the southern property line due to the close proximity to the residential neighborhood and because the applicant planned to pave the parking lot. Ms. Belofsky concluded by stating that staff recommended approval of this application subject to the development conditions contained in the staff report being implemented.

Mortimer Marshall, President of the Marshall Group Architects, 1137 Walker Road, Great Falls, Virginia, designer for the project, represented the applicant. He explained that the City of Falls Church approved this request contingent on the Fairfax County Board of Zoning Appeals' approval of the special permit. He added that the applicant has entered into a lease agreement with the building across the street in order to meet and exceed the parking requirements. The church requested a modification to the transitional screening because the abutting property owner voiced no objection to the parking lot being located so close to his property. Mr. Marshall stated that he was uncertain as to when the porch was enclosed but did agree that the church was willing to obtain the proper building permit.

There were no speakers to address this application, therefore Chairman Smith closed the public hearing.

Mr. Kelley made a motion to grant permission for the porch to remain as requested. Mr. DiGiulian seconded the motion which carried by a vote of 7-0.

Mr. Kelley then made a motion to grant SP 88-P-001 as he believed that the applicant had presented testimony showing compliance with the standards for a special permit.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on April 20, 1988. This date shall be deemed to be the final approval date of this special permit.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Mr. Kelley made the following motion:

WHEREAS, Application No. SP 88-P-001 by GALLOWAY UNITED METHODIST CHURCH under Section 3-403 of the Fairfax County Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow church, cemetery, parsonage, and reduction to minimum yard requirement to allow the parsonage to remain 24.0 feet from the front lot line based on error in building location (this is for the parsonage only), on property located at 306 E. Ammandale Street, Tax Map Reference 50-2((1))35, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on April 12, 1988; and,

WHEREAS, the Board made the following conclusions of law:

1. The Board has determined that:
  - A. The error exceeds ten (10) percent of the measurement involved, and
  - B. The non-compliance was done in good faith, or through no fault of the property owner, or was the result of an error in the location of the building subsequent to the issuance of a Building Permit, if such was required, and
  - C. Such reduction will not impair the purpose and intent of this Ordinance, and
  - D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
  - E. It will not create an unsafe condition with respect to both other property and public streets, and
  - F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.
  - G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.

- 2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, which are located within Fairfax County, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
- 3. An approved building permit shall be obtained for the addition to the parsonage before the required Non-Residential Use Permit for the Special Permit use is issued.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date\* of the Special Permit unless the activity authorized has been established, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. DiGiulian seconded the motion which carried by a vote of 7-0.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-P-001 by GALLOWAY UNITED METHODIST CHURCH, under Section 3-403 of the Zoning Ordinance to allow a church, cemetery, parsonage, and reduction to minimum yard requirement to allow the parsonage to remain 24.0 feet from the front lot line based on error in building location (the parsonage is covered under a separate resolution), on property located at 306 E. Annandale Street, Tax Map Reference 50-2((1))35, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 12, 1988; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the applicant is the owner of the land.
- 2. The present zoning is R-4.
- 3. The area of the lot is 57,042 square feet of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-303, 8-903 and 8-914 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
- 2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, which are located within Fairfax County, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other

than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This Special Permit is subject to the provisions of Article 17, Site Plans. Any plan submitted to the Department of Environmental Management (DEM) pursuant to this Special Permit shall conform with the approved Special Permit plat and these conditions.
5. There shall be a maximum of 144 seats in the main place of worship and a corresponding minimum of 36 parking spaces and a maximum of 62 parking spaces, including handicap spaces.
6. Any attached sign or other method of identification shall conform with the limitations delineated in Article 12 of the Zoning Ordinance.
7. Stormwater management BMPs shall be provided to the satisfaction of the Director of DEM at the time of site plan approval.
8. Transitional Screening 1 shall be installed along the southern lot line with the following modification, as may be acceptable to the County Arborist:
 

The existing vegetation may be used to satisfy planting requirement provided that the eight (8) white pine trees shown on the plat are provided along the southern property line.
9. The existing wall and fencing shall satisfy the barrier requirement. No other barrier shall be required.
10. The interior of the parking lot within Fairfax County shall be landscaped in accordance with Article 13 of the Zoning Ordinance and the design criteria of Public Facilities Manual.
11. The existing sidewalk along the site frontage of Annandale Road shall fulfill the trail requirement.
12. The standards for outdoor lighting shall not exceed twelve (12) feet in height and shall be shielded, located and oriented so as to prevent light or glare from projecting onto adjacent properties.
13. An approved building permit shall be obtained for the addition to the parsonage before the required Non-Residential Use Permit for the Special Permit use is issued.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date\* of the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Hammack seconded the motion which carried by a vote of 7-0.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on April 20, 1988. This date shall be deemed to be the final approval date of this special permit.

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10:45 A.M. DAVID AND CYNTHIA BREWT, VC 88-M-026, application under Sect. 18-401 of the Zoning Ordinance to allow construction of a pool partially within front yard (accessory structure may not be located in any front yard per Sect. 10-104) located at 4000 Medford Drive, on approximately 13,755 sq. ft. of land, zoned R-4, Mason District, Tax Map 60-3((43))5. (OTH GRANTED)

Heidi Belofsky, Staff Coordinator, presented the staff report on the application and outlined the location of the pool and the easements on the property. She called attention to a letter from the neighbor in opposition to the fence being located along the common driveway.

The applicant, David Brent, 4000 Medford Drive, presented his justification. He stated that a pipestem comes off Medford Drive and explained the location of the property. He stated that his house is sited opposite of how it would be normally and added the variance was to put the pool in what he considers his back yard.

In response to Mrs. Thonen's question, Mr. Brent stated the pool could not be constructed in the true back yard because the trees would be ruined and the area where the pool was planned was already cleared.

Mrs. Thonen expressed concern the fence around the pool might interfere with the sight distance.

Mr. Brent stated there was approximately 34 to 36 feet between where the fence was to be located and Medford Drive.

Jane Kelsey, Chief, Special Permit and Variance Branch, stated she was under the impression the pipestem only served this particular lot and maybe the lot behind it. She stated that if it served more than one lot, then the applicant had to set back 25 feet from the edge of the pipestem driveway or the lot line which forms the pipestem, whichever was greater.

In response to Mr. Ribble's question, Ms. Kelsey stated in this instance the measurement would be taken from the edge of the pipestem.

Mr. DiGuilian pointed out the house was only set back 19 feet from the edge of the lot line formed by the pipestem. Ms. Kelsey scaled the plat and recommended deferring this case for one week to allow staff time to research the question concerning the house and have the applicant come back next week to address the swimming pool. She added if the house was constructed in error, that would have to be a separate application in order for it to be readvertised.

Mr. Ribble suggested that staff's research include where the easement ends and which properties it serves and inquired if this was a private drive.

Ms. Kelsey noted that it may be a private drive, but it was still a pipestem.

Mr. Hammack stated he believed the Board should go forward with the hearing.

Ms. Kelsey pointed out the only issue to be addressed was the pool because that was advertised.

The applicant complained that he had submitted the application on December 21, 1987 but had not receive confirmation of the hearing until March, 1988.

The Board questioned staff as to why the application had been delayed. Ms. Kelsey explained that this had been caused by the change in the Board members but pointed out the applicant had been granted an out of turn hearing.

In response to questions from the Board, Ms. Kelsey stated only a 4 foot fence was required around a pool, therefore the applicant does not need a variance if he was proposing to construct a 4 foot fence. She added a variance was needed for the accessory use in the front yard.

Mr. Brent stated the builder, Oakton Homes, had provided fences around other properties in the neighborhood, but had not included his property because of the storm water detention easement.

Chairman Smith called for speakers to address this application and no one came forward.

Mr. Hammack made a motion to grant VC 88-M-026 as he believed that the applicant had presented testimony showing compliance with the standards for a variance, and because the applicant's property had two front yards.

Charles Tong, with Pool Pros, 14508-A Lee Road, Chantilly, Virginia, came forward to request a waiver of the 8-day time limitation.

Mr. Hammack made a motion to grant the request. Mr. DiGiulian seconded the motion which carried by a vote of 6-1 with Chairman Smith voting nay.

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REVISED

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-M-026 by DAVID AND CYNTHIA BRENT, under Section 18-401 of the Zoning Ordinance to allow construction of a pool partially within front yard, on property located at 4000 Medford Drive, Tax Map Reference 60-3(43)5, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 12, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicants are the owners of the land.
2. The present zoning is R-4.
3. The area of the lot is 13,755 square feet of land.
4. The lot has two front yards.
5. The applicant can construct a 4 foot fence by right.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;
  - F. An extraordinary situation or condition of the subject property, or
  - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific pool shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to the continuation of any construction.

Mr. DiGiulian seconded the motion which carried by a vote of 6-1 with Chairman Smith voting nay.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on April 12, 1988. This date shall be deemed to be the final approval date of this variance.

The applicant was also granted a waiver of the 8-day time limitation.

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Page 394, April 12, 1988, (Tape 2), After Agenda Item:

Approval of April 5, 1988 Resolutions

Mrs. Thonen made a motion to adopt the Resolutions of the April 5, 1988 as presented. Mr. Hammack seconded the motion which carried by a vote of 5-0 with Messrs. DiGiulian and Kelley not present for the vote.

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Page 394, April 12, 1988, (Tape 2), After Agenda Item:

Approval of Minutes for 1/5/88, 2/16/88, and 3/1/88

Mrs. Thonen made a motion to accept the Minutes as submitted. Mr. Hammack seconded the motion which carried by a vote of 5-0, with Messrs. DiGiulian and Kelley not present for the vote.

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Page 394, April 12, 1988, (Tape 2), After Agenda Item:

St. Matthews United Methodist Church, SPA 80-A-087-2  
Out-of-Turn Hearing

Mr. Hammack questioned staff about the building changes requested by the applicant. Jane Keisey, Chief, Special Permit and Variance Branch, explained the changes were not minor engineering changes but were primarily a change in the configuration of the building creating a better design.

Mr. Hammack then made a motion to grant the applicant's request for an out-of-turn hearing. Mrs. Day seconded the motion.

Prior to the vote, the Board members discussed the amount of time staff would need to review this application. Mrs. Day withdrew her second and the maker of the motion, Mr. Hammack, withdrew his original motion.

Mrs. Thonen then made a motion to grant the applicant's request and scheduled the public hearing for June 14, 1988 with Mr. Hammack seconding the motion.

Chairman Smith asked the applicant to explain the specific changes.

Bernard Burnette, 3423 Pellinore Place, Annandale, Virginia, informed the Board that the church was proposing to rearrange the design of the church by relocating the entrance on the side at ground level, and by removing the fifteen steps which were originally planned.

Chairman Smith called for the vote and the motion carried by a vote of 3-2-1 with Mr. Kelley abstaining; Mr. DiGiulian not present for the vote.

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Page 395, April 12, 1988, (Tapes 2 and 3), After Agenda Item:

**Salco Mechanical Contractors Appeal**

Jane Kelsey, Chief, Special Permit and Variance Branch, noted a letter had been received by staff from Patrick Via with the law firm of Hazel, Thomas, Fiske, Beckhorn, and Hanes, P.O. Box 547, Fairfax, Virginia, attorney for the appellant requested a six month deferral. She suggested that the Board allow staff to remove the appeal from the agenda and from the legal ads.

Mr. Hammack questioned staff as to the reason for the deferral. He argued that this happens quite frequently on appeals. Ms. Kelsey stated that the County Attorney had ruled that when any Board defers a case for more than ninety days the case should be readvertised and notices to the abutting property owners be resent.

Chairman Smith stated that he believed the case should be deferred until the appellant was ready to be heard.

Mr. Hammack stated that the Code indicated that cases had to be heard within a certain time period. Ms. Kelsey agreed but pointed out that the applicant was requesting a deferral of six months.

Mr. Hammack made a motion to defer A 88-A-002 indefinitely. Mrs. Thonen seconded the motion. Mr. Kelley suggested that the motion be amended to state "for a period not to exceed six months." Mr. Hammack accepted the amendment. Chairman Smith called for the vote and the amended motion carried by a vote of 7-0.

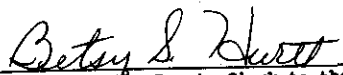
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Page 395, April 12, 1988, (Tape 3), Information Items:

Jane Kelsey, Chief, Special Permit and Variance Branch, informed the Board that Brian McCormick, attorney with the law firm of Dunn and McCormick, could not meet with the Board today due to a scheduling conflict but that she would contact him to set up another time.

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As there was no other business to come before the Board, the meeting was adjourned at 12:45 P.M.

  
Betsy S. Hurtt, Deputy Clerk to the  
Board of Zoning Appeals

  
Daniel Smith, Chairman  
Board of Zoning Appeals

SUBMITTED: September 20, 1988

APPROVED: September 27, 1988



396

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, April 19, 1988. The following Board Members were present: Daniel Smith, Chairman; Ann Day; Paul Hammack; Robert Kelley; John Ribble and Mary Thonen. John DiGiulian, Vice-Chairman absent from the meeting.

Chairman Smith opened the meeting at 9:22 A.M. and Mrs. Day led the prayer.

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Page 396, April 19, 1988, (Tape 1), Scheduled case of:

9:00 A.M. NATALIA S. FLANDERS ET AL, JERALD K. LEABERRY AND PATRICIA M. LEABERRY, VC 87-C-150, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed Lot 4B1 having a lot width of 39.67 feet (200 ft. min. lot width required by Sect. 3-E06), located at 11213 and 11215 Stuart Mill Road, on approximately 7.07 acres of land, zoned R-E, Centreville District, Tax Map 36-2((1))19B and 19C. (DEFERRED FROM 2/9/88 - NOTICES NOT IN ORDER)

Heidi Belofsky, Staff Coordinator, presented the staff report and advised the Board that staff had two concerns. The first being that there was a floodplain area behind proposed Lot B-1 which needed protection. The other issue was that of road dedication along Stuart Mill Road. Ms. Belofsky further added that staff did not support the application because the creation of a "pipestem" lot by variance would set an undesirable precedent in the area which might affect future development in accordance with the Comprehensive Plan; and, in addition, and of primary importance, is that the applicant does not meet the required standards for a variance as outlined in the staff report.

Benjamin Pelton, 2425 Wilson Boulevard, Arlington, Virginia, representative of the applicant, appeared before the Board and submitted additional pictures for the record. Mr. Pelton stated that the unusual and extraordinary physical/topographic condition of the property was that of a duck pond. He added that the pond is presently part of Lot 4B, however, it sits in front of the house on Lot 4A and is of no use to Lot 4B and cannot be seen from the home on Lot 4B. Mr. Pelton further explained that the property had been subdivided in 1981 by the applicant and that there would be no adverse effect on the adjacent property.

Mr. Hammack pointed out that the property was subdivided in its present manner so that the applicant would have two lots, thus he created his own hardship.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. Hammack stated that this application was one of the clearest examples of a self created hardship and that the applicant had originally arranged the two lots for convenience purposes. Mr. Hammack concluded that the applicant had not met the standards for a variance and therefore moved to deny the request.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-C-150 by NATALIA S. FLANDERS ET AL, JERALD K. LEABERRY AND PATRICIA M. LEABERRY, under Section 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed Lot 4B1 having a lot width of 39.67 feet, on property located at 11213 and 11215 Stuart Mill Road, Tax Map Reference 36-2((1))19B and 19C, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 19, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicants are the owners of the land.
2. The present zoning is R-E.
3. The area of the lot is 7.07 acres of land.

This application does not meet all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance.

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;
  - F. An extraordinary situation or condition of the subject property, or
  - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has not satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED.

Mrs. Thonen seconded the motion.

The motion failed by a vote of 2-3-1 with Mr. Hammack and Mrs. Thonen voting aye; Chairman Smith, Mr. Kelley and Mrs. Day voting nay; Mr. Ribble abstaining; Mr. DiGiulian absent from the meeting.

The application was denied as there were not four (4) affirmative votes for the application.

Chairman Smith advised the applicant that he could request a waiver of the 12 month limitation on rehearing the application.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on April 27, 1988.

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Page 397, April 19, 1988, (Tape 1), Scheduled case of:

9:15 A.M. THE CHARLES E. SMITH COMPANIES/THE ARTERY ORGANIZATION PARTNERSHIP, A 88-S-001, appeal of Zoning Administrator's decision that breezeways in appellant's proposed multiple family dwelling complex constitute gross floor area, 11800 Lee Highway, on approximately 50.7 acres of land, zoned PDC, Springfield District, Tax Map 56-1(1)pt. 40A.

Chairman Smith announced that the Board was in receipt of a letter requesting deferral of the above referenced application.

Jerry Enrich, 950 N. Glebe Road, Arlington, Virginia, the applicant's representative appeared before the Board and requested a deferral.

Mrs. Thonen moved to grant the request for a deferral to May 24, 1988 at 11:00 A.M. There being no objection, it was so ordered.

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9:30 A.M. WILLIAM THEROS, VC 88-C-011, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed Lot B having a lot width of 11.38 feet (150 ft. min. lot width required by Sect. 3-106), located at 12811 Oxon Road, on approximately 5.4691 acres of land, zoned R-1, Centreville District, Tax Map 35-4((1))27.

Heidi Belofsky, Staff Coordinator, presented the staff report and advised the Board that the proposed lot which is less than an acre in size, is above the high end of the Plan and is inconsistent with lot sizes in the area. She added that the approval could set an undesirable precedent for development in the surrounding area. Ms. Belofsky also stated that the applicant should submit a complete floodplain and geotechnical study for the site. Ms. Belofsky also noted that there was a requirement for trails. She pointed out that there were two transportation issues: 1) The need to provide right-of-way dedication and ancillary easements on Oxon Road, and 2) The need to provide adequate sight distance for the entrance on Oxon Road.

William Theros, 11205 Richard Grove Drive, Great Falls, Virginia, the applicant, appeared before the Board and explained his request as outlined in the statement of justification as submitted with the application. He added that he thought he was being consistent with the other lots in the area by proposing a one acre lot.

Chairman Smith called for speakers and the following citizens came forward in opposition to the request: Richard Childers, 12805 Oxon Road, Herndon, Virginia; Mary Dorsell, 12833 Oxon Road, Herndon, Virginia; Gary DeVito, 12815 Oxon Road, Herndon, Virginia. These citizens expressed concern about the size of the proposed lot that was less than one acre.

In rebuttal, Mr. Theros stated that the floodplain area would not be disturbed and that he would be willing to add more land to make a one acre lot.

Prior to making the motion, Mrs. Day noted that there were many unanswered questions concerning the application. She added that the application did not meet the standards for a variance and that the proposed lot was smaller than others in the area. Mrs. Day stated that the neighbors wanted larger lots and the stream protected. Mrs. Day also pointed out that the applicant had created his own hardship and therefore moved to deny the request.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-C-011 by WILLIAM THEROS, under Section 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed Lot B having a lot width of 11.38 ft., on property located at 12811 Oxon Road, Tax Map Reference 35-4((1))27, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 19, 1988; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the applicant is the owner of the land.
- 2. The present zoning is R-1.
- 3. The area of the lot is 5.4691 acres of land.
- 4. The proposed lot is smaller than most of the lots in the area.
- 5. The applicant created his own hardship.
- 6. There is a floodplain issue.
- 7. There are neighbors who testified against the variance.

This application does not meet all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance.

- 1. That the subject property was acquired in good faith.
- 2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;

- E. Exceptional topographic conditions;
- F. An extraordinary situation or condition of the subject property, or
- G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.

3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.

4. That the strict application of this Ordinance would produce undue hardship.

5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.

6. That:

A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or

B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.

7. That authorization of the variance will not be of substantial detriment to adjacent property.

8. That the character of the zoning district will not be changed by the granting of the variance.

9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has not satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED.

Mr. Hammack seconded the motion.

The motion carried by a vote of 6-0 with Mr. DiGiulian absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on April 27, 1988.

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9:45 A.M. VALLEYBROOK, INC., SPA 72-M-048-1, application under Sect. 3-203 of the Zoning Ordinance to amend S-48-72 for nursery school and school of general education to permit change of permittee, relocation and paving of parking lot, and addition of lights in side and rear yards, located at 3420 Rose Lane on approximately 51,171 square feet of land, zoned R-2, Mason District, Tax Map Reference 60-2((32))1 and 60-2((38))A1.

Kathy Reilly, Staff Coordinator, presented the staff report and advised the Board that the proposed use is not harmonious with and may adversely affect the use of neighboring properties. She added that the proposed location of the parking lot will adversely impact the existing residential area. Ms. Reilly also stated that the location of the parking lot will give the appearance of a commercial use in a well-established residential area. She further stated that in 1972, the BZA granted a Special Permit (S-48-72) to allow a change in permittee and relocation and paving of the parking lot, however, the parking lot was not built in accordance with the plat approved by the BZA. She pointed out that the proposed modification to Transitional Screening 1 along the northern and eastern property lines does not adequately provide landscaping and screening. Ms. Reilly advised the Board that adequate parking to serve the proposed use has not been provided. In conclusion, staff recommended denial of the proposed application.

J. Randall Minchew with the firm of Hazel, Thomas, Fiske, Beckhorn and Hanes, P.C., 3110 Fairview Park Drive, Falls Church, Virginia, appeared before the Board as the representative of the applicant. Mr. Minchew advised the Board that he did not know why the parking lot was not constructed in accordance with the previously approved plat. He further stated that the application would not change and that the applicant had conducted meetings with the citizens in the area who supported the application. Mr. Minchew provided the Board with two options for the parking lot. Plan A showed the parking in front of the school and would increase the number of parking spaces to 14; and Plan B would keep the parking where it is. He added that ten parking spaces would be adequate for the use.

Mrs. Day suggested that people be informed in writing about the parking and dropping off requirements in that no offsite parking is allowed.

Chairman Smith called for speakers and the following citizens came forward in support of the application: Ellen Mills, 2410 Rose Lane, Falls Church, Virginia; Bill Bailey, 3412 Rose Lane, Falls Church, Virginia; Ron Tipta, 3435 Rose Lane, Falls Church, Virginia; Fred Egbers, 3405 Rose Lane, Falls Church, Virginia.

These citizens expressed the opinion that additional parking was not necessary as most parents dropped their children off at the school and they also stated that additional parking spaces would give the school the appearance of a commercial establishment.

Mr. Minchew stated that Plan B could be changed to add parking spaces next to the school.

Mrs. Thonen suggested the application be deferred to allow the applicant time come back with a specific plan showing the number of parking spaces and their location on the plat.

Ms. Reilly pointed out that if the applicant was now requesting waiver of the dustless surface requirement then it would be necessary for the application to be readvertised.

Mrs. Thonen moved to continue the public hearing on June 2, 1988 to allow the staff time to readvertise the application and the applicant to resubmit plans.

Mrs. Day seconded the motion which passed by a vote of 6-0 with Mr. DiGiulian absent from the meeting.

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Page 400, April 19, 1988, (Tape 2), Scheduled case of:

10:00 A.M. JAMES N. AND HAYASDIAN S. WALLACE, VC 88-C-009, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 5.3 feet from rear lot line of a corner lot (15 ft. min. rear yard required by Sect. 3-207), located at 9606 Podium Drive, on approximately 20,163 square feet of land, zoned R-2, Centreville District, Tax Map 28-3((11))62.

Lori Greenlief, Staff Coordinator, presented the staff report.

James Wallace, 9606 Podium Drive, Vienna, Virginia, the applicant appeared before the Board and stated that there were no objections to the request from the neighbors nor would the request change the appearance of the property.

Susan Watkins, Architect, 1179 Crest Lane, McLean, Virginia, appeared before the Board and explained the proposal. She stated that the only way to enlarge the garage was to encroach on the property line. Ms. Watkins noted that there were no windows facing the neighbors and that there was a fence on the applicant's side of the property line. She also stated that the garage would be enlarged in the rear with some space for storage.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. Ribble stated that the application met the nine standards for a variance. He also noted the extraordinary condition due to the location of the house on the property. Mr. Ribble moved to grant the request subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-C-009 by JAMES N. AND HAYASDIAN S. WALLACE, under Section 18-401 of the Zoning Ordinance to allow construction of a garage addition to dwelling to 5.3 feet from rear lot line of a corner lot, on property located at 9606 Podium Drive, Tax Map Reference 28-3((11))62, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 19, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicants are the owners of the land.
2. The present zoning is R-2.
3. The area of the lot is 20,163 square feet of land.
4. The house is sited in one corner of the lot.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;
  - F. An extraordinary situation or condition of the subject property, or
  - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mrs. Thonen seconded the motion.

The motion carried by a vote of 6-0 with Mr. DiGiulian absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on April 27, 1988. This date shall be deemed to be the final approval date of this variance.

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At 11:55 A.M. the Board recessed the meeting and reconvened at 12:00 noon.

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Page 402, April 19, 1988, (Tape 2), Scheduled case of:

10:15 A.M. ANTHONY C. ROUNDS, VC 88-D-010, application under Sect. 18-401 of the Zoning Ordinance to allow enclosure of existing carport for garage and addition of second (2nd) story over garage 15.0 feet from a street line (40 ft. min. front yard required by Sect. 3-107), located at 919 Swinks Mill Road, on approximately 0.755 acres of land, zoned R-1, Dranesville District, Tax Map 21-3(1)24.

Kathy Reilly, Staff Coordinator, presented the staff report.

Anthony Rounds, 1400 Kirby Road, McLean, Virginia, the applicant, appeared before the Board and explained his request as outlined in the statement of justification as submitted with the application.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. Kelley stated that the applicant had met the standards for a variance. He noted the unusual and exceptional shape and topographical conditions of the property. Mr. Kelley moved to grant the request subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-D-010 by ANTHONY C. ROUNDS, under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport for garage and addition of second (2nd) story over garage 15.0 feet from a street line, on property located at 919 Swinks Mill Road, Tax Map Reference 21-3(1)24, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 19, 1988; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the applicant is the owner of the land.
- 2. The present zoning is R-1.
- 3. The area of the lot is 0.755 acres of land.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

- 1. That the subject property was acquired in good faith.
- 2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;
  - F. An extraordinary situation or condition of the subject property, or
  - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
- 3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
- 4. That the strict application of this Ordinance would produce undue hardship.
- 5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
- 6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.

7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.
4. Prior to obtaining a building permit for the proposed addition the applicant shall show evidence that the addition complies with Par. 8 of Section 2-903 of the Fairfax County Zoning Ordinance.

Mr. Ribble seconded the motion.

The motion carried by a vote of 5-1 with Chairman Smith voting nay; Mr. DiGiulian absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on April 27, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 403, April 19, 1988, (Tape 2), Scheduled case of:

10:30 A.M. DR. ARUN K. CHATTERJIE, VC 88-A-006, application under Sect. 18-401 of the Zoning Ordinance to allow construction of a 7 ft. high fence within a front yard on a corner lot (4 ft. max. hgt. for a fence in a front yard required by Sect. 10-104) located at 5248 Signal Hill Drive on approximately 17,676 square feet of land, zoned R-3(C), Annandale District, Tax Map Reference 78-2((16))493

Kathy Reilly, Staff Coordinator, presented the staff report.

Charrie Gordon with the office of Charles Martin, 8996 Burke Lake Road, Burke, Virginia, appeared before the Board as the applicant's representative. She explained the request as outlined in the statement of justification as submitted with the application. Ms. Gordon also stated that noisy groups parked along Burke Lake Road and frequently tossed litter onto the Chatterjies' property. She further added that the applicant was concerned about theft.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. Hammack stated that the applicant had not met the nine standards for a variance and therefore moved to deny the request.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-A-006 by DR. ARUN K. CHATTERJIE, under Section 18-401 of the Zoning Ordinance to allow construction of a 7 ft. high fence within a front yard on a corner lot, on property located at 5248 Signal Hill Road, Tax Map Reference 78-2((16))493, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 19, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-3(C).
3. The area of the lot is 17,676 square feet of land.

This application does not meet all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance.

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;
  - F. An extraordinary situation or condition of the subject property, or
  - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has not satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED.

Mrs. Thonen seconded the motion.

The motion carried by a vote of 6-0 with Mr. DiGiulian absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on April 27, 1988.

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10:45 A.M. BRUCE M. STANLY, VC 88-S-012, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 5.7 feet from a side lot line (8 ft. min. side yard required by Sect. 3-307), located at 8610 Greeley Boulevard, on approximately 20,507 square feet of land, zoned R-3(C) and MC, Springfield District, Tax Map 89-1(9)46.

Lori Greenlief, Staff Coordinator, presented the staff report and advised the Board that staff was in receipt of one letter in opposition to the request.

Bruce Stanly, 18610 Greeley Boulevard, Springfield, Virginia, the applicant, appeared before the Board and explained the request as outlined in the statement of justification as submitted with the application.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mrs. Thonen noted that the applicant was requesting a minimum variance and that the proposal would enhance the neighborhood. Therefore, she moved to grant the request subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-S-012 by BRUCE M. STANLY, under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 5.7 feet from a side lot line, on property located at 8610 Greeley Boulevard, Tax Map Reference 89-1(9)46, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 19, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 20,507 square feet of land.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;
  - F. An extraordinary situation or condition of the subject property, or
  - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.

8. That the character of the zoning district will not be changed by the granting of the variance.

9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Hammack seconded the motion which carried by a vote of 5-1 with Chairman Smith voting nay; Mr. DiGiulian absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on April 27, 1988. This date shall be deemed to be the final approval date of this variance.

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10:45 A.M. THOMAS J. RAMSEY, VC 88-V-005, application under Sect. 18-401 of the Zoning Ordinance to allow construction of dwelling 25.0 ft. from front lot line (30 ft. min. front yard required by Sect. 3-407) located at 2202 Woodmont Road, on approximately 8,883 square feet of land, zoned R-4, Mount Vernon District, Tax Map 83-3((14))(17)2. (OTH GRANTED 2/2/88. DEFERRED FROM 3/22/88 - NOTICES NOT IN ORDER)

Lori Greenlief, Staff Coordinator, presented the staff report.

Thomas Ramsey, 2000 Summit Terrace, Arlington, Virginia, the applicant, appeared before the Board and explained the request as outlined in the statement of justification as submitted with the application. Mr. Ramsey submitted letters in support of the application to the Board.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mrs. Day noted the topographic hardship. She also pointed out that the proposal would save two large trees. The proposed house would line up with other houses. Mrs. Day moved to grant the request subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-V-005 by THOMAS RAMSEY, under Section 18-401 of the Zoning Ordinance to allow construction of dwelling 25.0 feet from front lot line, on property located at 2202 Woodmont Road, Tax Map Reference 83-3((14))(17)2, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 19, 1988; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the applicant is the owner of the land.
- 2. The present zoning is R-4.
- 3. The area of the lot is 8,883 square feet of land.
- 4. There is a topographic hardship.
- 5. The proposal would save two large trees.
- 6. The proposed house would line up with other houses.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

- 1. That the subject property was acquired in good faith.
- 2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;
  - F. An extraordinary situation or condition of the subject property, or
  - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
- 3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
- 4. That the strict application of this Ordinance would produce undue hardship.
- 5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
- 6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
- 7. That authorization of the variance will not be of substantial detriment to adjacent property.
- 8. That the character of the zoning district will not be changed by the granting of the variance.
- 9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

- 1. This variance is approved for the dwelling shown on the plat included with this application and is not transferable to other land.
- 2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
- 3. A Building Permit shall be obtained prior to any construction.

Mr. Ribble seconded the motion which carried by a vote of 5-0 with Mr. Hammack not present for the vote; Mr. DiGiulian absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on April 27, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 408, April 19, 1988, (Tape 3), After Agenda Item #1:

Out of Turn Hearing Request  
Transfiguration Church  
SPA 80-D-069-1

Mrs. Thonen moved to grant the request and schedule the public hearing at June 2, 1988.

Mr. Ribble seconded the motion which passed by a vote of 4-1 with Chairman Smith voting nay; Mr. Hammack not present for the vote; Mr. DiGiulian absent from the meeting.

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Page 408, April 19, 1988, (Tape 3), After Agenda Item #2:

Out of Turn Hearing Request  
Second Holly Knoll HOA  
SPA 85-D-046-1

Mr. Ribble moved to deny the request.

Mrs. Day seconded the motion which passed by a vote of 5-0 with Mr. Hammack not present for the vote; Mr. DiGiulian absent from the meeting.

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Page 408, April 19, 1988, (Tape 3), After Agenda Item #3:

Approval of Resolutions  
April 12, 1988

Mrs. Thonen moved to approve the Resolutions from April 12, 1988 as submitted. Mr. Kelsey stated that for the record that the resolution on the Brent variance heard last week had to be amended to remove the reference in the beginning of the motion to the 6 foot fence. It was rather vague, but just to be sure that it was clear, the 6 foot fence was not part of the advertisement, notice, nor the application, and therefore, could not be approved without a proper application and proper notice. The Board agreed.

Mr. Ribble seconded the motion which passed by a vote of 5-0 with Mr. Hammack not present for the vote; Mr. DiGiulian absent from the meeting.

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Page 408, April 19, 1988, (Tape 3), After Agenda Item #4:

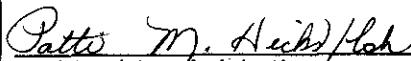
Approval of Minutes  
February 2, 1988

Mrs. Day moved that the Minutes of February 2, 1988 be approved as submitted.

Mr. Ribble seconded the motion which passed by a vote of 5-0 with Mr. Hammack not present for the vote; Mr. DiGiulian absent from the meeting.

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As there was no other business to come before the Board, the meeting was adjourned at 12:51 P.M.

  
Patti M. Hicks, Clerk to the  
Board of Zoning Appeals

  
Daniel Smith, Chairman  
Board of Zoning Appeals

SUBMITTED: September 6, 1988

APPROVED: September 13, 1988

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, April 26, 1988. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman, Robert Kelley, Paul Hammack, John Ribble, Ann Day and Mary Thonen.

Chairman Smith opened the meeting at 9:25 a.m. with Mrs. Day leading the prayer.

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Page 409, April 26, 1988 (Tape 1), Scheduled case of:

9:00 A.M. GREAT FALLS BOARDING KENNELS, INC., SPR 81-D-056-1, application under Sect. 3-E03 of the Zoning Ordinance to allow renewal of S-81-D-056 for kennel, located at 8920 Old Dominion Drive, on approximately 2.12 acres of land, zoned R-E, Dranesville District, Tax Map 13-4((1))31. (DEF. FROM 1/12/88)

Jane C. Kelsey, Chief, Special Permit and Variance Branch, advised the Board that the agent for the applicant had submitted a letter requesting a deferral in order to amend the application to add additional land area and to file for concurrent variance applications to vary the additional standards for this use. Ms. Kelsey explained, however, that she advised the applicant's attorney, Randy Minchew, that it is the position of the Zoning Administrator that the BZA has no authority to vary those additional standards.

Mr. Hammack moved to grant the request for a deferral to July 19, 1988 at 9:00 a.m. Mr. Kelley seconded the motion which passed by a vote of 5-0 with Mr. DiGiulian and Mrs. Thonen not present for the vote.

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Page 409, April 26, 1988 (Tape 1), Scheduled case of:

12:45 P.M. MOHAMAD ALI ROUHANI, VC 88-S-021, application under Sect. 18-401 of the Zoning Ordinance to allow construction of a dwelling on the edge of floodplain (15 ft. min. yard requirement by Sect. 2-415) located at 6419 Spring Lake Drive, on approximately 30,985 square feet of land, zoned R-2, Springfield District, Tax Map 88-1((15))1. (OTH GRANTED 2/9/88 - DEFERRED FROM 4/12/88 TO AWAIT COURT ORDER)

Following discussion by the Board in reference to Mohamad Ali Rouhani, VC 88-S-021, and where it belongs on the agenda, Mr. Randall Minchew, Hazel, Thomas, Fiske, Beckhorn & Hanes, P.C., attorney present in the Board Room, stated that Mr. Rouhani requested a deferral. This deferral is being requested to await the final decision of the Circuit Court in the appeal of a BZA decision related to this application brought by Mary Allen.

Mr. Hammack moved to grant the request for a deferral to May 24, 1988 at 11:30 a.m. This motion was seconded by Mr. Ribble which passed by a vote of 5-0 with Mr. DiGiulian and Mrs. Thonen not present for the vote.

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Mr. DiGiulian and Mrs. Thonen arrived at 9:30 a.m.

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Mr. Ribble made the motion to go into Executive Session and discuss the Court case of Mohamad Rouhani with Brian McCormick, Counsel for the Board. Mr. Kelley seconded the motion which passed by a vote of 5-0 with Mr. DiGiulian and Mrs. Thonen not present for the vote.

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Page 409, April 26, 1988 (Tape 1), Scheduled case of:

10:00 A.M. GILBERT L. WINANS, VC 88-V-013, application under Sect. 18-401 of the Zoning Ordinance to allow construction of detached garage 6.7 feet from a side lot line (15 foot min. side yard required by Sect. 3-207), located at 9000 Volunteer Drive, on approximately 26,876 square feet of land, zoned R-2, Mount Vernon District, Tax Map 110-2((10))16.

Kathy Reilly, Staff Coordinator, presented the staff report and advised the Board that the proposed garage did not exceed the 600 square foot limit established by the Zoning Administrator as a guideline for the size of accessory detached garages.

Gilbert Winans, 9000 Volunteer Drive, Alexandria, Virginia, the applicant, appeared before the Board and explained his request as outlined in the statement of justification as submitted with the application.

Since there were no speakers to address this application Chairman Smith closed the public hearing.

Mr. DiGiulian moved to grant VC 88-V-013 based on the applicant's testimony, the property is a corner lot, and that this is the only appropriate location for the addition due to other existing structures on the lot.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-V-013 by GILBERT L. WINANS, under Section 18-401 of the Zoning Ordinance to allow construction of detached garage 6.7 feet from a side lot, on property located at 9000 Volunteer Drive, Tax Map Reference 110-2((10))16, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 26, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-2.
3. The area of the lot is 26,876 Square Feet of land.
4. The property is a corner lot.
5. This is the only appropriate location for the addition due to other existing structures on the lot.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics: An extraordinary situation or condition of the subject property, and An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of

conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.

3. A Building Permit shall be obtained prior to any construction.
4. The materials used to finish this structure shall be compatible with the principle dwelling unit on the property and to the adjacent properties.

Mr. Ribble seconded the motion which carried by a vote of 5-1 with Chairman Smith voting nay and Mr. Hammack not present for the vote.

Mr. Winan requested a waiver of the eight day requirement due to the fact that the contractor he hired was leaving on vacation in May and requested the building be started as soon as possible.

Mrs. Thonen moved to grant the request of the eight day waiver making the final date of approval as April 26, 1988. Mr. DiGiulian seconded the motion which passed unanimously by a vote of 6-0 with Mr. Hammack not present for the vote.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on April 26, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 411, April 26, 1988 (Tape 1), Scheduled case of:

10:15 A.M. EMIL L. & BETTY J. KONOPNICKI, VC 88-D-015, application under Sect. 18-401 of the Zoning Ordinance to allow construction of swimming pool and 7 foot high fence in front yard of a corner lot (Accessory structure and use and fence exceeding 4 foot in height not allowed in any front yard per Sect. 10-104), located at 1300 Forestwood Drive, on approximately 16,141 square feet of land, zoned R-3, Dranesville District, Tax Map 30-1((4))6.

Lori Greenlief, Staff Coordinator, presented the staff report and advised the Board there were four letters in opposition to the application. Research of the records in Zoning Administration indicate that one variance has been granted in the vicinity for an enclosed porch in 1975.

Emil Konopnicki, 1300 Forestwood Drive, McLean, Virginia, the applicant, appeared before the Board and explained his request as outlined in the statement of justification as submitted with the application. First of all, when he bought the property he had in mind to build a pool for his wife's health program and his. The back of the house inclines upward and there is a group of trees approximately 50 years old, therefore, the location of the pool would have to be on the side of the house. Mr. Konopnicki explained that due to the small children in the neighborhood that a 3 or 4 fence would not be adequate safety protection. Therefore, the applicant is requesting a 7 foot fence to surround the pool. Finally, the fence materials will be compatible with the neighborhood.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Chairman Smith commented that the Board was in receipt of six letters of opposition to the application.

Mrs. Thonen moved to deny VC 88-D-015 as the application does not meet the nine requirements for a variance.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-D-015 by EMIL L. & BETTY J. KONOPNICKI, under Section 18-401 of the Zoning Ordinance to allow construction of swimming pool and 7 foot high fence in front yard of a corner lot, on property located at 1300 Forestwood Drive, Tax Map Reference 30-1((4))6, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and



WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 26, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicants are the owners of the land.
2. The present zoning is R-3.
3. The area of the lot is 16,141 square feet of land.

This application does not meet all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance.

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;
  - F. An extraordinary situation or condition of the subject property, or
  - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has not satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED.

Mrs. Day seconded the motion.

The motion carried by a vote of 6-0 with Mr. Hammack not present for the vote.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on May 4, 1988.

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Page 412, April 26, 1988 (Tape 1), Scheduled case of:

10:30 A.M. NORDSTROM, INC. AND LEHNDORFF TYSON'S JOINT VENTURE, SP 88-P-006, application under Sect. 12-304 of the Zoning Ordinance to allow a different arrangement of sign area distribution for a regional shopping center, located at 1961 Chain Bridge Road, on approximately, 78.64 acres of land, zoned C-7 and SC, Providence District, Tax Map 29-4(1)35 and 39-2(1)2, 5

Lori Greenlief, Staff Coordinator, presented the staff report and advised the Board that, by right, Nordstrom would be allowed to have 200 square feet of signs and the applicant is requesting two signs of 473 square feet in area. Ms. Greenlief pointed out

to the Board the provision of the Zoning Ordinance which allows the BZA to approve additional sign area, but this paragraph has two stipulations; the combination of the existing and the proposed signs in a center cannot exceed 125 percent of the allowable sign area for the shopping center as a whole. Based on tabulations submitted by the applicant staff has determined that the requested two signs would not bring the total sign area in Tysons over that 125 percent limit. The second important aspect of the Zoning Ordinance states that in order for the BZA to approve an application such as this it must be found that there is a hardship on the part of the applicant by virtue of topography or location of the regional shopping center. Staff believes that there is a locational hardship suffered by the applicant. Staff also believes that the application meets the standards for all special permit uses in Sect. 8-006 and that the increased sign area will be in keeping with the remainder of the shopping center signage. Consequently, staff recommends approval of SP 88-P-006 subject to the Development Conditions. Ms. Greenleaf concluded by stating that staff has one letter of support of the application.

Mr. M. Langhorne Keith, with the law firm of Hogan and Hartson, 8300 Greensboro Drive, McLean, Virginia, agent for the applicant, appeared before the Board and explained his request as outlined in the statement of justification submitted with the application. Mr. Keith explained that the total sign area of the signs will be 2,446 square feet which is 39 percent of the 125 percent maximum allowable. Because of the location of the shopping center, the signs can only be seen from Route 7. The only neighbor that can see both of Nordstrom's signs is Tycon Towers and this is the neighbor that sent the letter of support. Mr. Keith stated that the sign would be architecturally compatible with the other signs in the area. In conclusion, Mr. Keith indicated that as stated in the staff report the application does meet the standards for a special permit.

Mr. DiGiulian moved to grant SP 88-P-006 based on the applicant's testimony and that the application meets the requirements for a Special Permit.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-P-006 by NORDSTROM, INC., under Section 12-304 of the Zoning Ordinance to allow a different arrangement of sign area distribution for a regional shopping center, on property located at 1961 Chain Bridge Road, Tax Map Reference 29-4(1)35 and 39-2(1)2, and 5, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 26, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land
2. The present zoning is C-7.
3. The area of the lot is 18.38 acres of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-903 and 8-912 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land or buildings.
2. This approval is granted for the two signs indicated on the plat submitted with this application, except as qualified below. Any additional signs of any kind associated with Nordstrom, or changes in the plans with respect to these signs approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. This condition shall not preclude the approval of additional sign permits in accordance with Article 12 within the Tysons Corner Center and shall not preclude the erection of signs that do

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not require sign permits such as directional signs. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

- 3. Sign permits, as regulated by Article 12 of the Zoning Ordinance, shall be obtained for all signs.
- 4. Illumination of the signs shall be in conformance with the performance standards for glare as set forth in Part 9 of Article 14 of the Zoning Ordinance.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date\* of the Special Permit unless sign permits have been obtained or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Ribble seconded the motion.

The motion carried by a unanimous vote of 7-0.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on May 4, 1988. This date shall be deemed to be the final approval date of this special permit.

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As there was time before the next application the Board took up the After Agenda Items.

Ms. Kelsey suggested that the Board pass over After Agenda Item 1, as the applicant had requested to be present for the request.

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Page 414, April 26, 1988, (Tape 1), After Agenda Item #2:

Reconsideration Request  
 Natalia S. Flanders et al, Jerald K. & Patricia M. Leaberry  
 VC 87-C-150

Mrs. Thonen moved to deny the request for a Reconsideration of Natalia S. Flanders et al, Jerald K. and Patricia M. Leaberry, VC 87-C-150. Mrs. Thonen commented that she has not changed her mind from the previous meeting and that the hardship was self-made.

Mr. Hammack seconded the motion which passed by a vote of 6-1 with Chairman Smith voting nay.

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Page 414, April 26, 1988, (Tape 1), Scheduled case of:

10:45 A.M. JOEL A. AND LOIS S. COHEN, VC 88-P-019, application under Sect. 18-401 of the Zoning Ordinance to allow construction of a garage addition to dwelling to 21.8 feet from a street line of a corner lot (40 ft. min. front yard required by Sect. 3-107) located at 8601 Janet Lane, on approximately .3994 acres of land, zoned R-1, Providence District, Tax Map 39-3((14))63

Chairman Smith announced that the Board was in receipt of a letter requesting deferral of the above referenced application.

Mr. Ribble moved to grant the request to defer the application to July 26, 1988 at 9:00 a.m. Mr. DiGiulian seconded the motion which passed unanimously by a vote of 7-0.

The Board suggested that if the applicant is not ready to go forward with his application that he withdraw the application and refile when he is ready. In order to reapply in less than 12 months, it will be necessary to request a waiver of the 12 month limitation on refiling. The Board also indicated that it was not willing to defer a case for a year and decided to defer until July 26 and would take action then.

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Approval of Minutes from November 5, 1987  
and January 19, 1988

Mrs. Day moved to approve the Minutes from November 5, 1987 and January 19, 1988 with Mrs. Thonen seconding the motion. The motion unanimously passed by a vote of 7-0.

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Approval of Resolutions from April 19, 1988

Mrs. Day moved to grant the Resolutions from April 19, 1988 with Mrs. Thonen seconding the motion which passed by a vote of 7-0.

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The Board recessed at 10:55 a.m. and reconvened at 11:10 a.m.

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11:00 A.M. KENNETH AND JOAN STANFORD, VC 88-V-018, application under Sect. 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling to 3.0 ft. from side lot line (7 ft. min. side yard req. by Sects. 3-307 and 2-412) located at 3100 Waterside Lane, on approximately 12,876 square feet of land, zoned R-3, Mount Vernon District, Tax Map 102-3((13))324

Lori Greenlief, Staff Coordinator, presented the staff report, and advised the Board that research of the files in the Zoning Administration Division indicate that the dwelling on adjacent Lot 323 is located approximately 17.7 feet from the shared lot line.

Kenneth Stanford, 3100 Waterside Lane, Alexandria, Virginia, appeared before the Board and explained his request as outlined in the statement of justification submitted with the application. He stated that the lot is pie shaped, the other houses in the area have two car garages, at present there is a 10' concrete slab where he parks one car and would like to fit both cars on the slab, and there is a steep slope in the rear yard. In addition, he stated that the neighbor next door has submitted a letter in support.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mrs. Day stated that the application met the nine standards for a variance. Mrs. Day made the motion to grant the application due to the fact the property is a pie-shaped lot which has a small width at the front of the property, and a steep slope to the rear of the property. She further noted the house to the right of the property is 17.7 feet from the shared lot line and the garage will not be constructed in the floodplain area.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-V-018 by KENNETH AND JOAN STANFORD, under Section 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling to 3.0 feet from side lot line, on property located at 3100 Waterside Lane, Tax Map Reference 102-3((13))324, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 26, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicants are the owners of the land.
2. The present zoning is R-3.
3. The area of the lot is 12,876 square feet of land.
4. The property is a pie-shaped lot which has a small width at the front of the property, and a steep slope to the rear of the property.
5. The house to the right of the property is 17.7 feet from the shared lot line.
6. The garage will not be constructed in the floodplain area.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;
  - F. An extraordinary situation or condition of the subject property, or
  - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Hammack seconded the motion which unanimously carried by a vote of 7-0.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on May 4, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 416, April 26, 1988 (Tape 1), Scheduled case of:

11:15 A.M. WAYNE LEISS, VC 88-L-017, application under Sect. 18-401 of the Zoning Ordinance to allow construction of 2-story addition to dwelling to 10.75 feet from side lot line (15 foot min. side yard required by Sect. 3-207), located at 7102 Calamo Street, on approximately 15,614 square feet of land, zoned R-2, Lee District, Tax Map 90-1((2))218.

Heidi Belofsky, Staff Coordinator, presented the staff report and advised the Board that the applicant was in agreement with the development conditions contained in the staff report. She also added that ten (10) other variances have been approved in the same subdivision.

Wayne Leiss, 7102 Calamo Street, Springfield, Virginia, the applicant, appeared before the Board and explained his request as outlined in the statement of justification submitted with the application. Mr. Leiss explained that his house has no garage, no separate dining room, there is only one bathroom which is on the main floor, and there is no foyer or front porch. The addition will not be a detriment to the surrounding properties. Mr. Weiss further explained that he would like to make the addition compatible with the structure as it stands, but would like to cover it with vinyl siding.

Ms. Belofsky commented that there was an error in the staff report in the Development Conditions. The last word of Development Condition #3 should read "addition". It currently reads "carport", which is incorrect.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Before the motion was made, Mrs. Day suggested that Development Condition 4 be changed to read as follows: "The exterior of the building addition, including the roof, shall be architecturally compatible with the dwelling and shall be similar in style, color, and materials."

Mr. Ribble moved to grant VC 88-L-017 based on the applicant's testimony and the application meets the nine standards for a variance, specifically; the unusual shape of the lot, exceptional topographic conditions, and the converging lot lines. Mr. Ribble modified Development Condition #3 to read "addition", instead of "carport". He also modified Development Condition #4 and removed the word "existing".

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-L-017 by WAYNE LEISS, under Section 18-401 of the Zoning Ordinance to allow construction of 2-story addition to dwelling to 10.75 feet from side lot line, on property located at 7102 Calamo Street, Tax Map Reference 90-1((2))218, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 26, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the co-owner of the land.
2. The present zoning is R-2.
3. The area of the lot is 15,614 square feet of land.
4. The property consists of severe topographic conditions.
5. The property has converging lot lines.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:  
Exceptional shape at the time of the effective date of the Ordinance.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction for the approved addition.
4. The exterior of the building addition, including the roof, shall be architecturally compatible with the dwelling and shall be similar in style, color, and materials.

Mr. DiGiulian seconded the motion.

The motion carried by a vote of 7-0.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on May 4, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 418, April 26, 1988 (Tape 1), Scheduled case of:

11:30 A.M. TRUSTEES, MCLEAN KOREAN PRESBYTERIAN CHURCH, SPA 73-D-150-2, application under Sect. 3-303 of the Zoning Ordinance to amend S 150-73 for church and related facilities to permit change of permittee, located at 7144 Old Dominion Drive, on approximately 2.56026 acres of land, zoned R-3, Dranesville District, Tax Map 30-1((1))75.

Heidi Belofsky, Staff Coordinator, presented the staff report and advised the Board that this application is for a change in permittee only. The church was constructed prior to the 1972 Zoning Ordinance Amendment which requires Special Permit approval for churches in a residential district. As a result, this church does not presently meet the provisions of the current Zoning Ordinance. Ms. Belofsky indicated that there are several unresolved transportation issues associated with this application. Right-of-way dedication along the frontage of the site to 45' from the centerline of Old Dominion Drive has not been shown. There is also a potential site distance problem, and a lack of a right turn lane into the southern entrance of this site.

Ms. Belofsky added that the staff analysis is based on the information available at the time the staff report is done.

Mr. Thomas Dugan, with the law firm of Survell, Jackson, Colten & Dugan, 4010 University Drive, Suite 300, Fairfax, Virginia, attorney for the applicant, advised the Board that the applicant was in agreement with the Development Conditions except as follows. He wanted assurance and clarification that Development Condition #7 would not prohibit Sunday School activities and the teaching of the Korean Language. Development Condition #13 would be no problem at the present time because the applicant now conforms with VDOT standards; 30' requirement. With regard to Development Condition #12, the church previously dedicated 20 feet to road dedication and will not agree to dedicate the 45 feet staff is requesting. With regard to Development Condition #11, the church has no objection to the principle set forth in this condition, but questioned the placement of the trail.

In response to concerns of Mr. Kelley, Mr. Hammack, and Chairman Smith over Development Conditions #7 and #11 not being necessary, Ms. Belofsky replied that these conditions were placed in the staff report to make the applicant aware of the Zoning Ordinance requirement.

Mr. DiGiulian pointed out that Development Condition #13 was not necessary, as this would be taken care of at time of site review. Mr. DiGiulian also stated that he would also like Development Condition #8 deleted in its entirety, or reworded to say "the existing vegetation satisfies the screening requirements".

Since there were no speakers to address this application Chairman Smith closed the public hearing.

Mr. Kelley moved to grant SPA 73-D-150-2 based on the agent's testimony, and that the application satisfied the general standards for a Special Permit. Mr. Kelley modified the Development Conditions. Development Conditions #1 through #3 remain the same. Development Conditions #4, #7, #8, #11, #12 and #13 will be deleted. Development Conditions #5, #6, #9, and #10 will remain and be renumbered accordingly.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 73-D-150-2 by TRUSTEES, MCLEAN KOREAN PRESBYTERIAN CHURCH, under Section 3-303 of the Zoning Ordinance to amend S 150-73 for church and related facilities to permit change of permittee, on property located at 7144 Old Dominion Drive, Tax Map Reference 70-1((1))75, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 26, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the contract purchaser.
2. The present zoning is R-3.
3. The area of the lot is 2.56026 acres of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 8-303 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. There shall be a maximum of 294 seats in the main place of worship and a corresponding minimum of 73 parking spaces and a maximum of 133 parking spaces, including handicap spaces.
5. Any attached sign or other method of identification shall conform with the limitations delineated in Article 12 of the Zoning Ordinance.
6. The barrier requirement shall be waived.



- 7. Outdoor lighting shall be shielded, located and oriented so as to prevent light or glare from projecting onto adjacent properties. No additional lights may be installed without approval of an amendment to this Special Permit.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date\* of the Special Permit unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. DiGiulian seconded the motion.

The motion carried by a unanimous vote of 7-0.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on May 4, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 420, April 26, 1988 (Tape 2), Scheduled case of:

11:45 A.M. EDWARD R. & GRACE V. VAUGHN, VC 88-M-014, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed lot 1-A-2 having width of 12 feet (100 foot min. lot width required by Sect. 3-206), located at 4008 Downing Street, on approximately 1.324 acres of land, zoned R-2, Mason District, Tax Map 61-3((2))1A.

Jane Kelsey, Chief, Special Permit and Variance Branch, stated that staff received a letter from Francis J. Lynch indicating that a change in ownership of the application property had taken place. Mr. Lynch indicated that he did not want to go forward with the variance application. Ms. Kelsey indicated that staff advised the applicant to submit a letter to withdraw the variance application, but as of yet has not received this correspondence.

Mr. Smith stated that in addition to this, the notices were not in order and the hearing of the variance could not go forward.

Mrs. Day moved to grant the deferral of VC 88-M-014 to June 2, 1988 at 10:30 a.m. Mr. DiGiulian seconded the motion which passed by a vote of 6-0 with Mr. Kelley not present for the vote.

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Page 420, April 26, 1988 (Tape 2), Scheduled case of:

12:00 NOON ROBERT D. LAPIDUS, VC 88-D-016, application under Sect. 18-401 of the Zoning Ordinance to allow addition to existing garage to 4.0 feet from side lot line (12 foot min. side yard required by Sect. 3-107), located at 12152 Holly Knoll Circle, on approximately 25,202 square feet of land, zoned R-1(C), Dranesville District, Tax Map 6-1((7))19.

Jane Kelsey, Chief, Special Permit and Variance Branch, explained that the applicant would like a one year deferral.

Chairman Smith, replied that the application would be deferred until July 26, 1988 at 9:15 a.m. and if the applicant was not ready to have his application heard at that particular date, the application would be administratively withdrawn and the applicant would have to reapply. He added that in order to reapply in less than 12 months, it would be necessary for the applicant to request a waiver of the 12 month limitation.

Hearing no objection, the Chairman so ordered.

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12:15 P.M. SOUTH RUN BAPTIST CHURCH, SP 87-S-078, application under Sect. 3-103 of the Zoning Ordinance to allow church and related facilities, located at 8708 and 8712 Selgar Drive, on approximately 10.2 acres of land, zoned R-1, Springfield District, Tax Map 89-3(3)2. (DEFERRED FROM 1/26/88. DEFERRED FROM 3/22/88 - NOTICES NOT IN ORDER)

Jane C. Kelsey, Chief, Special Permit and Variance Branch, presented the staff report and advised the Board that this was deferred for a full public hearing. Since the deferral, the applicant had submitted new plans. Ms. Kelsey explained to the Board that previously there were several outstanding issues that were outlined in the Addendum to the original staff report and some of the issues have been satisfactorily addressed. Staff is concerned about the following:

- o The buildings which were proposed to be built in the EQC and the buildings have been removed from the EQC, so that issue has been sufficiently resolved.
- o The driveway has not been redesigned and at some later time will need to be redesigned. This will impact the EQC, that issue is unresolved.
- o The lack of adequate transitional screening along the western and northern lot lines, which has not been satisfactorily resolved.
- o The preservation of some existing quality vegetation that is on the site.

Ms. Kelsey stated that there were two major unresolved issues. They were as follows:

- o The concentration of the 48,594 square feet of building in just one corner of the site, which encompasses a little bit more than a one-fourth of the site, without what staff felt would be adequate transitional screening along the north and western lot lines.
- o Transportation: The new plats that were received April 8 and were distributed to various agencies. The comments from those agencies indicate that the correct amount of dedication has been proposed along Hoopes Road, however, the provision of the 90 degree intersection has not been provided, nor the "T" intersection for the church drive as it accesses into Selgar Drive.

Ms. Kelsey added that the applicant has satisfactorily addressed some of the issues, which were originally raised in the staff report, however, the applicant has not resolved what staff believes to be major considerations. Therefore, staff continues to recommend denial. As the Board has requested, even though staff is recommending denial, Development Conditions are included in the Addendum. However, even with the incorporation of the Development Conditions, staff still cannot support this application.

Mike Mahaffee, Director of Planning and Landscape Architecture, Greenhorne and O'Mara, Inc., 11211 Waples Mill Road, Fairfax, Virginia, agent for the applicant, appeared before the Board and addressed the justification for the Special Permit. Mr. Mahaffee explained to the Board that the applicant has been working on this application for over a year and has had meetings with the various agencies of the County regarding the unresolved issues. Mr. Mahaffee recognized the fact that the site does contain EQC and that the applicant has worked diligently to preserve it. Mr. Mahaffee explained that the applicant is concerned about the request for transitional screening. He explained that staff was asking for 50 feet along the west and to the north, and the Zoning Ordinance requires 25 foot of screening and the applicant does not feel that he should agree to this. He further advised the Board that in addition, a 200 foot separation has been given to the Board of Supervisors by the adjacent owner and the applicant finds that putting additional transitional screening on his property adjacent to that 200 feet is somewhat redundant along the northern property line.

In response to Mr. Hammack's question, Mr. Mahaffee stated that he had read the proposed Development Conditions in the Addendum dated April 19, 1988 and that the applicant has written his own Development Conditions. Mr. Mahaffee went through the entire set of Development Conditions that the applicant wrote dated March 22, 1988.

- o Item #1 is the same.
- o Item #2 is the same, but the applicant is asking for all four phases.
- o Items #3 and #4 are the same.
- o Item #5 has been modified to read Phases 1-4 and shows the ultimate seating capacity to be 600 seats.
- o Item #6 has been modified to read Phases 1-4 and the parking to be a minimum of 150 spaces, and to extend the parking to 252 if the vacation of the land to the north occurs.

- o Item #7 to be modified to read 25 foot transitional screening next to Mr. Segas' property only and not the 35 feet staff required.
- o Item #8 is the same as staff's except staff has asked for the trail easement, which the applicant feels to be redundant and the applicant's proposed conditions does not include this. Mr. Mahaffee stated that the applicant would use the wording open space easement that staff used on Item #8 instead of conservation easement as the applicant uses. Also, that the wording of "...this easement shall be determined at the time of site plan review" be removed.
- o Item #9 from staff's conditions will be deleted.
- o Item #10, which is applicant's item #9 states that once phase four is constructed then the applicant would be required to provide a regional stormwater management pond in the place located on the site in the EQC and that the maintenance, since it would be in fact be serving as a regional pond, would be maintained by the county, and not the applicant. Item #10 conforms to staff's condition #12, having deleted staff's condition #11. Item #10 has been redesigned that if in the event of the vacation of Selgar Drive the applicant would provide transitional screening along Mr. Segas' property line, and would also extend the barrier to cover that.
- o Item #11 conforms with staff's condition #13 verbatim.
- o Item #12 conforms with staff's condition #14 verbatim.
- o Item #13 conforms with staff's condition #15 verbatim.
- o Item #14 conforms with staff's condition #17 verbatim, condition #16 was deleted.

In answer to Mr. Hammack's question, Mr. Mahaffee stated that condition #16 requests a dedication for a road and that the issue has come up as to why the need for the road. The applicant wants to widen the entrance to 36 feet. Also, the applicant has been trying to salvage some of the vegetation, wanted to preserve the character of the area, to preserve the value of the property for the church and at the same time trying to preserve the commitments to Mr. Segas, to preserve his privacy. Thereby, the applicant feels that he has provided a private road that provides the functions that a public road would without the intrusion into the site, EQC, or diminishing Mr. Segas' privacy.

Karl Segas, 8716 Selgar Drive, Springfield, Virginia, appeared before the Board and explained that he did not intend to develop his property lot 4, now or in the future. Mr. Segas' main concern is for the safety, security and the privacy of his family. Mr. Segas is in support of the applicant's application as presented specifically, reinforcing the main issues which the applicant addressed.

In answer to Mr. DiGiulian's question, Mr. Segas stated that there is a public stub road to access if his property is developed.

Ms. Kelsey stated that the Office of Transportation is recommending two accesses to provide for the residential property on the other side of Mr. Segas' property. This could not be achieved unless the church provides a stub street up to the lot line of Mr. Segas' property so that if and when Mr. Segas' property develops the road would connect on both sides.

Mr. Mahaffee submitted a transparency which shows what Selgar Road would look like if it was brought up to state standards and he stated that it shows that it would have a significant impact to the EQC, as well as the site.

Since there were no additional speakers to address this application Chairman Smith closed the public hearing.

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The Board recessed at 12:56 p.m. and reconvened at 1:10 p.m.

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Mr. Hammack moved to grant SP 87-S-078 based on the applicant's testimony and that the application meets the standards for Special Permits, with the Development Conditions contained in Appendix 1 of the Addendum to the staff report dated April 19, 1988 with the following modifications:

- o Development Condition #1 would remain the same.

- o Development Condition #2 would be modified to read as follows: "This approval is granted for the Phases 1 through 4 buildings only with associated parking. Any additional structures of any kind, changes in use, additional uses, or changes in plans approved by this Board other than minor engineering details, whether or not these additional uses require a Special Permit shall require approval by this Board and shall be the duty of the permittee to apply to this Board for such approval. Any changes other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of the Special Permit."
- o Development Conditions #3 and #4 remain the same.
- o Development Condition #5 will be modified to read as follows: "The maximum seating capacity in Phases 1 through 4 shall be limited to 600 seats."
- o Development Condition #6 would be modified to read as follows: "The number of parking spaces provided shall satisfy the minimum requirement set forth in Article 11, and shall be a minimum of 250 for the 4 Phases and a minimum of 150 for the initial phase. All parking shall be on site."
- o Development Condition #7 will be left the same except change Transitional Screening 2 to Transitional Screening 1 in both locations.
- o Development Condition #8 would be modified to read as follows: "Pursuant to the Virginia Code Section of 10-152, the applicant shall at the time of site plan approval, record among the land records of Fairfax County, an Open Space Easement to the Board of Supervisors. The easement shall include that land which is defined by the Comprehensive Plan as Environmental Quality Corridor (EQC). The exact location of the boundary shall be determined at the time of site review by the Office of Comprehensive Planning in coordination with the Department of Environmental Management. There shall be no clearing of any vegetation in this area, except for dead or dying trees or shrubs and no grading with the exception of the improvements necessary for the road, and the storm water detention area and sanitary sewer lines if the EQC is the only feasible area where these lines can be placed. Proposed grading for these facilities shall be minimized and shall be approved by the Office of Comprehensive Planning and coordination with the Department of Environmental Management. There shall be no structures located in the EQC area except for those mentioned in this condition."
- o Development Condition #9 will be deleted.
- o Development Condition #10 will be renumbered and read as follows: "The stormwater management facility shall be in the location shown on the plat in the area designated as Phase 4. It shall be constructed as determined by the Department of Public Works and Environmental Management and maintained by the County and the applicant shall allow access and inspection by the appropriate County agencies. It shall be in the location shown on the plat and shall be a facility which will accommodate all uncontrolled upstream drainage."
- o Development Conditions #11, #12, #13, #14 and #15 will remain the same and be renumbered.
- o Development Condition #16 will be deleted in its entirety.
- o Development Condition #17 will remain the same and be renumbered.
- o Development Condition #18 will be renumbered and modified as follows: "A new plat shall be submitted to staff for review and to the Board of Zoning Appeals for final approval which plat shall include the following: The design of the intersection and Selgar Drive in accordance with Condition 15 (as renumbered); The Transitional Screening in accordance with Condition 7; and The barrier in accordance with Condition 12 (renumbered)."

The remainder of the language in the standard form remains the same.

Ms. Kelsey requested a clarification of Development Condition #10.

Mr. Hammack amended Development Condition #10 (9) to read as follows: "The stormwater management facility shall be in the location shown on the plat in the area designated as Phase 4. It shall be constructed as determined by the Department of Public Works and Environmental Management and maintained by the applicant and the applicant shall allow access and inspection by the appropriate County agencies. If the Regional Stormwater Management Facility is constructed it shall be in the location shown on the plat and shall be a facility which will accommodate all uncontrolled upstream drainage. The Regional Stormwater Management Facility shall be maintained by the County."

Mr. Mahaffee requested clarification as to the parking condition. It was stated in one of the conditions that the applicant has to provide Transitional Screening on the north side of the property as well as the western side. The applicant will have a problem of achieving 250 spaces due to this condition.

Mr. Hammack amended Development Condition #7 to read as follows: "Transitional Screening 1 shall be provided along the western property lines. The existing vegetation may be used to satisfy this requirement if the vegetation is supplemented to be equivalent to Transitional Screening 1 to the satisfaction of the County Arborist. The existing Environmental Quality Corridor to the east and south of the buildings shall be considered sufficient to satisfy the transitional screening requirements along those lot lines provided it is left undisturbed in accordance with the following condition. Transitional Screening 1 along the northern lot line shall be waived."

Mrs. Day seconded the amended changes.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-S-078 by SOUTH RUN BAPTIST CHURCH, under Section 3-103 of the Zoning Ordinance to allow church and related facilities, on property located at 8708 and 8712 Selgar Drive, Tax Map Reference 89-3(3)2, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 26, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 10.2 acres of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-303 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the Phases 1 through 4 buildings only with associated parking. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The maximum seating capacity in Phases 1 through 4 shall be limited to 600 seats.
6. The number of parking spaces provided shall satisfy the minimum requirement set forth in Article 11, and shall be a minimum of 250 for the 4 Phases and a minimum of 150 for the initial phase. All parking shall be on site.

7. Transitional Screening 1 shall be provided along the western property lines. The existing vegetation may be used to satisfy this requirement if the vegetation is supplemented to be equivalent to Transitional Screening 1 to the satisfaction of the County Arborist. The existing Environmental Quality Corridor to the east and south of the buildings shall be considered sufficient to satisfy the transitional screening requirements along those lot lines provided it is left undisturbed in accordance with the following condition. Transitional Screening 1 along the northern lot line shall be waived.
8. Pursuant to the Virginia Code Sect. 10-152, the applicant shall at the time of site plan approval, record among the land records of Fairfax County, an Open Space Easement to the Board of Supervisors. The easement shall include that land which is defined by the Comprehensive Plan as Environmental Quality Corridor (EQC). The exact location of the boundary shall be determined at the time of site review by the Office of Comprehensive Planning in coordination with the Department of Environmental Management. There shall be no clearing of any vegetation in this area, except for dead or dying trees or shrubs and no grading with the exception of the improvements necessary for the road, and the storm water detention area and sanitary sewer lines if the EQC is the only feasible area where these lines can be placed. Proposed grading for this facilities shall be approved by the Office of Comprehensive Planning in coordination with the Department of Environmental Management. There shall be no structures located in the EQC area except for those mentioned in this condition.
9. The stormwater management facility shall be in the location shown on the plat in the area designated as Phase 4. It shall be constructed as determined by the Department of Public Works and Department of Environmental Management and maintained by the applicant and the applicant shall allow access and inspection by the appropriate County agencies. If a Regional Stormwater Management Facility is constructed it shall be in the location shown on the plat and shall be a facility which will accommodate all uncontrolled upstream drainage. The Regional Stormwater Management Facility shall be maintained by the County.
10. Any paving which exists on site which is not used in the approved road access and is within the EQC should be removed and the area reconfigured to match the existing contours and reclaimed through the planting of native vegetation.
11. The barrier requirement shall be fulfilled along the western lot line with a six (6) foot board on board fence interior to the transitional screening yard. It shall parallel the western property line beginning at the northern property line and ending at the private drive known as Selgar Drive. The barrier requirement shall be waived in all other areas.
12. Interior parking lot landscaping shall be provided in accordance with provisions of Sect. 13-106 of the Ordinance.
13. The limits of clearing and grading shall be the delineation of the limits of the Environmental Quality Corridor as defined in Condition 8 above. However, minor alterations shall be permitted to accommodate engineering or other code required changes, and as outlined in Condition 8 above.
14. Right-of-way to 35 feet from centerline of Hooes Road necessary for road improvement shall be dedicated for public street purposes and shall convey to the Board of Supervisors. Ancillary temporary access easements shall be provided to facilitate these improvements.
15. Any proposed lighting of the parking areas shall be in accordance with the following:
  - o The combined height of the light standards and fixtures shall not exceed twelve (12) feet.
  - o The lights shall be a low-intensity design which focuses the light directly onto the subject property.
  - o Shields shall be installed, if necessary, to prevent the light from projecting beyond the facility.
16. A new plat shall be submitted to staff for review and to the Board of Zoning Appeals for final approval, which plat shall include the following:
  - o The design of the intersection and Selgar Drive in accordance with Condition 14;

- o The Transitional Screening in accordance with Condition 7;
- o The barrier in accordance with Condition 11.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date\* the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mrs. Day seconded the motion.

The motion carried by a vote of 6-0 with Mrs. Thonen not present for the vote.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on May 4, 1988. This date shall be deemed to be the final approval date of this special permit.

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12:45 P.M. MOHAMAD ALI ROUHANI, VC 88-S-021, application under Sect. 18-401 of the Zoning Ordinance to allow construction of a dwelling on the edge of floodplain (15 ft. min. yard requirement by Sect. 2-415) located at 6419 Spring Lake Drive, on approximately 30,985 square feet of land, zoned R-2, Springfield District, Tax Map 88-1((15))1. (OTH GRANTED 2/9/88 - DEFERRED FROM 4/12/88 TO AWAIT COURT ORDER)

Chairman Smith announced the application and noted that the Board deferred this application earlier in the meeting to May 24, 1988 at 11:30 a.m.

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Request for Additional Time  
David Buckis  
SP 86-C-021

Jack Conners, 11350 Random Hills Road, Fairfax, Virginia, attorney for the applicant, stated that the staff report is accurate in that the Department of Transportation, Department of Environmental Management, and the County Government in general, does not know exactly what to do with West Ox Road at the present time. Mr. Conners submitted a package of documents to the Board and staff. This document contained four items that needed to be completed in order to get final approval of the Special Permit. One is the extension of the Special Permit by the BZA. Second, is posting of various bonds and paying various fees. Third, is a stormwater detention waiver, which was granted in March of 1987 and expired on March 17, 1988. Lastly, but most important, is the site plan waiver which has been delayed because of the confusion regarding West Ox Road. The site plan waiver was granted by letter of March 24.

Mr. Hammack moved to grant the request of David Buckis, SP 86-C-021, an additional 6 months in order to legally establish the use. The new expiration is July 1, 1988. Mr. Ribble seconded the motion which passed by a vote of 5-1 with Mrs. Day voting nay and Mrs. Thonen not present for the vote.


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Chairman Smith noted that he had a request from two members of the Board that a special night meeting be considered for the Church of Jesus Christ Latter Day Saints.

Ms. Kelsey stated that the application is due to be heard on June 28, 1988. Discussion ensued between the Board and staff about the date the Church of Jesus Christ Latter Day Saints. It was decided that staff would check on a date and get back to the Board.

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Mr. Hammack moved to adjourn with Mr. DiGiulian seconding the motion. Chairman Smith noted for the records that the Board adjourned at 1:35 p.m. without lunch.

  
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Tamara S. Gentry, Associate Clerk  
Board of Zoning Appeals

  
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Daniel Smith, Chairman  
Board of Zoning Appeals

SUBMITTED: 7/7/88

APPROVED: 7/12/88



428

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Hassey Building on Tuesday, May 3, 1988. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack; Robert Kelley; and Mary Thonen. John Ribbie was absent from the meeting.

Chairman Smith opened the meeting at 8:08 P.M. and Mrs. Day led the prayer.

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Page 428, May 3, 1988, (Tape 1), Scheduled case of:

8:00 P.M. THE COURTS HOMEOWNERS ASSOCIATION, INC., SPA 85-D-060-1, application under Sect. 3-E03 of the Zoning Ordinance to amend SP 85-D-060 for community tennis courts to permit reduction to applicable land area and relocation of tennis courts, gazebo and parking lot, located at 1209 Nye Road, on approximately 6.82 acres of land, zoned R-E(C), Dranesville District, Tax Map 19-4((21))A

Jane Kelsey, Chief of the Special Permit and Variance Branch, explained the ads in this case and the 9:00 p.m. case had been switched in the newspaper legal advertisement. The Board passed over this case until 9:00 p.m. in order to avoid any confusion on the part of citizens who might wish to attend the public hearing.

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Page 428, May 3, 1988, (Tape 1), After Agenda Item:

Request for Additional Time  
George Summers, VC 86-D-061

Mrs. Thonen made a motion to grant the applicant in VC 86-D-061 an additional two years to commence construction. Mr. DiGiulian seconded the motion which carried by a vote of 5-0 with Mr. Hammack not present for the vote; Mr. Ribbie absent from the meeting. The new expiration date is April 14, 1990.

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Page 428, May 3, 1988, (Tape 1), After Agenda Item:

Approval of April 26, 1988 Resolutions

Mrs. Thonen moved to approve the Resolutions from April 26, 1988 as submitted.

Mr. Kelley pointed out that Mr. Hammack, who was the maker of the motion on South Run Baptist Church, had stated he wished to review the Resolution prior to its approval due to the number of revisions to the development conditions.

Mrs. Thonen then amended her motion to approve the Resolutions from April 26, 1988 as submitted excluding South Run Baptist Church.

Mr. Kelley seconded the amended motion which carried by a vote of 5-0 with Mr. Hammack not present for the vote and Mr. Ribbie absent from the meeting.

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Page 428, May 3, 1988, (Tape 1), Information Item:

Church of Jesus Christ of Latter-Day Saints  
Annandale Virginia Stake, SP 88-S-031

Jane Kelsey, Chief of the Special Permit and Variance Branch, passed out a list of suggested dates for a special evening meeting for the above referenced case to the Board. She added the applicant would not agreed to extending the case past the 90 day time period.

As this special meeting had been suggested by the Board of Supervisors and at the request of the citizens, the Board requested Ms. Kelsey apprise the Board of Supervisors of the difficulty staff is having in obtaining a meeting place as the Board Room is unavailable.

The Board passed over this item until the end of the agenda.

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Floodplain Study

Due to the number of cases that have been before the Board with questions regarding floodplain area, Mrs. Thonen stated she would like the Zoning Administrator to review the provisions of the Zoning Ordinance that reference floodplain areas.

Mr. DiGiulian seconded the motion which carried by a vote of 4-0-1 with Chairman Smith voting nay; Mr. Hammack abstaining; Mr. Ribble absent from the meeting.

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Page 429, May 3, 1988, (Tape 1), Scheduled case of:

8:15 P.M. JOSEPH DZURA, VC 88-S-020, application under Sect. 18-401 of the Zoning Ordinance to allow construction of additions to dwelling to 4.1 ft. from side lot line (8 ft. min side yard required by Sect. 3-307) located at 9322 Kite Street, on approximately 8,454 square feet of land, zoned R-3(C), Springfield District, Tax Map 78-2((11))154

Kathy Reilly, Staff Coordinator, presented the case and recommended deletion of development condition number 4.

The applicant, Joseph Dzura, 9322 Kite Street, Burke, Virginia, came forward and explained that this request would allow him to construct a garage which would house two vehicles. He stated his property has the least amount of street frontage than other lots on his street and the homeowners association has no objections to this request.

There were no speakers to address this request, therefore Chairman Smith closed the public hearing.

Mr. Hammack made a motion to deny VC 88-S-020 as he could not support the size of the additions and because he did not believe that the applicant had satisfied the standards for a Variance.

Chairman Smith seconded the motion for purposes of discussion and called for the vote. The motion to deny failed by a vote of 2-4 with Chairman Smith and Mr. Hammack voting aye; Mrs. Day, Mrs. Thonen and Messrs. DiGiulian and Kelley voting nay.

Mr. DiGiulian then made a motion to grant VC 88-S-020 as he believed the applicant had satisfied the standards for a Variance, the property has the least amount of street frontage as compared to other properties on the street, the impact of the proposed additions is lessened by the walkway between the applicant's lot and the contiguous property owner, and this is the only feasible location an addition can be constructed. He made the approval subject to the revised development conditions contained in the staff report.

Mrs. Day seconded the motion which carried by a vote of 4-2 with Chairman Smith and Mr. Hammack voting nay.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-S-020 by JOSEPH DZURA, under Section 18-401 of the Zoning Ordinance to allow construction of additions to dwelling to 4.1 feet from side lot line, on property located at 9322 Kite Street, Tax Map Reference 78-2((11))154, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 3, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-3(C).
3. The area of the lot is 8,454 square feet of land.
4. The property has the least amount of street frontage as compared to other properties on the street.
5. The impact of the proposed additions is lessened by the walkway between the applicant's lot and the contiguous property owner.
6. This is the only feasible location that an addition can be constructed.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property had an exceptional shape at the time of the effective date of the Ordinance.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific additions shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.
4. The materials used to finish the additions shall be compatible with the principal dwelling unit.

Mrs. Day seconded the motion which carried by a vote of 4-2 with Chairman Smith and Mr. Hammack voting nay; Mr. Ribble absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on May 11, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 430, May 3, 1988, (Tape 1), Scheduled case of:

8:30 P.M. J. T. DEEVER, VC 88-C-023, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage and living space addition to dwelling to 9.1 ft. from side lot line (15 ft. min. side yard required by Sect. 3-207) located at 13509 Floris Street, on approximately 21,807 square feet of land, zoned R-2, Centreville District, Tax Map 25-1((2))10

As the notices were not in order for this case, staff suggested this case be deferred until June 14, 1988 at 9:15 a.m. in order for the applicant to meet the notification requirements as stipulated in the Zoning Ordinance. Hearing no objection, the Board so moved. Messrs. DiGiulian and Kelley were not present for the vote.

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Church of Jesus Christ of Latter-Day Saints  
Annandale Virginia Stake, SP 88-S-031

As there was time before the next scheduled case, the Board again discussed SP 88-S-031. Jane Kelsey, Chief, Special Permit and Variance Branch, polled the Board members present to determine an agreeable date to schedule the special meeting. The Board agreed on June 15, June 29, or July 16 as possible dates and requested staff to determine what schools might be available on those nights.

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Page 431, May 3, 1988, (Tape 1), Scheduled case of:

8:45 P.M. LARISSA STEINER, VC 88-P-022, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 9.9 ft. from side lot line (12 ft. min. side yard required by Sect. 3-307) located at 3407 Gallows Road, on approximately 12,563 square feet of land, zoned R-3, Providence District, Tax Map 59-2((8))(2)4

Kathy Reilly, Staff Coordinator, presented the staff report.

Larissa Steiner, 3407 Gallows Road, Falls Church, Virginia, the applicant, told the Board her house is very small and this request would allow her to extend the existing bedroom and provide another bathroom.

In response to an earlier question from Mrs. Day, Ms. Steiner stated that the new bathroom would be located adjacent to the existing bathroom.

As there were no speakers to address this application, Chairman Smith closed the public hearing.

Mrs. Thonen made a motion to grant VC 88-P-022 as she believed the applicant had satisfied the standards for a Variance, the lot is only 70 feet wide which makes it exceptionally narrow, this request is a minimal Variance of only 2.1 feet, and the request will not change the character of the neighborhood. The approval was subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-P-022 by LARISSA STEINER, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 9.9 feet from side lot line, on property located at 3407 Gallows Road, Tax Map Reference 59-2((8))(2)4, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 3, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 12,563 square feet of land.
4. The lot is only 70 feet wide which makes it exceptionally narrow.
5. This request is a minimal Variance of only 2.1 feet.
6. The request will not change the character of the neighborhood.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;
  - F. An extraordinary situation or condition of the subject property, or
  - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.

3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.
4. The materials used to finish this addition shall be compatible with the principal dwelling unit. The applicant shall replace any vegetation removed from the side yard due to the construction of the proposed addition. The size, type, and amount of new vegetation shall be determined by the applicant and approved by County Arborist.

Mr. DiGiulian seconded the motion which carried by a vote of 6-0 with Mr. Ribble absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on May 11, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 432, May 3, 1988, (Tape 1 and 2), Scheduled case of:

8:00 P.M. THE COURTS HOMEOWNERS ASSOCIATION, INC., SPA 85-D-060-1, application under Sect. 3-E03 of the Zoning Ordinance to amend SP 85-D-060 for community tennis courts to permit reduction to applicable land area and relocation of tennis courts, gazebo and parking lot, located at 1209 Nya Road, on approximately 6.82 acres of land, zoned R-E(C), Dranesville District, Tax Map 19-4((21))A

Kathy Reilly, Staff Coordinator, presented the staff report. She stated it is staff's opinion that if the development conditions are implemented the use will not adversely affect the surrounding area. She added that if the recommended screening is installed in the 25 foot area between the easements, the use would be screened from view of the adjacent properties. Staff therefore recommends approval of this application.

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Mr. Hammack questioned staff as to why the tennis courts were relocated. Ms. Reilly explained that the applicant contends that the area for the tennis courts was changed because of soil instability problems. She added the Department of Environmental Management (DEM) could not allow the relocation of the parking lot administratively.

Linda McGavin, 1443 Emerson Avenue, McLean, Virginia, attorney for the applicant, came forward and stated that the homeowners association is the owner of the common area and it is maintained by the property owners. She explained that, according to DEM, soil instability does not mean the soil will not support the tennis courts. She added the tennis courts are angled slightly differently but are in the same approximate place, and the parking lot has been relocated out of the storm drainage easement.

She stated the tennis courts were approved in January 1986 with development conditions which are a part of this application. The homeowners have met all the conditions and have gone beyond that by providing both a chain link and wooden fence, agreeing to limits of grading/clearing, working with the County Arborist and providing additional plantings, leaving a 85 foot buffer as opposed to the required 65 foot buffer, six parking spaces, no employees, and there are no lights.

In response to questions from the Board, Ms. McGavin explained the application stated a reduction in land area because at the time the application was filed in 1985 there was no subdivision and the entire 38 acres was the subject of the application. Since that time the subdivision has taken place, therefore only the 6.82 acres of common area is the subject of the application. She added that since that time the County has been granted the easements as shown on the plat and these did require the removal of some of the trees.

Mrs. Thonen asked the speaker if she had read the letters in opposition to this request. Mrs. McGavin stated she had only received one. Jane Kelsey, Chief, Special Permit and Variance, explained these were given to staff at the beginning with the public hearing.

Chairman Smith called for speakers in support of the request and hearing no reply called for speakers in opposition to the request. The following came forward: Mary Caffey Strailman, 8614 Brook Road, McLean, Virginia, President of the Woodside Citizens Association; Roy V. Palmer, 1246 Daleview Drive, McLean, Virginia; Harry Cahill 1240 Daleview Drive, McLean, Virginia; Marilyn Strailman, 1232 Daleview Drive, McLean, Virginia; and Angelica Cahill, 1240 Daleview Drive, McLean, Virginia.

The citizens stated that they opposed the request because the major portion of the treed area has been removed and there is no buffering between their houses and the tennis courts, which they believe is being located right in their back yards, and asked that the parking lot be relocated.

In response to questions from the Board, Ms. Kelsey stated staff did not discuss the soil instability with DEM during the processing of this application. The issue was discussed with the Environmental Branch of the Office of Comprehensive Planning and that office advised that this is the best location for the tennis courts.

The Board members stated they would like a written response from DEM as to why this is the only location for the tennis courts as they were concerned with the transitional screening requirement because of the number of trees that have been removed.

During rebuttal, Mrs. McGavin argued that the tennis courts are not proposed to be located any closer to the houses than before. She stated Steve Reynolds, DEM, who originally reviewed the site plan indicated that the tennis courts had to be relocated due to the soil instability. He then told them the relocation could not be approved because DEM did not find soil instability. The applicant's engineer is now working with Michelle Brickner of DEM. She stated that additional plantings will be provided and the tennis courts cannot be placed in a location where there are easements.

Mrs. Thonen stated she would like to defer action on this case and asked Mr. Hammack to make a site visit to determine if the trees have been removed.

Mr. Hammack made a motion to defer decision to allow DEM to prepare a written response to the following questions.

1. Have the trees been removed from the area where the proposed tennis courts will be sited? And, if so, did the applicant have DEM's permission to remove them?

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2. Is the applicant in violation of development condition #8 in SP 85-D-060 which states: "Limits of clearing shall be shown and committed to at the time of site plan approval. Transitional Screening 1 shall be provided by leaving natural vegetation undisturbed and by supplementing with evergreen plantings if the Director, DEM determines additional screening is necessary. The barrier requirement shall be waived."
3. Does the existing tree line that is shown on the plat between the tennis courts and Woodside Estates subdivision still exist? If not, what is the distance of the clearing line?
4. Can the tennis courts be moved back closer to the original location near the storm drainage easement?
5. Did DEM tell the applicant that the tennis courts could be located only as is shown on the submitted plat?
6. The BZA would also like a written report from DEM on this case.

Hearing no objection, the Chair so ordered to defer this application to May 17, 1988 at 11:15 A.M.

Ms. Kelsey stated the applicant's attorney has requested this case be deferred to July because she is pregnant and the baby is due in May. Staff suggested a deferral date and time of July 12, 1988 at 8:30 P.M. for decision only.

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Page 434, May 3, 1988, (Tape 2), Scheduled case of:

9:00 P.M. CYNTHIA FRONDA, SP 88-A-012, application under Sect. 3-103 of the Zoning Ordinance to allow accessory dwelling unit, located at 4031 Taylor Drive, on approximately 22,926 square feet of land, zoned R-1, Annandale District, Tax Map 58-4((3))17

Jane Kelsey, Chief, Special Permit and Variance Branch, told the Board the notices were not in order in this case.

The applicant, Cynthia Fronda, 4031 Taylor Drive, Fairfax, Virginia, came forward to address the Board. She stated she believed the notice requirement has been met because she had notified ten surrounding property owners and was told this morning the notices were not in order.

Betsy Hurtt, Deputy Clerk to the Board of Zoning Appeals, explained when the applicant brought her notices to staff she was told about one correction that needed to be made. When Ms. Fronda brought this correction to staff, Tamara Gentry, Associate Clerk, pointed out there was another property which had been overlooked. Apparently, the applicant did not understand as there was sufficient time to notify the property owner but she did not do so.

Ms. Kelsey stated that staff did understand the applicant had a hardship and suggested a date and time of June 14, 1988 at 9:30 A.M.

Hearing no objection, the Chair so moved.

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Page 434, May 3, 1988, (Tape 2), After Agenda Item:

Viguen R. and Teresa Ter-Minnassian Appeal

Mr. Hammack made a motion to accept the application as complete and timely filed and scheduled the public hearing for June 30, 1988 at 11:00 A.M.

Mrs. Thonen seconded the motion which passed by a vote of 6-0 with Mr. Ribble absent from the meeting.

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South Run Baptist Church Resolution

Mr. Hawmack made approval of the South Run Baptist Church Resolution of heard on April 26, 1988 by the Board.

Mr. DiGiulian seconded the motion which carried by a vote of 6-0 with Mr. Ribble absent from the meeting.

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As there was no other business to come before the Board, the meeting was adjourned at 10:30 P.M.

*Betsy S. Hewitt*

Betsy S. Hewitt, Deputy Clerk to the Board of Zoning Appeals

*Daniel Smith*

Daniel Smith, Chairman Board of Zoning Appeals

SUBMITTED: September 6, 1988

APPROVED: September 13, 1988



The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, May 10, 1988. The following Board Members were present: Daniel Smith, Chairman; Ann Day; Paul Hammack; Robert Kelley; John Ribble and Mary Thonen. John DiGiulian, Vice-Chairman, was absent from the meeting.

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Chairman Smith opened the meeting at 9:27 a.m. and Mrs. Day led the prayer.

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Page 436, May 10, 1988, (Tape 1), Scheduled case of:

9:00 A.M. SCARBOROUGH CORPORATION AND CROFTON COMMONS HOMEOWNERS ASSOCIATION, VC 88-S-042, application under Sect. 18-401 of the Zoning Ordinance to allow 11 ft. high fence in front yard of community swimming pool property (4 ft. maximum fence height in front yard allowed by Sect. 10-104 ) located at 14600 Flamborough Road, on approximately 2.3525 acres of land, zoned R-8 and WS, Springfield District, Tax Map 65-3((3))B. (Concurrent with SP 88-S-024 - OTH GRANTED)

9:00 A.M. SCARBOROUGH CORPORATION AND CROFTON COMMONS HOMEOWNERS ASSOCIATION, SP 88-S-024, application under Sect. 3-803 of the Zoning Ordinance for community swimming pool, located at 14600 Flamborough Road, on approximately 2.3525 acres of land, zoned R-8 and WS, Springfield District, Tax Map 65-3((3))B. (Concurrent with VC 88-S-042 - OTH GRANTED)

Before beginning her presentation, Lori Greenlief, Staff Coordinator, introduced Steve Kerr, Assistant Director of the Zoning Evaluation Division, to the Board.

Ms. Greenlief presented the staff report and explained the applicant was back before the Board today because they had let the previous special permit expire, and that staff had no concerns with this application as staff's concerns were addressed at the time of the previous approval and at the time of site plan. Therefore, staff recommended approval of this application subject to the development conditions contained in the staff report.

Chairman Smith asked staff if the proposed fence would affect the sight distance. Mrs. Greenlief replied that this had been checked out at the time of site plan and staff did not believe there would be a sight distance problem.

Stephen Fox, attorney with the law firm of Fox and Proffitt, 10385 Main Street, Suite 202, Fairfax, Virginia, represented the applicant. He stated that this application was previously approved with one change at the time of site plan which was the relocation of the dumpster. He asked the Board to grant the request and to waive the 8-day time limitation.

Mr. Hammack asked why a 11 foot fence was needed. Mr. Fox explained that the 11 foot fence in that area only compensates for the change in grade.

Mr. Ribble asked if the applicant was in agreement with the development conditions, and Mr. Fox indicated agreement.

There were no speakers to address this application, and Chairman Smith closed the public hearing.

Mr. Hammack moved to grant SP 88-S-024 as he believed that the applicant had presented testimony indicating compliance with the standards. The approval was subject to the development conditions contained in the staff report.

Mr. Ribble seconded the motion which carried by a vote of 6-0, with Mr. DiGiulian absent from the meeting.

Mr. Hammack then moved to grant VC 88-S-042 as he believed that the applicant had satisfied the standards for a variance since the lot has unusual and severe topographical conditions. The approval was subject to the development conditions contained in the staff report.

Mrs. Day and Mr. Ribble seconded the motion which carried by a vote of 6-0, with Mr. DiGiulian absent from the meeting.

Mr. Hammack made a motion to waive the 8-day time limitation. Mr. Ribble seconded the motion which carried by a vote of 6-0, with Mr. DiGiulian absent from the meeting.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-S-024 by SCARBOROUGH CORPORATION AND CROFTON COMMONS HOMEOWNERS ASSOCIATION, under Section 3-803 of the Zoning Ordinance for community swimming pool, on property located at 14600 Flamborough Road, Tax Map Reference 68-3((3))B, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 10, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-8 and WS.
3. The area of the lot is 2.3525 acres of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 8-403 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The maximum number of family memberships shall be 263.
6. The hours of operation shall be limited to 9:00 a.m. to 9:00 p.m.
7. There shall be nineteen (19) parking spaces provided.
8. Transitional Screening and other plantings shall be provided as shown on the approved special permit plat and approved by the County Arborist.
9. The barrier requirement shall be waived except for the fencing around the pool. The fencing around the pool within the two front yards shall be no higher than eleven (11) feet at its highest point.
10. After-hour parties for the swimming pool shall be governed by the following.
  - o Limited to six (6) per season.
  - o Limited to Friday, Saturday and pre-holiday evenings.
  - o Shall not extend beyond 12:00 midnight.
  - o A written request at least ten (10) days in advance and receive prior written permission from the Zoning Administrator for each individual party or activity.
  - o Requests shall be approved for only one (1) such party at a time and such requests shall be approved only after the successful conclusion of a previous after-hour party.
11. All noise shall be regulated in accordance with the provisions of Chapter 108 of the Fairfax County Code.
12. Any signs on the property shall comply with Article 12 of the Zoning Ordinance.

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13. If lighting is provided for the pools, it shall be in accordance with the following:
  - o The combined height of the light standards and fixtures shall not exceed twelve (12) feet.
  - o The lights shall be a low-intensity design which directs the light directly on the facility.
  - o Shields shall be installed, if necessary, to prevent the light from projecting beyond the pool area.
14. The following method is to ensure proper neutralization of discharged pool water shall be followed: Sufficient amounts of lime or soda ash shall be added to the acid cleaning solution to achieve a pH approximately equal to that of the receiving stream. The standard for dissolved oxygen shall be attained prior to the release of pool waters. This requires a minimum concentration of 4.0 milligrams per liter. If the water being discharged from the pool is discolored or contains a high level of suspended solids that could affect the clarity of the receiving stream, it shall be allowed to stand so that most of the solids settle out prior to being discharged. The Consumer Services Section of the Environmental Health Division of the Fairfax County Health Department shall be notified before any pool waters are discharged during drainage or cleaning operations. The Health Department will make a determination as to whether proper neutralization of these pool waters has been completed. Swimming pool discharge waters shall be handled by the BMP pond and may not be routed through the sanitary sewer system.
15. Stormwater Best Management Practices (BMP's) shall be provided as deemed necessary by the Director, DEM at the time of site plan review.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date\* of the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Ribble seconded the motion which carried by a vote of 6-0 with Mr. DiGiulian absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on May 10, 1988. This date shall be deemed to be the final approval date of this special permit.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-S-042 by SCARBOROUGH CORPORATION AND CROFTON COMMONS HOMEOWNERS ASSOCIATION, under Section 18-401 of the Zoning Ordinance to allow 11 ft. high fence in front yard of community swimming pool property, on property located at 14600 Flamborough Road, Tax Map Reference 65-3((3))B, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 10, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-8 and WS.
3. The area of the lot is 2.3525 acres of land.
4. The lot has severe topographic conditions in area of fence.

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This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;
  - F. An extraordinary situation or condition of the subject property, or
  - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific fence shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.

Mrs. Day and Mr. Ribble seconded the motion which carried by a vote of 6-0 with Mr. DiGiulian absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on May 10, 1988. This date shall be deemed to be the final approval date of this variance.

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9:15 A.M. HAL B. BEACHUM, VC 88-V-025, application under Sect. 18-401 of the Zoning Ordinance to allow construction of a detached garage, 13.5 ft. high, 5 ft. from side and rear lot lines (15 ft. min. side yard, 13.5 ft. min. rear yard required by Sects. 3-207 and 10-104), located at 9304 Forest Haven Drive, on approximately 22,124.68 square feet of land, zoned R-2, Mount Vernon District, Tax Map 110-3((4))(A)8

Lori Greenlief, Staff Coordinator, presented the staff report.

The applicant, Hal B. Beachum, 9304 Forest Haven Drive, Alexandria, Virginia, came forward and read into the record the statement of justification submitted with his application.

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In response to questions from the Board, Mr. Beachum stated that the existing garage was used to house an antique car, and the new garage would be used to house his wife's vehicle and additional living space.

As there were no speakers to address this application, Chairman Smith closed the public hearing.

Mrs. Thonen stated she did not believe this application satisfied the standards for a variance and moved to deny VC 88-V-025.

Mrs. Day supported the motion to deny and suggested that perhaps the applicant could reduce the size of the garage and file a new application.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-V-025 by HAL B. BEACHUM, under Section 18-401 of the Zoning Ordinance to allow construction of a detached garage 13.5 feet high, 5 feet from side and rear lot lines, on property located at 9304 Forest Haven Drive, Tax Map Reference 110-3((4))(A)8, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 10, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-2.
3. The area of the lot is 22,124.68 square feet of land.
4. The lot does not have an exceptional shape.
5. There are no topographic problems.

This application does not meet all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance.

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;
  - F. An extraordinary situation or condition of the subject property, or
  - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has not satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED.

Mr. Hammack seconded the motion which carried by a vote of 6-0 with Mr. DiGiulian absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on May 18, 1988.

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Page 441, May 10, 1988, (Tape 1), Scheduled case of:

9:30 A.M. MOHAMED HADID, VC 88-D-027, application under Sect. 18-401 of the Zoning Ordinance to allow construction of dwelling to height of 95 ft. (35 ft. max. building height allowed by Sect. 3-107), located at 616 Rivercrest Drive, on approximately 102,558 square feet of land, zoned R-1, Dranesville District, Tax Map 21-2((3))18R, 19R

Chairman Smith read a letter into the record which requested that the Board defer this case for approximately thirty days. Because several people were present who were interested in this application, Chairman Smith asked the applicant's representative to come forward and explain the reason for the deferral.

Kenneth Patton, 8321 Mount Vernon Highway, Alexandria, Virginia, explained that this request was generated by citizens who had expressed some concern over the applicant's request.

Mr. Hammack pointed out that Mr. Patton was not listed on the affidavit.

Mike Callison, 3510 Cassida Street, Washington, D.C., architect for the applicant, came forward.

Mrs. Thonen disagreed with a thirty day deferral due to the Board's agendas being overly crowded, but added she would agree with deferring this application until fall.

The applicant's representative agreed with a deferral until September, 1988.

Chairman Smith called for speakers to come forward who wish to address the question of the deferral.

Ralph Smith, 620 Rivercrest Drive, McLean, Virginia, agreed with deferring until September, 1988.

Mrs. Thonen moved to defer VC 88-D-027 until September 13, 1988 at 9:00 A.M. as suggested by staff. Mr. Hammack seconded the motion which carried by a vote of 6-0.

Mr. Hammack noted for the record that a letter had been received by staff noting that Tony Callibrase represents the citizens.

Mr. Patton stated that the applicant has already begun to hold meetings with the citizens.

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Page 441, May 10, 1988, (Tape 1), Scheduled case of:

9:45 A.M. POOR SISTERS OF ST. JOSEPH, INC., SPA 80-M-078-2, application under Sect. 3-303 of the Zoning Ordinance to amend SP 80-M-078 for a child care center to permit building addition, play area addition, and increase in children from 59 to 99, located at 4319 Sano Street, on approximately 4.62 acres of land, zoned R-3, Mason District, Tax Map 72-2((1))20. (OTH GRANTED)

Lori Greenlief, Staff Coordinator, presented the staff report. She stated the applicant is requesting an amendment to an existing special permit in order to construct a building addition for a child care center, increase the size of the play area, and increase the number of children from 59 to 99. Mrs. Greenlief noted that on July 2, 1986, the Board approved an identical application which expired in January, 1988 because the applicant failed to commence construction or request additional time. She

stated that the only outstanding issue is the relocation of the entrance into the site and staff is suggesting shifting the driveway more to the south. In closing, Mrs. Greenliel stated that staff recommended approval of SPA 80-M-078-2 subject to the development conditions contained in the staff report.

Jim McCormick, LBA Limited, 4085 University Drive, Fairfax, Virginia, engineer for the applicant came forward to address the driveway question and stated that VDOT accepted the driveway in its present location. He added that an area for additional right-of-way would be reserved but no dedication at this time, and staff has agreed.

Mrs. Greenliel acknowledged agreement with Mr. McCormick's comments.

Following a discussion between staff and the Board, Mrs. Greenliel explained that staff is suggesting moving the driveway as south as possible.

There were no speakers present to address this application, therefore Chairman Smith closed the public hearing.

Mrs. Day stated this an amendment to an application approved by the Board in 1986 and there have been no changes since the original approval. Therefore, she moved to grant SPA 80-M-078-2 subject to the development conditions with the following modification to #8: "The proposed driveway shall be constructed to meet conditions of DEM and VDOT."

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 80-M-078-2 by POOR SISTERS OF ST. JOSEPH, INC., under Section 3-303 of the Zoning Ordinance to amend SP 80-M-078 for a child care center to permit building addition, play area addition and increase in children from 59 to 99, on property located at 4319 Sano Street, Tax Map Reference 72-2(1)20, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 10, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 4.62 acres of land.
4. The same application was previously approved by the BZA.
5. The employees live on the property.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-303 and 8-305 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

4. This use shall be subject to the provisions set forth in Article 17, Site Plans. Any plan submitted to the Department of Environmental Management (DEM) pursuant to this Special Permit shall conform with the approved Special Permit plat and these conditions.
5. Transitional screening shall be modified to that which is shown on the approved special permit plat. The barrier requirement shall be waived.
6. Additional right-of-way shall be provided for the realignment of Sano Street and Berlee Drive as determined by the Director, Department of Environmental Management (DEM) at the time of site plan review.
7. Curb and gutter construction shall be provided along Sano Street from the existing southern entrance to the southern lot line to the satisfaction of DEM.
8. The proposed driveway shall be constructed to meet conditions of DEM and VDOT.
9. The total daily enrollment for the child care center shall not exceed 99 children.
10. The hours of operation shall be limited to 7:00 a.m to 6:00 p.m.
11. The additional playground area shall be fenced in accordance with the Fairfax County Health Department standards.
12. The driveway shall be appropriately marked with "One-Way" and "Do Not Enter" signs as approved by DEM.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date\* of the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mrs. Thonen seconded the motion which carried by a vote of 6-0 with Mr. DiGiulian absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on May 18, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 443, May 10, 1988, (Tape 1), Scheduled case of:

10:00 A.M. MARY JANE DeSTEFANO, VC 88-A-046, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 10.65 feet from rear lot line (25 ft. minimum rear yard required by Sect. 3-307) located at 10703 Paynes Church Drive, on approximately 11,628 square feet of land, zoned R-3(C), Annandale District, Tax Map 68-3((14))3. (OTH GRANTED)

Heidi Belofsky, Staff Coordinator, presented the staff report.

The applicant, Mary Jane DeStefano, 10703 Paynes Church, Fairfax, Virginia, outlined her justification by stating that this addition would provide additional living space.

In response to questions from the Board, Ms. Belofsky replied that a variance would still be needed for one corner even if the applicant were to reduce the size of the addition.

As there were no speakers or additional comments, Chairman Smith closed the public hearing.

Mr. Ribble moved to grant VC 88-A-046 as he believed that the applicant had satisfied the standards for a variance, and that because it is an unusual pie shaped pipestem lot. The approval was subject to the development conditions contained in the staff report.



Before the vote was taken, Mrs. Thonen asked staff for a clarification regarding the setback from the Environmental Quality Corridor (EQC). Ms. Belofsky stated an applicant can construct right up to the EQC line, since it was not a floodplain.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-A-046 by MARY JANE DeSTEFANO, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 10.65 feet from rear lot line, on property located at 10703 Paynes Church Drive, Tax Map Reference 68-3((14))3, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 10, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the co-owner of the land.
2. The present zoning is R-3(C).
3. The area of the lot is 11,628 square feet of land.
4. The lot is a pipestem which has an exceptional configuration as it is pie shaped.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;
  - F. An extraordinary situation or condition of the subject property, or
  - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction for the approved addition.
4. The exterior of the building addition, including the roof, shall be architecturally compatible with the existing dwelling and shall be similar in style, color, and materials, utilizing mixed red brick and white aluminum siding.

Mrs. Day seconded the motion which carried by a vote of 5-1 with Chairman Smith voting nay; Mr. DiGiulian absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on May 18, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 445, May 10, 1988, (Tape 2), Scheduled case of:

10:15 A.M. ST. LUKE'S ROMAN CATHOLIC CHURCH, MOST REVEREND JOHN R. KEATING, BISHOP OF THE CATHOLIC DIOCESE OF ARLINGTON, VIRGINIA AND HIS SUCCESSORS IN OFFICE, SPA 80-D-010-2, application under Sect. 3-203 to amend SP 80-D-010 for church and related facilities to permit additions to existing facilities, located at 7005 Georgetown Pike, on approximately 20.15 acres of land, zoned R-2, Tax Map 21-4(1)6

Kathy Reilly, Staff Coordinator, presented the staff report. Although most of the issues associated with this application have been resolved, Ms. Reilly stated that access to the site had been pointed out as a primary transportation issue and that left and right turn lanes should be provided into the property. During an site visit, she stated that staff noted that the existing vegetation was sufficient along the western, eastern, and southern lot lines, but on the northern property line staff suggested that a 35 foot landscaping plan be provided and the applicant agreed. In closing, Ms. Reilly stated that staff recommended approval of SPA 80-D-010-2 subject to the development conditions contained in the staff report with condition #6 modified to read "Transitional Screening 1" as opposed to "2".

Patrick Via, attorney with the law firm of Hazel, Thomas, Fiske, Beckhorn, and Hanes, P.O. Box 547, Fairfax, Virginia, represented the applicant. He stated the applicant is proposing to construct a three car garage which will also be used to store the church tractor, and an addition of a commons area to hold special events that are currently being conducted at the church in other facilities which are inadequate. Mr. Via stated when the church came before the BZA in 1985 to amend its application for an addition to the school, the Office of Transportation requested the same turning lanes but the Board had found them unnecessary and suggested that a "do not enter" sign be posted at the westernmost entrance, Monday through Friday. He asked the Board to grant the applicant's request and to delete condition number 5 as the applicant's request will not generate any additional traffic.

Rev. Stewart Conklin, 7001 Georgetown Pike, McLean, Virginia, came forward to explain that the construction of this addition will eliminate the church from having to conduct ongoing activities in the existing gym.

There were no speakers to address this application, therefore Chairman Smith closed the public hearing.

Mr. Kelley made a motion to grant SPA 80-D-010-2 as he believed that the applicant had presented testimony indicating compliance with the standards for a special permit. The approval was subject to the development conditions contained in the staff report with the deletion of condition #5.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 80-D-010-2 by ST. LUKE'S ROMAN CATHOLIC CHURCH, MOST REVEREND JOHN R. KEATING, BISHOP OF THE CATHOLIC DIOCESE OF ARLINGTON, VIRGINIA AND HIS SUCCESSORS IN OFFICE, under Section 3-203 of the Zoning Ordinance to amend SP 80-D-010 for church and related facilities to permit additions to existing facilities, on property located at 7005 Georgetown Pike, Tax Map Reference 21-4((1))6, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 10, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the Most Reverend John R. Keating, Bishop of the Catholic Diocese of Arlington, Virginia and his successors in office.
2. The present zoning is R-2.
3. The area of the lot is 20.15 acres of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 8-303 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. Transitional Screening 1 shall be modified as follows:  

Landscaping shall be provided for an area of approximately 35 feet in-depth along the northern property line abutting Georgetown Pike. This landscaping shall supplement the existing vegetation in a manner which will enhance the nature of the scenic By-way. The existing parking lots may remain if sufficient landscaping is provided in general compliance with the County Arborist's recommendations as set forth in the landscape plan attached to these development conditions. The plantings shown within the circle on the landscaping plan may be deleted. The final size, type, and amount of plantings for this landscaping plan shall be subject to approval by the County Arborist.
6. The barrier requirement along all property lines of this site shall be waived.

7. If the underground storage tank and on-site gasoline pump are abandoned, the applicant shall obtain the pertinent permits and remove these facilities. Removal or abandonment of these facilities shall be in compliance with all provisions of Chapter 62 of the Fairfax County Code and Article 28 of the BOCA Fire Code. In addition, if applicable, a copy of the form "Notification for Underground Storage Tanks" shall be submitted to the Fairfax County Fire and Rescue Department.
8. A building permit shall be obtained for the proposed Commons building, garage and dumpster enclosure.
9. The maximum number of seats in the sanctuary shall be 800 and a corresponding minimum of 200 parking spaces and a maximum of 235 parking spaces.
10. The total student enrollment and hours of operation for the private school of general education shall be those approved by SE 85-D-062.
11. The applicant shall prohibit movements into the site at the westernmost entrance Monday through Friday. A "Do Not Enter Monday through Friday" sign at the westernmost entrance shall remain.

The above development conditions incorporated all applicable conditions of previously approved special exception and special permit uses for this property.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date\* of the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mrs. Day seconded the motion which carried by a vote of 6-0 with Mr. DiGiulian absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on May 18, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 447, May 10, 1988, (Tape 2), Scheduled case of:

10:30 A.M. L & L SPORTS, INC., SP 88-S-014, application under Sect. 5-503 of the Zoning Ordinance to allow commercial recreation uses including indoor baseball/softball, basketball, golf, snack bar and pro shop, located at 14350 Sullyfield Circle, on approximately 13.02 acres of land, zoned I-5, WS and AW Springfield District, Tax Map 34-3(5)C3.

Kevin Guinaw, Staff Coordinator, presented the staff report and stated there were no outstanding issues with this application, therefore staff recommends approval of SP 88-S-014 subject to the development conditions contained in the staff report.

Lee Fifer, 8280 Greensboro Pike, Tysons Corner, Virginia, attorney for the applicant, came forward and introduced the following principals of L & L Sports to the Board: Larry Saloman, President and former scout for the New York Yankees; Len Harris, Vice-President; Jim Rousch, Operations Manager of this facility; and, Philip Jones, an planner with Mr. Fifer's office.

Mr. Fifer stated the applicant is requesting permission to operate a commercial recreational facility with 8 employees, 39 parking spaces will be provided as opposed to 38, no more than 75 patrons on site at any one time, and the hours of operation will be 8:00 p.m. to 9:00 p.m., Monday through Saturday, the hours for Saturday were originally 1:00 p.m. to 2:00 p.m. He added that Supervisor McConnell and the West Fairfax Federation Civic Association are in support of this request.

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Mr. Guinaw clarified that the 39 parking spaces are noted on the revised plat that is before the Board.

As there were no speakers to address this application, Chairman Smith closed the public hearing.

Mr. Hammack moved to grant SP 88-S-014 as he believed that the applicant had presented testimony indicating compliance with the standards for a special permit. The approval was subject to the development conditions contained in the staff report with a modification to condition #5 to reflect "39" parking spaces rather than 38.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-S-014 by L & L SPORTS, INC., under Section 5-503 of the Zoning Ordinance to allow commercial recreation uses including indoor baseball/softball, basketball, golf, snack bar and pro shop, on property located at 14350 Sullyfield Circle, Tax Map Reference 34-3((5))C3, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 10, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the lessee.
2. The present zoning is I-5, WS and AM.
3. The area of the lot is 13.02 acres of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 8-503 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the commercial recreation facility use indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind associated with this commercial recreation facility, additional uses, changes in use, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans. Any plan submitted to the Department of Environmental Management (DEM) pursuant to this Special Permit shall conform with the approved Special Permit plat and these conditions.
5. There shall be minimum of thirty-nine (39) parking spaces associated with this use provided on site. All parking for this use shall be on site. A revised parking tabulation shall be provided to the Department of Environmental Management at the time of site plan review, prior to the issuance of a Non-Residential Use Permit.

6. There shall be a maximum of eight (8) employees associated with this use on site at any one time.
7. There shall be a maximum of 75 patrons on site at any one time.
8. Any signs erected shall be in conformance with Article 12 of the Zoning Ordinance, Signs.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date\* of the Special Permit unless the activity authorized has been established, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Ribble seconded the motion which carried by a vote of 5-0 with Mr. Kelley not present for the vote; Mr. DiGiulian absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on May 18, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 449, May 10, 1988, (Tape 2), Scheduled case of:

10:45 A.M. DAVID F. NEMECEK, SP 88-V-016, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow detached car shelter to remain 4.3 ft. from side lot line (15 ft. min. side yard required by Sects. 3-207 and 10-104), located at 1312 Namassin Road, on approximately 22,126 square feet of land, zoned R-2, Mount Vernon District, Tax Map 102-2(10)6.

Denise James, Staff Coordinator, presented the staff report and stated that the applicant acknowledges that a building permit was not obtained prior to the construction of the carport. Based on the information available, staff could not make a recommendation, but if it is the Board's intent to grant this application, staff recommends that the applicant implement some screening of the carport and the applicant has agreed.

Mr. Ribble asked how staff became aware of the violation. Mrs. James explained that the applicant had stated a Zoning Inspector, with the Zoning Enforcement Branch, had been in his neighborhood, noticed the ongoing construction, and asked to see a copy of the building permit. Upon being told that a building permit was needed, the applicant went to obtain a building permit and told that the carport did not meet the setback requirements, he then filed an application for a special permit.

The applicant, David Nemeck, 1312 Namassin Road, Alexandria, Virginia, came forward.

In response to questions from Mrs. Day, Mr. Nemeck replied that when he purchased the house in 1986 he contacted the County and obtained a booklet entitled "When Do I Need A Permit" and then contacted a public library to determine what his property was zoned. After researching the papers he had been given upon purchase of the house dated November 1948, there were no setbacks noted and he proceeded to commence with the repairs to the existing carport in good faith.

There were no speakers to address this application, therefore Chairman Smith closed the public hearing.

Mrs. Thonen stated that she believed the applicant had acted in good faith, there will be no adverse impact on the neighborhood, and the applicant has satisfied the standards for a special permit. The approval was subject to the development conditions.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Mrs. Thonen made the following motion:

WHEREAS, Application No. SP 88-V-016 by DAVID F. NEMECEK under Section 8-901 of the Fairfax County Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow detached car shelter to remain 4.3 feet from side lot line, on property located at 1312 Namassin Road, Tax Map Reference 102-2((10))6, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on May 10, 1988; and,

WHEREAS, the Board made the following conclusions of law:

1. The Board has determined that:
  - A. The error exceeds ten (10) percent of the measurement involved, and
  - B. The non-compliance was done in good faith, or through no fault of the property owner, or was the result of an error in the location of the building subsequent to the issuance of a Building Permit, if such was required, and
  - C. Such reduction will not impair the purpose and intent of this Ordinance, and
  - D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
  - E. It will not create an unsafe condition with respect to both other property and public streets, and
  - F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.
  - G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.
3. A building permit shall be obtained within thirty (30) days.
4. A minimum of 5 evergreen trees shall be planted ten (10) feet on center in the remaining side yard beginning at a point ten (10) feet in front of the car shelter back to a point ten (10) feet behind the car shelter in order to effect some screening of the car shelter.
5. The completed detached car shelter shall have no enclosure that is more than eighteen (18) inches in height other than the minimum required supports for its roof and sides of the building by definition of Sect. 20-300 of the Zoning Ordinance.

Mr. Hammack seconded the motion which carried by a vote of 5-0 with Chairman Smith voting nay; Mr. DiGiulian absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on May 18, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 451, May 10, 1988, (Tape 2), After Agenda Item:

Resolutions for May 3, 1988

Mrs. Thonen moved to approve the Resolutions from May 3, 1988 as submitted.

Mr. Hammack seconded the motion which carried by a vote of 6-0 with Mr. DiGiulian absent from the meeting.

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Page 451, May 10, 1988, (Tape 2), After Agenda Item:

Lawrence Kok-Ming Li, VC98-D-073  
Out-of-Turn Hearing

Lori Greenlief, Staff Coordinator, explained that the applicant had been before the Board in 1985 and received a variance, he now needs to further reduce the lot width in order to meet sight distance criteria.

Mrs. Thonen moved to deny the applicant's request for an out-of-turn hearing.

Mrs. Day seconded the motion which carried by a vote of 6-0 with Mr. DiGiulian absent from the meeting.

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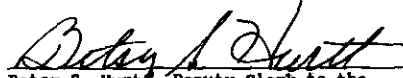
Page 451, May 10, 1988, (Tape 2), After Agenda Item:

Latter-Day Saints Special Meeting

Lori Greenlief, Staff Coordinator, stated that staff had scheduled Robinson High School on June 29, 1988 at 8:00 p.m. for this special meeting and the Board agreed.

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As there was no other business to come before the Board, the meeting was adjourned at 11:27 a.m.



Betsy S. Hupt, Deputy Clerk to the Board of Zoning Appeals



Daniel Smith, Chairman Board of Zoning Appeals

SUBMITTED: 9/20/88

APPROVED: 9/29/88



The special meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Monday, May 16, 1988. The following Board Members were present: Daniel Smith, Chairman; Ann Day; Paul Hammack; Robert Kelley; John Ribble and Mary Thonen. John DiGiulian, Vice-Chairman was absent from the meeting.

Chairman Smith opened the meeting at 8:00 P.M. and Mrs. Day led the prayer.

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Page 152 May 16, 1988, (Tape 1), Scheduled case of:

8:00 P.M. PAUL DIGIAMMARINO APPEAL, A 88-P-004, application under Sect. 18-301 of the Zoning Ordinance to appeal the Zoning Administrator's decision approving a permit for a group residential facility on the subject property, located at 3504 Beverly Drive, on approximately 22,141 square feet of land, zoned R-1, Providence District, Tax Map 59-1((9))18A.

Jane Gwinn, Zoning Administrator, briefly summarized the staff report and stated that, although the Woodburn Mental Health Center, Fairfax House, Fairfax Hospital and the Northern Virginia Mental Health Institute were in the vicinity of this proposed facility, none of these uses are, by definition, a group residential facility and can not be considered as Par. 3 of Sect. 2-502 refers to proportional distribution of group residential facilities. She concluded that the standards of the Zoning Ordinance had been met and therefore the permit was approved.

Following a question from Mr. Hammack, Ms. Gwinn reiterated that the other institutional uses were not considered as they were not group residential facilities. She further explained that she was bound by the provisions of the Zoning Ordinance, not the policies of the State.

In response to questions from Mrs. Thonen, Ms. Gwinn stated that the group residential home is a residential home for adolescence and the proposed home was also for diagnostic purposes. She added that the children were coming from homes with problems and were placed in the home to give them a residential secure setting and there they would be reviewed to determine the best treatment.

A discussion took place among Mr. Hammack and J. Patrick Taves, Assistant County Attorney, concerning the Dillon Rule that says counties have no more power than that delegated to them by the State and Mr. Taves stated that the Zoning Ordinance was not in conflict with the State Code.

Mr. Carlos Montenegro, 1501 Farm Credit Drive, McLean, Virginia, attorney representing the appellant, appeared before the Board and stated that the proposal had all the characteristics of an institutional use. He added that if this use were approved there were be a disproportionate distribution of institutional uses. The character of the use is outside the scope of what is traditionally considered a group home. Mr. Montenegro pointed out four other institutional uses in the area which already impacted the neighborhood (Woodburn Mental Health Center, Fairfax House, Fairfax Hospital and the Northern Virginia Mental Health Institute). He cited various incidents of runaways, vandalism, burglaries, suicide attempts, etc. due to the close proximity of the facilities to the neighborhood. Mr. Montenegro also stated that the existing facility was adequate and that the existing owner of that property was willing to extend the lease for the group residential home. Mr. Montenegro also cited an opinion from Mary Sue Terry, Attorney General, Commonwealth of Virginia, regarding a similar matter which said that a use such as this group residential facility was not a group home as defined in Sect. 15.1-486.2 of the State Code.

At this time Chairman Smith called for speakers in opposition to the proposal and the following citizens came forward: Cindy Johnson, 3509 Beverly Drive, Annandale; Paul DiGiannarino, 3508 Beverly Drive, Annandale; Tawab Farzad, 3436 Beverly Drive, Annandale; Robin DiGiannarino, 3508 Beverly Drive, Annandale; Jack Humphries, 8423 Haydon Lane, Annandale; Ray Mara, 3506 Beverly Drive, Annandale; Don Yasukaitis, 8425 Hidden Lane, Annandale; Ann Fotios, 3434 Beverly Drive, Annandale; Nancy Kruger, 8470 8470 Sevan Court, Annandale; Omie Kurr, 3329 Brockingridge Court, Annandale; Barbara Masgrove, 8308 Robin Road, Annandale, Virginia.

The citizens all expressed concern for the safety of their families as there were four other institutional facilities in their neighborhood. They cited various incidents of vandalism, breaking and entering, suicide attempts, etc. They also stated that it was unfair to place another use of this type in the neighborhood as there were already four other institutional uses in the area.

Jim Thur, Executive Director, Fairfax Falls Church Community Services Board, residing at 10701 Paynes Church Drive, Fairfax, Virginia, appeared before the Board and stated that he was concerned about the issues brought up tonight but was willing to try and improve the facility.

Janice Schiff of the Fairfax-Falls Church Community Services Board, residing at 3534 Lee Court, Alexandria, Virginia, appeared before the Board and explained that the home was a short term home for abused and neglected youths.

Pam Stine of the Fairfax Falls Church Community Services Board, residing at 3074 Covington Street, Alexandria, Virginia, appeared before the Board and advised that the existing facility (Harbor House) was not large enough to accommodate the children and that they were concerned about the increased traffic problems. She stated that the existing facility was located on a busy thoroughfare and there was also concern for the safety of the children. Ms. Stine also explained that the high rent for the proposed home was because of the long term lease (10 years) which includes all maintenance.

John Harold, Director, Youth and Family Services, Woodburn Center for Community Mental Health, 3340 Woodburn Road, Annandale, Virginia, appeared before the Board and explained that the teenagers were not dangerous and that any incidents are reported. He concluded that the children were victims and needed help.

Fay Wilkenson of the Department of Social Services, advised the Board that children from all parts of Fairfax County were placed in group residential homes, not just those from the area of the facility.

Responding to a question from Mr. Hammack, Mr. Taves stated that the opinion of the Attorney General did not change the opinion of the County Attorney's Office. He added that the Attorney General's opinion only dealt with the State Code and the language of the State Code does not apply to the children that would be using the proposed home. Mr. Taves concluded that this group home was permissible under the Zoning Ordinance.

Since there were no other speakers to address this issue, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. Hammack stated that he had viewed the site and that whether the escapeses from Woodburn or Northern Virginia Mental Health Institute cause problems is not the issue. He added that he was sympathetic to problems that residents of the neighborhood have but the Board can't reject the proposal for that reason. Mr. Hammack quoted the State Code under 15.1-486.2, "It is the policy of this state to encourage and promote dispersion of residences for the physically handicapped, mentally ill, mentally retarded and other developmentally disabled persons to achieve optimal assimilation and mainstreaming into the community. Towards this end its is the policy of this state that the number of such group homes and their location throughout the state and within any given political subdivision should be proportional in so far as possible to the population and population density within the state and local political subdivisions." He pointed out that the County Zoning Ordinance is broader than the State Code and the State Code requires dispersion and does not preclude the other uses in the area from being included in a dispersion factor.

Mr. Hammack further stated that the County did not consider Fairfax House, Woodburn Mental Health Center, the Northern Virginia Mental Health Institute, and the CAPS Programs which are in a residential area as part of their basis for deciding whether this particular use in this particular location met the dispersion requirement. Mr. Hammack added that the County only considered this use with what it considered group homes under the County Ordinance and that is an error. The Zoning Administrator should have considered these other uses, albeit institutional, because there is nothing in the State Statute that says they shouldn't be. The dispersion issue is very strongly stated in the State Statute and the County shouldn't ignore it in the implementation of the Zoning Ordinance. Mr. Hammack also noted the statistics submitted by the appellant which shows the Providence District has 12% of the population and already has 14.2% of the Group Residential Facilities so there is at least a small dispersion issue on the surface and the other facilities in the area were not counted which would clearly show that dispersion was not in proportion with the policy required under the State Code. Therefore, Mr. Hammack moved to overturn the Zoning Administrator's decision.

Mrs. Day seconded the motion.

Chairman Smith pointed out that the Zoning Administrator acted in accordance with the Zoning Ordinance which says it should not take the other facilities into consideration as they were not group homes. He added that these facilities were not placed disproportionately as they were located in all districts.

The motion passed by a vote of 5-1 with Chairman Smith voting nay; Mr. DiGiulian absent from the meeting. This decision was officially filed in the office of the Board of Zoning Appeals and became final on May 24, 1988. This date shall be deemed to be the final approval date of this decision.

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As there was no other business to come before the Board, the meeting was adjourned at 10:07 P.M.

Patti M. Hicks  
Patti M. Hicks, Clerk to the  
Board of Zoning Appeals

Daniel Smith  
Daniel Smith, Chairman  
Board of Zoning Appeals

SUBMITTED: September 6, 1988

APPROVED: September 13, 1988

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The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, May 17, 1988. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman, Ann Day, Paul Hammack, Robert Kelley, John Ribble, and Mary Thonen.

Chairman Smith opened the meeting at 9:15 a.m. with Mrs. Day leading the prayer.

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Page 455, May 17, 1988 (Tape 1), Scheduled case of:

9:00 A.M. THE SECOND GATE POST ESTATES HOMEOWNERS ASSOCIATION, SP 88-S-002, application under Sect. 3-G03 of the Zoning Ordinance to allow community swimming pool, located on Round Post Court, on approximately 5.12 acres of land, zoned R-C, Springfield District, Tax Map 64-2((4)(2)B. (DEF. FROM 4/12/88 - NOTICES NOT IN ORDER)

Chairman Smith announced the Board was in receipt of a letter from the applicant's agent requesting a withdrawal of the above referenced application.

Mr. DiGiulian moved to grant the request to withdraw SP 88-S-002. Mrs. Day seconded the motion which passed unanimously by a vote 4-0 with Mr. Ribble, Mrs. Thonen and Mr. Hammack not present for the vote.

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Page 455, May 17, 1988 (Tape 1), Scheduled case of:

Resolutions for May 10, 1988

Discussion between Jane Kelsey, Chief, Special Permit and Variance Branch, and Mr. Kelley ensued concerning the Resolution of St. Luke's Roman Catholic Church. Ms. Kelsey asked Mr. Kelley to clarify his intent with regard to Transitional Screening 1 or 2 in Development Condition #5. She also asked if the sentence, "The plantings shown within the circle on the landscaping plan may be deleted" is to be removed. Mr. Kelley deferred his decision to later on in the meeting until he could review the condition and discuss it with Kathleen Reilly, Staff Coordinator.

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Page 455, May 17, 1988 (Tape 1), Scheduled case of:

9:15 A.M. KENNETH R. HARRIS, VC 88-S-029, application under Sect. 18-401 of the Zoning Ordinance to allow enclosure of existing porch 15.6 ft. from rear lot line (25 ft. min. rear yard required by Sect. 3-307) located at 9502 Yawl Court, on approximately 8,898 sq. ft. of land, zoned R-3(C), Springfield District, Tax Map 88-3((3))60

Lori Greenlief, Staff Coordinator, presented the staff report and advised the Board that research of the Zoning Administration Division's records did not reveal that a building permit had been obtained nor a variance approved for the screen porch.

Kenneth R. Harris, 9502 Yawl Court, Burke, Virginia, the applicant, explained to the Board he met the nine requirements for a variance, especially the shallowness in the rear yard. He stated the addition would not affect the other houses in the neighborhood and believed it would improve the value of his home. He added this particular hardship is not shared with the other properties in the area, the addition will not be detrimental to other properties, the character of the area will not be changed, and the addition is in harmony with the surrounding area. He concluded by stating the Board has granted other variances in his neighborhood.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Mr. DiGiulian moved to grant VC 88-S-029 based on the applicant's testimony, that the applicant has met the nine requirements for a variance, specifically the exceptional shallowness.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-S-029 by KENNETH R. HARRIS, under Section 18-401 of the Zoning Ordinance to allow enclosure of existing porch 15.6 feet from rear lot line, on property located at 9502 Yawl Court, Tax Map Reference 88-3((3))60, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 17, 1988; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the applicant is the owner of the land.
- 2. The present zoning is R-3(C).
- 3. The area of the lot is 8,898 square feet of land.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

- 1. That the subject property was acquired in good faith.
- 2. That the subject property has at least the following characteristic:
  - A. Exceptional shallowness at the time of the effective date of the Ordinance;
- 3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
- 4. That the strict application of this Ordinance would produce undue hardship.
- 5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
- 6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
- 7. That authorization of the variance will not be of substantial detriment to adjacent property.
- 8. That the character of the zoning district will not be changed by the granting of the variance.
- 9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

- 1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
- 2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
- 3. A Building Permit shall be obtained prior to any construction.

Mrs. Day seconded the motion.

The motion carried by a vote of 4-0-1 with Mr. Hammack and Mr. Ribble not present for the vote and Mrs. Thonen abstaining.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on May 25, 1988. This date shall be deemed to be the final approval date of this variance.

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9:30 A.M. JAMES R. MEENAN, VC 88-P-030, application under Sect. 18-401 of the Zoning Ordinance to allow construction of sunroom addition to dwelling to 19.2 ft. from rear lot line, (25 ft. min. rear yard required by Sect. 3-307) located at 3317 Albion Court, on approximately 10,575 square feet of land, zoned R-3, Providence District, Tax Map 58-2((11))14

Lori Greenleaf, Staff Coordinator, presented the staff report and indicated staff had received one letter in opposition to the request.

James Meenan, 3317 Albion Court, Fairfax, Virginia, the applicant, appeared before the Board and explained his request as outlined in the statement of justification as submitted with the application.

Norman Nice, 9106 Glenbrook Road, Fairfax, Virginia, President of Mantua Hills Homeowners Association, spoke in support of the application. Mr. Nice stated that Mr. Meenan did submit an application for the structure to the Architectural Review Board and it was approved. He added in order for the applicant to receive the approval from the Architectural Review Committee the applicant had to obtain signatures from four surrounding property owners.

In answer to Mrs. Day's question, Mr. Meenan stated that in the summertime his house and Mr. Williams' house could not be seen by each other due to the trees being fully leaved. In the wintertime, due to the elevation, Mr. Meenan's ground level is above Mr. Williams' roof level. Therefore, Mr. Meenan concluded that there is no visual impact from the structure.

Tyler Williams, 3312 Prince Williams Drive, Fairfax, Virginia, appeared before the Board to address the application. First of all, Mr. Williams commended Mr. Meenan for correcting a water run-off problem. Mr. Williams stated the addition is architecturally sound and is designed properly. He believed the most significant problem with the application is the height differential which has the impact of a four story building. Mr. Williams stated in conclusion that he would like to work with Mr. Meenan because he believed this addition can be worked out to mutual satisfaction by either moving the sunroom to the right or by reducing the height of the structure.

In rebuttal, Mr. Meenan stated he had approached the speaker about the addition and he had no comments pro or con. He stated he cannot move the sun room to the right for it would not work out architecturally.

Since there were no additional speakers to address this application, Chairman Smith closed the public hearing.

Mrs. Day moved to grant VC 88-P-030 based on the fact that the Architectural Review Board had approved the plans of the design and the appearance in relation to enhancement to the neighborhood, the lot has an irregular shape which comes to a point at the middle of the rear line, the applicant stated he has corrected the run-off water to drain toward the front of the lot, the rear of the lot is higher than the abutting property, the back of the lot is heavily wooded with tall trees, and the design and construction are well done.

Mrs. Thonen stated she is in support of this motion due to the narrowness of the lot at the front and the odd shape of the land in the back of the house, which is strictly judged on the hardship case.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-P-030 by JAMES R. MEENAN, under Section 18-401 of the Zoning Ordinance to allow construction of sunroom addition to dwelling to 19.2 feet from rear lot line, on property located at 3317 Albion Court, Tax Map Reference 58-2((11))14, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 17, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the co-owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 10,575 square feet of land.

4. The Architectural Review Committee has reviewed and approved the plans.
5. That the structure will enhance the property.
6. The irregular shaped lot comes to one point.
7. That it is necessary to have the addition exiting from the dining room.
8. That the applicant has taken measures to correct the water run-off problem.
9. The letter from Mr. Williams stated the fact that the structure impacts his property, but the applicant states that his property is at a higher level than Mr. Williams' property.
10. The back of lot is heavily wooded.
11. That the addition adds to the value of the house.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;
  - F. An extraordinary situation or condition of the subject property, or
  - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Ribble seconded the motion which carried by a vote of 5-1 with Chairman Smith voting nay and Mr. Hammack not present for the vote.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on May 25, 1988. This date shall be deemed to be the final approval date of this variance.

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9:45 A.M. KAMAL S. WILHELM, VC 88-D-033, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into three (3) lots, proposed lots 52-C-2 and 52-C-3 each having a lot width of 12.11 ft. (80 ft. min. lot width required by Sect. 3-306) located at 6451 Old Chesterbrook Road, on approximately 1.108 acres of land, zoned R-3, Dranesville District, Tax Map 31-3((1))52C

Lori Greenlief, Staff Coordinator, presented the staff report. She stated staff is concerned with the sight distance of the proposed driveway. Further, she stated that staff was concerned with this application's conformance with the standards for reviewing variance applications. The narrowness of the parcel was created after the adoption of the current Zoning Ordinance. The applicant did purchase the property in its current configuration. Staff is also concerned this may be setting a precedent as the adjacent lot has the same configuration. Ms. Greenlief pointed out that there are no other variances within the Broyhill Subdivision. Staff is recommending denial as the application does not meet several of the standards.

Kamal Wilhelm, 3870 Waythorn Place, Fairfax, Virginia, the applicant, appeared before the Board and explained his request as outlined in the statement of justification as submitted with the application. Mr. Wilhelm submitted photographs for the record.

Chairman Smith called for speakers in support of the request and Harold Heath, 6449 Old Chesterbrook Road, McLean, Virginia, came forward. He stated he was unable to properly care for the land because of his ill health.

Chairman Smith called for speakers in opposition to the request and the following came forward: Donald Baker, 6504 Dryden Drive, McLean, Virginia; Peter Kapusta, 4136 N. River Street, Arlington, Virginia; Bonnie Seafelt, 6455 Old Chesterbrook Drive, McLean, Virginia; William Ristig, 6502 Dryden Drive, McLean, Virginia; Richard Knox, 1635 Dinneen Drive, McLean, Virginia; and Mary Beth Harrington, 6500 Dryden Drive, McLean, Virginia.

The citizens were concerned about the water drainage problems and the additional traffic that would be generated by this application. They also expressed concern about the precedent being established for lot 52B which has the same configuration as the application in question.

In rebuttal, Mr. Wilhelm stated that he had a waiver from the Fairfax County stating that there was no requirement for a storm sewer to be put in.

Ms. Greenlief pointed out the waiver was granted only for the subdivision of Lot 52 into Lot 52B and 52C. Therefore, this waiver does not apply to any proposed development on the applicant's lot.

Since there were no additional speakers to address this application, Chairman Smith closed the public hearing.

Mr. Kelley made a motion to deny VC 88-D-033 as he did not believe the applicant had presented testimony showing compliance with the standards for a variance. He added he believed there were many unresolved issues such as the inadequate sight distance, one lot not meeting the pipestem requirements, and the potential for an undesirable precedent. He noted that economic gain is not considered a hardship.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-D-033 by KAMAL S. WILHELM, under Section 18-401 of the Zoning Ordinance to allow subdivision into three (3) lots, proposed lots 52-C-2 and 52-C-3 each having a lot width of 12.11 feet, on property located at 6451 Old Chesterbrook Road, Tax Map Reference 31-3((1))52C, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 17, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land
2. The present zoning is R-3.
3. The area of the lot is 1.108 acres of land.



4. That there is a sight distance problem.
5. That the application does not meet the requirements for a variance.
6. That the application does not meet the pipestem guidelines.
7. That granting the application would set a precedent.
8. That economic gain is not a hardship.

This application does not meet all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance.

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;
  - F. An extraordinary situation or condition of the subject property, or
  - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has not satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED.

Mr. DiGiulian seconded the motion.

The motion carried by a vote of 6-0-1 with Mr. Hammack abstaining.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on May 25, 1988.

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Page 460, May 17, 1988 (Tape 1), Scheduled case of:

10:00 A.M. THORSEN CONSTRUCTION CO., INC., VC 88-V-031, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into three (3) lots, proposed lot 3 having a lot width of 12 ft. (80 ft. min. lot width required by Sect. 3-306) located at 8500 Fort Hunt Road, on approximately 1.8757 acres of land, zoned R-3, Mount Vernon District, Tax Map 102-4((1))54

Kathy Reilly, Staff Coordinator, presented the staff report. Ms. Reilly outlined the background of the case. In January 1986, the applicant filed variance application, VC 86-V-002, to allow subdivision of this lot into five (5) lots. In April 1986, the BZA granted the subdivision of Lot 54 into three (3) lots. The previous variance expired in November 1987, which required the applicant to file this application. Ms. Reilly stated that staff would not support this variance because it did not meet the standards for a variance.

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James B. Thorsen, 7808 West Boulevard Drive, Alexandria, Virginia, agent for the applicant, stated the problem with the application arose because of a lack of communication between the engineer and the attorney. The attorney did not record the plat prior to the expiration date.

John J. Daly, 1607 Old Stage Road, Alexandria, Virginia, submitted photographs for the record. Mr. Daly pointed out in September 1986, Old Stage Road was resurfaced and due to the resurface of this road many problems arose. The road became uneven, the heavy equipment gouged the road surface, a section of the curb was removed and has not been replaced, and a section of the sidewalk was removed and replaced with concrete. Mr. Daly stated that if the variance was approved that it be conditioned upon restoration of Old Stage Road.

As there were no additional speakers to address this application, Chairman Smith closed the public hearing.

Mr. Ribble made a motion to defer VC 88-C-051 to May 24, 1988 at 11:15 a.m. in order for additional information to be obtained from Mr. Logan, Logan and Associates. The Board also expressed an interest in hearing from the attorney who recorded the deed without first obtaining subdivision approval.

Mrs. Thonen seconded the motion which passed unanimously by a vote of 5-0 with Mr. Kelley and Mr. Hammack not present for the vote.

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Page 461, May 17, 1988 (Tape 2), Scheduled case of:

10:15 A.M. OLD RESTON PARTNERSHIP, VC 88-C-051, application under Sect. 18-401 of the Zoning Ordinance to allow construction of office building 25 feet from the two street lines of a corner lot (40 ft. min. front yard required by Sect. 4-307), located at 1801 Reston Avenue, on approximately 1.723 acres of land, zoned C-3, Centreville District, Tax Map 17-1((1))1 and 17-2((1))1A, 11D, 20, and 20A. (OTH GRANTED)

Mr. DiGiulian stated for the record his firm has a business relationship with one of Mr. Miller's organizations; however, he has had no connection with this application, this piece of property, or with Old Reston Partnership. Mr. DiGiulian pointed out he could participate and vote on the application without prejudice.

Mr. Kelley stated for the record the bank for which he is Chairman of the Board, Washington Bank, will be a tenant in this building. Mr. Kelley has been advised by an attorney that he does not have a financial interest in this application, as a result of the lease, and he intended to participate and vote.

Kathy Reilly, Staff Coordinator, presented the staff report. She pointed out that in February 1987, the Board of Supervisors, approved a rezoning, RZ 86-C-013, for this property from the R-1 and R-E District to the C-3 District. The Board of Supervisors also approved a waiver of the transitional screening and barrier requirement at this site in favor of landscaping and tree preservation commitments made by the applicant.

Mr. Harold Miller, with the law firm of Miller & Bucholtz, 11715 Bowman Green Drive, Reston, Virginia, agent for the applicant, approached the Board and outlined the justification for a variance as set forth in the staff report. Mr. Miller stated the applicant has gone through three site plan submissions with the County staff, and after the first two came back with minor changes, the applicant proceeded to order the steel. During the last submission, it was noted by the County that the applicant was not in conformance with the setback requirements which are 40 feet not 25 feet, therefore the applicant filed a variance application. Mr. Miller pointed out that the applicant hired a private tree consultant, who has met with the County Arborist, and removed only the trees that were dead or dying. The applicant has redesigned the building to a three-story building in conformance with the proffered plan accepted by the Board of Supervisors.

G. Ridgley Loux, 1800 Post Oak Trail, Reston, Virginia, Co-Chairman of the Reston Community Association Planning and Zoning Committee, spoke in opposition to the application for the reasons stated in the memorandum that was passed out to the Board. One of the primary reasons for opposition is the preservation of the trees on site and the concern for the open space and park area. Mr. Loux commented that the Community Association is trying to make a transition from the low garden apartments from the north to the higher density residences to the south and across the street to the park and then into the dense urban core. Mr. Loux stated height is of minimal concern, the rezoning of the Town Center followed this application by a month, and finally this application is not within PRC zoning, which is the way Reston and Town Center are being developed.

In rebuttal, Mr. Miller pointed out the original plan submitted did not receive staff's support; subsequently, the applicant had to revise the plan which did have the Reston Community Association's support.

Since there were no additional speakers to address this application, Chairman Smith closed the public hearing.

Mr. Hammack moved to grant VC 88-C-051 based on the applicant's testimony that he has satisfied the nine required standards for variances to be granted, specifically, there is an extraordinary condition in the use of development of the property.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-C-051 by OLD RESTON PARTNERSHIP, under Section 18-401 of the Zoning Ordinance to allow construction of office building 25 feet from the two street lines of a corner lot, on property located at 1801 Reston Avenue, Tax Map Reference 17-1(1)1 and 17-2(1)1A, 11D, 20 and 20A, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 17, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is C-3.
3. The area of the lot is 1.723 acres of land.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least the following characteristic:
  - A. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location of the building and parking lot shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Ribble seconded the motion.

The motion carried by a unanimous vote of 7-0

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on May 25, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 463, May 17, 1988 (Tape 2), Scheduled case of:

10:30 A.M. JOHN D. LANGS, JR., VC 88-D-028, application under Sect. 18-401 of the Zoning Ordinance to allow second floor addition to dwelling 18.6 ft. from a street line of a corner lot (30 ft. min. front yard required by Sect. 3-307) located at 1610 Sixth Place, on approximately 14,242 square feet of land, zoned R-3, Dranesville District, Tax Map 30-4((6))(11)1

Chairman Smith announced that he was in receipt of a letter from the applicant requesting a withdrawal of the application.

Mrs. Thonen moved that the Board grant the request to withdraw, VC 88-D-028, with Mr. DiGiulian seconding the motion. The motion passed by a unanimous vote of 7-0.

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Page 463, May 17, 1988 (Tape 2), Scheduled case of:

10:45 A.M. HAN CHUL CHIN, JONG SEOK CHIN, BONG SOW LEE, SP 88-P-019, application under Sect. 8-904 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow enclosed addition to dwelling to remain 20.9 ft. from rear lot line (25 ft. min. rear yard required by Sect. 3-307) located at 3356 Broken Knife Court, on approximately 9,317 sq. ft. of land, zoned R-3, Providence District, Tax Map 59-1((27))78

Heidi Belofsky, Staff Coordinator, presented the staff report. Ms. Belofsky pointed out this application is a result of a complaint submitted by a neighboring property owner through the Homeowners Association and subsequently a notice of violation was issued by Fairfax County.

Mr. DiGiulian stated staff should give the applicant more than 30 days to obtain their building permit. He suggested Development Condition #2 to be revised to read 60 (sixty) days.

Hal Chul Chin, 3356 Broken Knife Court, Annandale, Virginia, the applicant, appeared before the Board and presented his justification for the Special Permit as outlined in the staff report.

Georgia Davidson, 3395 Monarch Lane, Annandale, Virginia, spoke in opposition to the application. Ms. Davidson stated her concerns were if the applicant had obtained a building permit prior to construction and if the Homeowners Association had approved the structure. Ms. Davidson pointed out the structure is clearly visible from her home and she did believe it would be suitable anywhere in the backyard.

Rabinder Madan, 3397 Monarch Lane, Annandale, Virginia, spoke in opposition to the application. Mr. Madan pointed out his two major concerns were the visibility of the structure and the architectural compatibility of the structure.

Since there were no additional speakers to address this application, Chairman Smith closed the public hearing.

Mr. DiGiulian moved to grant SP 88-P-019 based on the applicant's testimony that the shed in its present location is less obtrusive than it would be in the middle of the backyard. Mr. DiGiulian made the approval subject to the development conditions with the following modifications: #2 to be changed to read "An approved building permit for the addition shall be obtained within sixty days of the date of approval of the Special Permit". A new Development Condition #3 to read as follows: "Two (2) white pine trees, six (6) feet in height shall be planted at the westerly corner of the property".

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-P-019 by HAN CHUL CHIN, JONG SEOK CHIN, BONG SON LEE, under Section 8-904 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow enclosed addition to dwelling to remain 20.9 feet from rear lot line, on property located at 3356 Broken Knife Court, Tax Map Reference 59-1((27))78, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 17, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicants are the owners of the land.
2. The present zoning is R-3.
3. The area of the lot is 9,317 square feet of land.
4. That the present location of the structure is more appropriate than the middle of the yard.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-903 and 8-914 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This Special Permit is approved for the location and the specific addition shown on the plat submitted with this application and is not transferable to other land.
2. An approved building permit for the addition shall be obtained within sixty days of the date of approval of the Special Permit.
3. Two (2) white pine trees, six (6) feet in height shall be planted at the westerly corner of the property.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. This Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the building permit has been obtained, the construction has been completed, and the structure has been approved by the Director of Environmental Management, or unless additional time is approved by the Board of Zoning Appeals due to occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Hammack seconded the motion.

The motion carried by a vote of 4-2 with Chairman Smith and Mrs. Thonen voting nay and Mr. Kelley not present for the vote.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on May 25, 1988. This date shall be deemed to be the final approval date of this special permit.

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The Board recessed at 11:35 a.m. and reconvened.

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Page 465, May 17, 1988 (Tape 2), Scheduled case of:

11:00 A.M. NATIONAL MEMORIAL PARK APPEAL, A 88-P-003, application under Sect. 18-301 of the Zoning Ordinance to appeal the Zoning Administrator's determination that development of uses by right on land subject to appellant's special permit for cemetery uses would require amendment to the special permits, on property contiguous to and located northeast of the Jefferson District Park and the Pinewood Greens Subdivision, on approximately 29.8918 acres of land, zoned R-1, Providence District, Tax Map 60-1((1))36.

Jane W. Gwinn, the Zoning Administrator, referenced her memorandum dated May 10, 1988. Ms. Gwinn explained this is an appeal of her decision that once a Special Permit has been approved and the use established, the entire property is limited by that permit, and any request to use any portion of the land for any use other than the Special Permit Use would require approval of a Special Permit Amendment. The property at issue is a portion of National Memorial Park Cemetery. In 1949, the Board of Zoning Appeals approved a permit to allow additional land area and establishment of a cemetery on approximately 63 acres and a portion of this land was in that Special Permit. In 1957, the Board of Zoning Appeals approved another Special Permit to allow an expansion of the cemetery and part of the land area involved was covered by that Special Permit. Ms. Gwinn pointed out that since that time portions of the land subject to these Special Permits have been used for cemetery uses, but the property at issue has never been used for burial purposes. Ms. Gwinn stated that as set forth in her memo to the Board, dated May 10, 1988, it is her position based on Section 8-004 of the Zoning Ordinance that once a Special Permit has been approved and established that the two paragraphs of that section provide that no site plan, subdivision plat, building permit, or residential use permit can be approved, for any part of that land area for any use other than a cemetery. Ms. Gwinn stated that changing the boundaries of the cemetery is a relocation of the Special Permit Use and as such, requires an amendment.

Mr. William Hansbarger, with the law firm of Hansbarger & Testerman, 10523 Main Street, Fairfax, appeared before the Board on behalf of the appellant. Mr. Hansbarger explained that Section 8-004 of the Zoning Ordinance did not apply to the present situation of the abandonment of the surplus property, because it did not involve any of the approvals required by this section. Mr. Hansbarger further explained that none of the factors that would necessitate an amendment to a special permit are involved in this case.

Caleb Freeman, with the law firm of Ross, Marsh and Foster, 324 North Fairfax Street, Alexandria, Virginia, spoke in support of the appellant. Mr. Freeman stated the approximate 30 acre parcel which is the subject of the appeal, is assessed as residential; rather than a cemetery use. Mr. Freeman stated that the Deed of Vacation, vacating the 1951 Deed of Dedication was filed in July of 1987.

Chairman Smith called for speakers in support of the Zoning Administrator's position and the following came forward: Tomy Smathers, 7725 Trevino Lane, Falls Church, Virginia; Michael Hutchinson, 7725 Martha's Lane, Falls Church, Virginia; Brian G. Kennedy, 2759 January Court, Falls Church, Virginia; and Arnold Rodriguez, 7727 Martha's Lane, Falls Church, Virginia.

The citizens supported the Zoning Administrator's determination that the development of the appellant's land should require an Amendment to the Special Permit. They argued to reverse the Zoning Administrator's determination would undermine the expectations of the residents in this community and their belief that cemetery land would remain inviolate to development. They also expressed concern with the impact of additional traffic generated by this use.

During rebuttal, Miss Gwinn stated a member of her staff had spoken to the Real Estate Assessor's Office and the appraiser responsible for this parcel had agreed to make the necessary adjustments. She added that in 1949 the BZA granted this approval for the entire tract not a portion.

As there were no further comments, Chairman Smith closed the public hearing.

Mrs. Thonen made a motion to uphold the Zoning Administrator's determination in A 88-P-003, National Memorial Park, Inc., that development of uses by right on land subject to appellant's special permit for cemetery uses would require amendment to the special permits.

Mr. DiGiulian seconded the motion which carried by a vote of 7-0. This decision was officially filed in the office of the Board of Zoning Appeals and became final on May 25, 1988. This date shall be deemed to be the final approval date of this decision.

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Page 466, May 17, 1988 (Tape 3), After Agenda #1:

Resolutions for May 10, 1988

Mr. Kelley made the motion to approve the Resolutions for May 10, 1988 as submitted. He noted that on SPA 80-D-010-2, St. Luke's Roman Catholic Church it was his intent to include the language in development condition #5 as submitted today. Mrs. Thonen seconded the motion which passed by a vote of 7-0.

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Page 466, May 17, 1988 (Tape 3), After Agenda #2:

Approval of Minutes for February 9, 1988

Mrs. Thonen made the motion to approve the Minutes from February 9, 1988. Mr. DiGiulian seconded the motion which passed by a vote of 7-0.

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Page 466, May 17, 1988 (Tape 3), Information Item:

Proposed Post Recess Schedule

Jane Kelsey, Chief, Special Permit and Variance Branch, presented the Board with a copy of the Proposed Post Recess Schedule. Following the Board's review of the schedule they decided to hold special meetings on September 6, October 11, and November 8, 1988.

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Page 466, May 17, 1988 (Tape 3), Information Item:

Paul DiGiammarino Appeal  
A 88-P-004

Mr. Hammack moved as part of his motion to include as a reason supporting our particular decision that the various institutional uses at the hospital, specifically, the Northern Virginia Mental Health Institute, the Woodburn Center, the Fairfax House, and the CAPS Program, were all located on residentially zoned property as a reason for why they should have been included in the computations to satisfy the dispersion policies set forth in the statute. Mr. DiGiulian second the motion which passed by a vote of 5-1 with Chairman Smith voting nay and Mr. Ribble not present for the vote.

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Mr. Hammack made the motion to adjourn at 12:41 p.m. with Mrs. Thonen seconding the motion by a vote of 6-0.

  
Tamara G. Gentry, Associate Clerk  
Board of Zoning Appeals

  
Daniel Smith, Chairman  
Board of Zoning Appeals

SUBMITTED: September 6, 1988

APPROVED: September 13, 1988

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, May 24, 1988. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack; Robert Kelley and John Ribble. Mary Thonen was absent from the meeting.

Chairman Smith opened the meeting at 9:08 A.M. and Mrs. Day led the prayer.

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Page 467, May 24, 1988, (Tape 1), Scheduled case of:

9:00 A.M. LARRY AND SUE ANDERSON, VC 88-M-035, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 8.1 feet from side lot line (15 ft. min. side yard required by Sect. 3-207), located at 3913 King Arthur Road, on approximately 21,095 square feet of land, zoned R-2, Mason District, Tax Map 59-3(14)39.

Lori Greenlief, Staff Coordinator, presented the staff report.

Larry Anderson, 3913 King Arthur Road, Annandale, Virginia, the applicant, appeared before the Board and explained his request as outlined in the statement of justification contained in the staff report. He added that the proposal would enhance the community but not change the character of the R-2 Zoning District.

Since there were no speakers to address this application Chairman Smith closed the public hearing.

Prior to making the motion, Mr. DiGiulian stated that the applicant had met the required standards for a variance and therefore moved to grant the request subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-M-035 by LARRY AND SUE ANDERSON, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 8.1 feet from side lot line, on property located at 3913 King Arthur Road, Tax Map Reference 59-3(14)39, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 24, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicants are the owners of the land.
2. The present zoning is R-2.
3. The area of the lot is 21,095 square feet of land.
4. The location of the house on the lot in that it is turned. It appears that if the house were parallel to the side lines there would be enough room to construct the addition or it would be much closer.
5. The 25 foot storm sewer easement on the south side of the lot.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least the following characteristic:
  - F. An extraordinary situation or condition of the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.



8. That the character of the zoning district will not be changed by the granting of the variance.

9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Hammack seconded the motion which carried by a vote of 6-0 with Mrs. Thonen absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 3, 1988. This date shall be deemed to be the final approval date of this variance.

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Page ~~468~~<sup>468</sup>, May 24, 1988, (Tape 1), Scheduled case of:

9:15 A.M. ROBERT L. BLUNT, JR., VC 88-V-034, application under Sect. 18-401 of the Zoning Ordinance to allow a 6 foot high fence to remain in a front yard (4 ft. max. hgt. for a fence in any front yard required by Sect. 10-104), located at 8219 Mount Vernon Highway, on approximately 14,259 square feet of land, zoned R-3, HC, Mount Vernon District, Tax Map 101-4((27))1.

Chairman called for the applicant and as he was not present, the Board passed over this case to allow staff time to contact the Mr. Blunt.

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As there was time before the next scheduled case, the Board took up the After Agenda Items.

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Page ~~468~~<sup>468</sup>, May 24, 1988, (Tape 1), After Agenda Item #1:

Approval of Resolutions of May 17, 1988

Mrs. Day moved to approve the Resolutions of May 17, 1988 as submitted.

Mr. Ribble seconded the motion which passed unanimously with Mrs. Thonen absent from the meeting.

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Page ~~468~~<sup>468</sup>, May 24, 1988, (Tape 1), After Agenda Item #2:

Reconsideration Request of Ksmal Wilhelm  
VC 88-D-033

Mr. Kelley stated that his motion for denial was because of his concern that a precedent would be set and due to the sight distance problem.

Mr. Wilhelm, 3870 Waythorn Place, Fairfax, Virginia, appeared before the Board and stated that the proposal would not be precedent setting and that the sight distance problem could be corrected.

At the request of the applicant, Mr. Kelley moved to grant a waiver of the 12 month limitation on rehearing the application.

Mr. DiGiulian seconded the motion which passed unanimously with Mrs. Thonen absent from the meeting.

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Page 469, May 24, 1988, (Tape 1), Scheduled case of:

9:15 A.M. ROBERT L. BLUNT, JR., VC 88-V-034, application under Sect. 18-401 of the Zoning Ordinance to allow a 6 foot high fence to remain in a front yard (4 ft. max. hgt. for a fence in any front yard required by Sect. 10-104), located at 8219 Mount Vernon Highway, on approximately 14,259 square feet of land, zoned R-3, MC, Mount Vernon District, Tax Map 101-4((27))1.

As the applicant was now present, the Board held the public hearing on the above referenced application.

Heidi Belofsky, Staff Coordinator, presented the staff report.

Robert and Norma Blunt of 8219 Mount Vernon Highway, Alexandria, Virginia, the applicants, appeared before the Board and explained the request as outlined in the statement of justification as submitted with the application. Mr. and Mrs. Blunt further explained that they were concerned for the safety of their children and were unaware of that the fence was too high.

Following a discussion among the Board, Mr. Hammack moved to request that a representative from the Solis Fence Company appear before the Board and explain why they weren't aware of the restrictions for fences. If the representative was not willing to attend the hearing, that person should be subpoenaed.

There being no objections, it was so ordered to continue the public hearing until June 21, 1988 at 10:15 A.M.

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Page 469, May 24, 1988, (Tape 1), Scheduled case of:

9:30 A.M. JANET HALL, VC 88-M-024, application under Sect. 18-401 of the Zoning Ordinance to allow enclosure and expansion of carport for a garage addition to dwelling to 7 ft. from side lot line (15 ft. min. side yard required by Sect. 3-207) located at 6424 Cavalier Corridor, on approximately 13,376 square feet of land, zoned R-2, Mason District, Tax Map 61-1((11))518

Kathy Reilly, Staff Coordinator, presented the staff report.

Janet Hall, 6424 Cavalier Corridor, Falls Church, Virginia, the applicant, appeared before the Board and explained the request as outlined in the statement of justification submitted with the application. She further explained that the proposed location was the only suitable location due to topographic conditions. Ms. Hall added that the neighbors supported her request.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. Ribble stated that the applicant had met the standards for a variance and therefore moved to grant the request subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-M-024 by JANET HALL, under Section 18-401 of the Zoning Ordinance to allow enclosure and expansion of carport for a garage addition to dwelling to 7 ft. from side lot line, on property located at 6424 Cavalier Corridor, Tax Map Reference 61-1((11))518, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 24, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-2.
3. The area of the lot is 13,376 square feet of land.
4. The proposal will improve the property.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least the following characteristic:
  - E. Exceptional topographic conditions.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.
4. The materials used to finish this structure shall be compatible with the principal dwelling unit on the property.

Mr. DiGiulian seconded the motion.

The motion carried by a vote of 5-1 with Chairman Smith voting nay; Mrs. Thonen absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 3, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 471, May 24, 1988, (Tape 1), Scheduled case of:

9:45 A.M. EDWARD CANADY AND LORINE KENNEDY, VC 88-V-036, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 10.3 feet from side lot line (20 ft. min. side yard required by Sect. 3-E07), located at 8132 Bard Street, on approximately 22,000 square feet of land, zoned R-E, Mount Vernon District, Tax Map 113-4((6))3.

Kathy Reilly, Staff Coordinator, presented the staff report.

Edward Canady, 8132 Bard Street, Lorton, Virginia, the applicant, appeared before the Board and explained the request as outlined in the statement of justification as submitted with the application.

Lorine Kennedy, 8132 Bard Street, Lorton, Virginia, the applicant, appeared before the Board and explained that the Contractor had been turned down by the County when he tried to obtain a building permit for a 26 foot by 36 foot detached structure even though it met the setback requirements.

The Board passed over this application to allow staff time to obtain additional information from the Zoning Administration Division.

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Page 471, May 24, 1988, (Tape 1), Scheduled case of:

10:00 A.M. B. DAVID AND LYNN M. WINGERD, VC 88-A-032, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 2.1 ft. from side lot line (15 ft. min. side yard required by Sect. 3-207) located at 4306 Braeburn Drive, on approximately 16,740 square feet of land, zoned R-2, Annandale District, Tax Map 69-2((6))243

Lori Greenleaf, Staff Coordinator, explained to the Board that the applicant did not do the notices and staff had also determined that an additional variance was necessary.

There being no objections, the Board deferred to the above referenced application to June 30, 1988 at 9:00 A.M.

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Page 471, May 24, 1988, (Tape 1), Scheduled case of:

10:15 A.M. KEITH E. GALAYDA, VC 88-V-037, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 11 ft. from side lot line (12 ft. min. side yard required by Sect. 3-307) located at 9002 Greylock Street, on approximately 13,883 square feet of land, zoned R-3, Mount Vernon District, Tax Map 111-1((3))(4)11.

Denise James, Staff Coordinator, presented the staff report and advised the Board that the applicant had not obtained a building permit for a deck which had been constructed on the rear of the house, but the applicant will relocate the deck to within the required setbacks.

Keith Galayda, 9002 Greylock Street, Alexandria, Virginia, the applicant, appeared before the Board and explained the request as outlined in the statement of justification submitted with the application. He added that the proposal would enhance the neighborhood and also pointed out that two other neighbors had already done the same thing.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. Kelley stated that the applicant had met the standards required for a variance. Therefore, Mr. Kelley moved to grant the request subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-V-037 by KEITH E. GALAYDA, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 11 ft. from side lot line, on property located at 9002 Greylock Street, Tax Map Reference 111-1((3))(4)11, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 24, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 13,983 square feet of land.
4. The lot is exceptionally narrow.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;
  - F. An extraordinary situation or condition of the subject property, or
  - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of the approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.
4. The materials used to finish this structure shall be compatible with the principal dwelling unit on the property and to the adjacent properties.

5. The existing deck shall be relocated so as to extend no more than five (5) feet into the required side yard but not closer than five (5) feet from the side lot line in accordance with the Zoning Ordinance.
6. A building permit shall be obtained for the existing deck.

Mr. Ribble seconded the motion.

The motion carried by a vote of 6-0 with Mrs. Thonen absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 3, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 473 May 24, 1988, (Tape 2), Continuation of Edward Canady & Lorine Kennedy

EDWARD CANADY AND LORINE KENNEDY, VC 88-V-036

The Board had passed over this case earlier in the day.

Mr. Guinaw advised the Board that the guideline used for allowing detached structures is that anything over 600 square feet needs to be reviewed by the Zoning Administrator to make sure it is accessory to the primary use, the residence.

Mr. Hammack expressed the opinion that the Zoning Administrator was interpreting a guideline as part of the Ordinance.

As there were no other speakers to address this issue, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. DiGiulian stated that the applicant had met the standards for a variance and therefore moved to grant the request subject to the development conditions.

Mr. Hammack stated that The Zoning Administrator has chosen to interpret a guideline as though it were the Zoning Ordinance to require this applicant to get a variance when he could build an otherwise permissible accessory structure in the back yard meeting all Zoning Ordinance requirements and requested this be part of the reason for granting the request.

Mr. DiGiulian accepted the amendment to the motion.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-V-036 by EDWARD CANADY AND LORINE KENNEDY, under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 10.3 feet from side lot line, on property located at 8132 Bard Street, Tax Map Reference 113-4((6))3, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 24, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicants are the owners of the land.
2. The present zoning is R-E.
3. The area of the lot is 22,000 square feet of land.
4. The Zoning Administrator has chosen to interpret a guideline as though it were the Zoning Ordinance to require this applicant to get a variance when he could build an otherwise permissible accessory structure in the back yard meeting all Zoning Ordinance requirements.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;
  - F. An extraordinary situation or condition of the subject property, or
  - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. The existing carport shall be removed prior to a Building Permit being issued for the addition.
4. A Building Permit shall be obtained prior to any construction.
5. The materials used to finish the proposed garage shall be compatible with the principal dwelling unit.

Mr. Hammack seconded the motion.

The motion carried by a vote of 5-1 with Chairman Smith voting nay; Mrs. Thonen absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 3, 1988. This date shall be deemed to be the final approval date of this variance.

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10:30 A.M. EMERALD CHASE HOMEOWNERS ASSOCIATION, SP 88-C-021, application under Sect. 3-303 of the Zoning Ordinance to allow community recreation tennis, basketball, and volleyball court, located between 2996 and 2998 Emerald Chase Drive, on approximately 0.8386 acres of land, zoned R-3, Centreville District, Tax Map 25-3((7))E.

Kevin Guinaw, Staff Coordinator, presented the staff report and advised the Board that four parking spaces were required, but since the applicant was not willing to provide them staff was recommending denial of the request.

James Bonfils, President of the Emerald Chase Homeowners Association, 2972 Emerald Chase Drive, Herndon, Virginia, appeared before the Board and explained the request as outlined in the statement of justification submitted with the application. Mr. Bonfils introduced Ms. Cindy Ensign to the Board.

Cindy Ensign, 2988 Emerald Chase Drive, Herndon, Virginia, appeared before the Board and stated that a majority of the homeowners supported the request. She added that the proposed location for the facilities was within walking distance of all homeowners, therefore parking spaces were not necessary.

Chairman Smith called for speakers and John Helm of 2936 Emerald Chase Drive, Herndon, Virginia, appeared before the Board in support of the application. He stated that the proposal would improve the area. Mr. Helm also pointed out that the community was small and this would be the only amenity provided.

Mr. Bonfils returned to the podium for further testimony and advised the Board that they would like to upgrade the existing facilities by including a tennis court. He added that bike racks would be provided and everyone lived within 1800 feet of the facility.

Following a question from Mr. Hammack, Mr. Guinaw explained that parking was not required for a multi-purpose court but parking would be required for a tennis court. Mr. Hammack expressed the opinion that the use would be less intensive with the tennis courts. Mr. Guinaw reiterated that staff could only recommend approval of the request with the parking. Chairman Smith stated that the parking requirement was unrealistic.

Since there were no other speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. Hammack stated that the applicant had met the standards for a special permit and therefore moved to grant the request subject to the development conditions contained in the staff report with an additional Condition Six: The Board of Zoning Appeals recommends that the Department of Environmental Management waive all requirements for parking on this site which may be applicable to tennis courts and which were not applicable to multi-purpose courts when this property was rezoned.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-C-021 by EMERALD CHASE HOMEOWNERS ASSOCIATION, under Section 18-401 of the Zoning Ordinance to allow community recreation tennis, basketball, and volleyball court, located between 2996 and 2998 Emerald Chase Drive, Tax Map Reference 25-3((7))E, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 24, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 0.8386 acres of land.
4. The multi-purpose court was approved as part of a rezoning application.
5. The use will be less intensive with tennis courts.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 8-403 of the Zoning Ordinance.



NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. Transitional Screening 1 shall be provided along the eastern lot line in the area adjacent to Lots 63 and 64 within a modified screening yard as shown on the special permit plat. Existing trees shall be incorporated into the planting requirement. Supplemental plantings shall be determined by the County Arborist. Along the remainder of the eastern lot line, the transitional screening requirement shall be waived. The barrier requirement shall be waived.
6. The Board of Zoning Appeals recommends that the Department of Environmental Management waive all requirements for parking on this site which may be applicable to tennis courts and which were not applicable to multi-purpose courts when this property was rezoned.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date\* of the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. DiGiulian seconded the motion which carried by a vote of 6-0 with Mrs. Thonen absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 3, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 476, May 24, 1988, (Tape 2), Scheduled case of:

11:00 A.M. THE CHARLES E. SMITH COMPANIES/THE ARTERY ORGANIZATION PARTNERSHIP, A 88-S-001, appeal of Zoning Administrator's decision that breezeways in appellant's proposed multiple family dwelling complex constitute gross floor area, 11800 Lee Highway, on approximately 50.7 acres of land, zoned PDC, Springfield District, Tax Map 56-1(1)pt. 40A. (DEFERRED FROM 4/19/88 AT THE APPLICANT'S REQUEST)

Chairman Smith announced that the Board was in receipt of a letter from the appellant requesting deferral of the above referenced application.

Jerry Emrich of Walsh, Colucci, Stackhouse, Emrich & Lubeley, 950 North Glebe Road, Arlington, Virginia, representative of the appellant, appeared before the Board and requested a deferral to allow time to resolve remaining issues.

Mr. Hammack so moved. Mr. DiGiulian seconded the motion which passed unanimously with Mrs. Thonen absent from the meeting.

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Page 477, May 24, 1988, (Tape 2), Scheduled case of:

11:15 A.M. THORSEN CONSTRUCTION CO., INC., VC 88-V-031, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into three (3) lots, proposed lot 3 having a lot width of 12 ft. (80 ft. min. lot width required by Sect. 3-306) located at 8500 Fort Hunt Road, on approximately 1.8757 acres of land, zoned R-3, Mount Vernon District, Tax Map 102-4((1))54 (DEFERRED FROM 5/17/88 FOR ADDITIONAL INFORMATION)

Chairman Smith announced that the Board had deferred VC 88-V-031 so that the Board could hear testimony from Harold Logan, surveyor, as to why the variance granted two years ago had not been recorded within 18 months.

Mr. Thorsen advised the Board that Mr. Logan was present to answer questions.

Harold Logan, 4200 Daniels Way, Annandale, Virginia, appeared before the Board and stated that the original variance had been granted two years ago and that the plan was being processed in the Department of Environmental Management when the variance expired. He added that all requirements had now been satisfied and that the circumstances was a series of unfortunate miscommunications between his office, the applicant, and the County.

Prior to making the motion, Mr. Ribble stated that the applicant had met the standards for a variance and moved to grant the request subject to the development conditions with an additional Condition Nine: That applicant is required to resurface the road area on Old Stage Road in front 1607 Old Stage Road that was damaged when some work was done there on this subdivision.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-V-031 by THORSEN CONSTRUCTION CO., Inc., under Section 18-401 of the Zoning Ordinance to allow subdivision into three (3) lots, proposed lot 3 having a lot width of 12 ft., on property located at 8500 Fort Hunt Road, Tax Map Reference 102-4((1))54, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 24, 1988; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 1.8757 acres of land.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;
  - F. An extraordinary situation or condition of the subject property, or
  - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.

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- 4. That the strict application of this Ordinance would produce undue hardship.
- 5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
- 6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
- 7. That authorization of the variance will not be of substantial detriment to adjacent property.
- 8. That the character of the zoning district will not be changed by the granting of the variance.
- 9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

- 1. This variance is approved for the subdivision of one lot into 3 lots as shown on the plat submitted with this application.
- 2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date\* of the variance unless this subdivision has been recorded among the land records of Fairfax County, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
- 3. Only one (1) entrance to lots 1, 2, and 3 shall be allowed from Fort Hunt Road. The driveway easements shall be recorded with deeds to the property to ensure future access to these lots via a common driveway.
- 4. The driveway to the proposed lots shall be constructed in accordance with the Public Facilities Manual and the Subdivision Ordinance.
- 5. Sufficient sight distance shall be provided to the satisfaction of VDOT.
- 6. The applicant shall provide ancillary easements along the frontage of this site for the future widening of Fort Hunt Road.
- 7. A tree preservation plan showing the limits of clearing and grading shall be submitted to the County Arborist's office at the time of site plan review. The plan shall also address the protection of trees and their roots.
- 8. If determined necessary by the Director, the applicant shall conduct a soil survey for the site. If it is determined that problem soils exist, the applicant shall conduct a geotechnical engineering study to address potential constraints on the site.
- 9. That applicant is required to resurface the road area on Old Stage Road in front 1607 Old Stage Road that was damaged when some work was done there on this subdivision.

Mr. DiGiulian seconded the motion.

The motion carried by a vote of 6-0 with Mrs. Thonen absent from the meeting.

\*This decision was officially filed in the office of the Board of Zoning Appeals and became final on May 24, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 479, May 24, 1988, (Tape 2), Scheduled case of:

11:30 A.M. MOHAMAD ALI ROUHANI, VC 88-S-021, application under Sect. 18-401 of the Zoning Ordinance to allow construction of a dwelling on the edge of floodplain (15 ft. min. yard requirement by Sect. 2-415) located at 6419 Spring Lake Drive, on approximately 30,985 square feet of land, zoned R-2, Springfield District, Tax Map 88-1((15))1. (OTH GRANTED 2/9/88 - DEFERRED FROM 4/12/88 TO AWAIT COURT ORDER - DEFERRED FROM 4/26/88)

Chairman Smith announced that the Board was in receipt of a letter requesting withdrawal of the above referenced application.

There being no objection, it was so ordered.

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Page 479, May 24, 1988, (Tape 2), After Agenda Item: #4:

Public Hearing of August 2, 1988

There being no objection, it was so ordered that August 2, 1988 would be a day meeting for the Board of Zoning Appeals.

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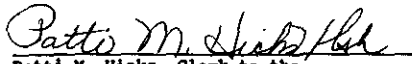
Page 479, May 24, 1988, (Tape 2), After Agenda Item: #5:

Waiver of the Eight Days for Approval of Resolutions for May 24, 1988

There being no objection, it was so ordered that the Resolutions for May 24, 1988 would not become final until June 3, 1988 with the exception of the Resolution for Thorsen Construction Company which would become final on May 24, 1988.

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As there was no other business to come before the Board, the meeting was adjourned at 11:32 a.m.

  
Patti M. Hicks, Clerk to the  
Board of Zoning Appeals

  
Daniel Smith, Chairman  
Board of Zoning Appeals

SUBMITTED: September 20, 1988

APPROVED: September 27, 1988