

The regular meeting of the Fairfax County Board of Zoning Appeals was held Tuesday, April 9, 1957 at 10 o'clock a.m. in the Board Room of the Fairfax County Courthouse with the following members present: Messrs. V. W. Smith, A. S. Lamond, J. B. Smith, T. Barnes, and Mrs. Lawrence J. Henderson, Jr.

001

The meeting was opened with a prayer by Mr. J. B. Smith

DEFERRED CASES:

1- HOWARD JOHNSON'S RESTAURANT, to permit erection of two signs with an aggregate area of 70.5 square feet which will make the total area of signs on the property in excess of allowable area by the Ordinance, (aggregate area - 360-1/2 square feet), northwest corner of #50 and Hillwood Avenue at Seven Corners, Falls Church District. (General Business).

No one was present to support the application, and since this case has been before the Board twice before - with no one present - and the applicant was notified that if he is not present at this meeting the case would be denied, Mr. Lamond moved to deny the case.

Seconded, J. B. Smith

Carried, unanimously.

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Mrs. Henderson called attention to the fact that the signs at Hillwood Motel, which the Board agreed by motion should be taken down - had not yet been removed.

Mr. Mooreland agreed to take care of notifying Hillwood Motel that these signs must be removed.

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NEW CASES:

1- GORDON JOHNSON, to permit division of proposed Lots 1 and 6 with less width and permit a setback of 35 feet from street property line on proposed Lots 2, 3, and 4, Proposed Gordon's Addition to Holmes Run Park, east side of #613, approximately 1200 feet north of Dearborn Drive, Falls Church Dist. (Rural Residence-Class I).

This is a four acre tract which has plenty of area for the six lots planned, but it will necessitate these two variances in order to make an equitable plan to include the cul-de-sac lots.

Mr. V. W. Smith thought this case should come up for rezoning rather than for this Board to grant smaller lots, which would in effect be rezoning the land.

Mr. Mooreland thought this one foot variance did not justify a rezoning, that such a variance was entirely within the jurisdiction of this Board. Colonel Kelley and Mrs. Van Evra were present - not necessarily in opposition, but desiring to know what is planned on these lots. Colonel Kelley, who owns property immediately adjoining these lots, stated that on his plat a 100 foot Telephone Company right of way runs through these lots - he noted on the plat presented with the case that the easement is 50 feet.

NEW CASES - Ctd.

1-Ctd.

Colonel Kelley suggested that the reduction of any lot sizes in this area below the requirements would set a bad precedent, that while the change in the lot size on this particular property would not harm his property he thought as a matter of policy it should not be done.

The easement to which he referred, Colonel Kelley said is recorded in Liber A, Volume 10. He was told by the Telephone Company that no construction could take place within 50 feet of the cable - which would require the 100 foot easement.

Mr. Johnson told the Board that while they did not know of the 100 foot easement until after the plat was made, they can locate the houses and services to observe this easement.

Mrs. Glavis questioned the building setback on Lot 1, and was informed by the Chairman that all setbacks would have to meet the 50-20-25 foot setbacks required in this area. Mrs. Glavis also was apprehensive of the precedent in cutting the size of these lots.

However, Mr. Mooreland called attention to the fact that the lot area is not changed on any of these lots, the change would merely result in a slightly narrower lot. In fact, Mr. Mooreland continued, most of these lots are in excess of requirements as to area. The variance request affects only the frontage on the two lots, and the setback on the three cul-de-sac lots.

Mr. Stafford showed the location of his home, into which he has put a considerable sum and which is located very near the cul-de-sac lots. From his standpoint the lesser setback on these lots would be an advantage to property owners to the south, as it would allow the trees in the rear yards to remain, which form an attractive screening. If the houses are moved farther back it would necessitate removing many trees.

Mrs. Van Evra, representing the Greater Holmes Run Citizens Association, stated that the Association was interested in up-holding the Zoning Ordinance - but they agreed at their meeting that these variances would not adversely affect neighboring property.

As to the location of the houses on the cul-de-sac lots, Mr. Johnson explained that there is a natural drainage area at one side of Lot 4 - therefore they could not locate the house in the way of that.

Mr. V. W. Smith said he was not in favor of voting on this until the Board has plats showing the existing conditions on the property - particularly the 100 foot Telephone Company easement, and he would like to see the house properly located on Lot 5, which would meet setback requirements.

Mrs. Henderson objected to the granting of a variance on five out of six lots - which in her opinion would impair the intent of the Ordinance. She therefore moved to deny the case. There was no second.

Mr. Lamond moved to defer action on this case until plats showing the Telephone Company's right of way, and also the house location can be prepared and that the applicant bring this back for further consideration. Deferred until April 23rd.

Seconded, J. B. Smith

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NEW CASES - Ctd.

1-Ctd.

For the motion: J. B. Smith, T. Barnes, A. S. Lamond

Against: Mrs. Henderson, V. W. Smith

Motion carried.

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2-

CITIES SERVICE OIL COMPANY, to permit pump islands to remain as erected, northeast corner #1 Highway and Huntington Avenue, Mt. Vernon Dist.

(Rural Business).

Mr. Bell represented the applicant. The applicant was granted a 25 foot setback on these pump islands from this Board. However, the setback from U. S. #1 is 24.9 feet and from the side 23.8 feet. As to how this happened, Mr. Bell stated that on the side of the property along Huntington Avenue there is a curb which is set flush with the macadam on the street. The curb does not follow the property line but shades off from their property line as it approaches U. S. #1. In measuring for the pump island setback the engineers took the curb to be the right of way line. It is noticeable on the plat that there is a gap of about 1-1/2 feet between the curb line and the property line - thus accounting for the setback. This, Mr. Bell continued, was a logical mistake.

On U. S. #1, Mr. Bell said, he could not account for that - it is off only the one inch, which could have been caused by accumulation of dust or a cloud of dirt which threw the instrument off that much. That was simply a small human error, Mr. Bell assured the Board, with no element of self interest involved. The one inch was of no benefit to them.

Mr. V. W. Smith noted the sign at the intersection of U. S. #1 and Huntington Avenue, which he considered an obstruction to clear visibility.

Huntington Avenue, as indicated on the plat, Mr. Mooreland explained, is not a dedicated street. The sign at this location, Mr. Lamond thought was not an obstruction - however, he recalled<sup>a</sup> sign on the other side of this property which is supported by a brick wall, and which he did consider hazardous. This, in his opinion, is a hardship case, Mr. Lamond continued - the variances are slight, and it would be a hardship for the applicant to rectify the errors, he could see no detriment to other property in the area - he therefore moved to grant the application.

The Board discussed the hardship clause in the Ordinance - Mrs. Henderson stating that in her opinion this was a self-imposed hardship, as there is no topographic condition, and no reason to grant the application.

Mr. Lamond thought that in view of the explanation of the mis-placed curb and the fact that this is a slight error - the Board could very well correct it.

The motion was accepted by Mr. T. Barnes

For the motion: A. S. Lamond, J. B. Smith, T. Barnes

Against the motion: Mrs. Henderson, V.W. Smith

Motion carried.

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4  
NEW CASES - Ctd.

3- JACK COOPERSMITH, to permit erection and operation of a service station with pump islands within 25 feet of the street property line, on north side #738, 85 feet west of Route #684, Dranesville District. (Rural Business). 004

This would appear to be a good location for a service station, Mr. Cooper-smith told the Board, it is needed in the area, he will put in a first class modern station, and it will be well maintained.

There are already two stores and another small business at this intersection, Mr. Coopersmith continued. It is a logical use for this property.

There were no objections from the area.

The property is zoned for about 400 foot depth, and there are other business projects on the property.

Mr. Henderson moved to grant the application according to the plat by H. L. Courson, dated February 26, 1957, showing the pump island to be 25 feet from the property line. This is granted because in affect the pump island will be further from the centerline of the roadway than required and because it conforms to Section 6-16-c-1-2-3.

Seconded, T. Barnes

Carried, unanimously.

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4- JACK COOPERSMITH, to permit erection and operation of a service station, northeast corner of Kings Highway, #633, and Telegraph Road, #611, Lee District. (Rural Business).

This is a sharply pointed triangular piece of property, Mr. Coopersmith noted, and he had employed Mr. Courson to draw the plans for layout to best conform to all requirements and for the best use of the land. This is a newly developing area, Mr. Coopersmith told the Board, but in his opinion it has a potential growth which will support a filling station. This also will be a modern attractive building, well maintained and an asset to the community.

There were no objections from the area.

Mr. Coopersmith noted that this is for a use permit only - no variances are asked.

Mr. Lamond stated that in view of the fact that this property has been zoned for business for many years, and it appears that a filling station would be a logical development in this area, he would move to grant the application for a use permit, to be granted in accordance with Section 6-16 of the Zoning Ordinance and as per plat prepared by H. L. Courson, dated February 21, 1957 showing the property at the corner of Telegraph Road and Kings Highway.

Seconded, J. B. Smith

Carried, unanimously.

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NEW CASES - Ctd.

5-

CLYDE A. FORNEY, to permit utility room to remain as erected 9' 4" from side property line, Lot 6, Block 1, Section 1, Calvert Park, (416 Stone Hedge Dr.) Mt. Vernon District. (Suburban Residence).

005

The original building permit on this showed a porch across a portion of the rear of the house. However, Mr. Forney told the Board, when they came to build he discovered that the septic tank was located about in the middle of the proposed porch. He therefore moved the porch, which included the utility room, to the end of the house, and around on the side of the house. Had he built the porch as originally designed it would have covered the septic tank and part of the field. In doing this, Mr. Forney said he had misinterpreted the building code.

It is necessary to have this addition, which will include laundry facilities, in an accessible location for his wife, who is ill, and could not go up and down stairs. These houses are small, Mr. Forney continued, with no place for utilities and storage.

(This is an old subdivision - recorded before 1951) There were no objections from the area. In fact the neighbors like it as it changes the monotonous character of homes in the area.

Mr. J. B. Smith suggested eliminating the projection into the side yard - and continuing the addition on to the rear, elongating it into the rear yard, and leaving the side addition as an open porch.

The original building permit was inspected - showing the porch across the rear of the house - and compared with the present plan of the completed construction. It was recognized that the applicant got a building permit for something entirely different from what he built. The Board agreed that Mr. Smith's suggestion was a good compromise, as it would require only a six inch variance on the porch.

Mr. J. B. Smith moved to defer the case until May 14th, to give the applicant the opportunity to present a sketch showing a change in the plans for the location of the addition.

Seconded, Mrs. Henderson

Carried.

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6-

VERNON M. LYNCH & SONS, to permit erection of one sign with larger area than allowed by the Ordinance, (88.5 square feet) on Augusta Drive, 250 feet north of Bland Street, Mason District. (Suburban Residence).

Mr. Charles Lynch appeared before the Board, stating that Mr. Jack Stone was supposed to present his case - and Mr. Stone was not present. He asked that the case be delayed until Mr. Stone arrive.

The Board agreed to take this case up later in the day.

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NEW CASES - Ctd.

7-

PENN DAW VOLUNTEER FIRE DEPARTMENT, to permit erection of an office addition to existing building with less setback from street property line than allowed by the Ordinance, Lots 1 and 2, Block 2, Fairview Subdivision. Mt. Vernon District. (General Business).

006

Mr. Andrew Clarke represented the applicant. This addition will be built into the corner of the building, Mr. Clarke pointed out, and will come within 18 feet of the right of way of U. S. #1. It will be used for an office and a control room, and it is their belief that it is the logical location for such an addition as it is between the ambulance room and the fire engines.

Mr. Clarke called attention to the fact that a curb will be built around this room-addition, which will eliminate any parking between this building and the right of way. Parking would then be forced toward the back and there would be no traffic movement from one side of the building to the other. Also Mr. Clarke noted that the location of the traffic lights on U. S. #1, would control the safety of entrance and exit.

Mr. Hyer, President of the Penn Daw Volunteer Fire Department, explained the function of the control room.

Mr. Walter Crain stated that he would like to go on record as favoring any addition to this building which would aid in the service of this project.

Mr. Clarke explained the control of vehicles from the fire house on to the highway, the reduced speed limit, and called attention to the fact that there is no plan to widen U. S. #1 at this point, as the State has taken right of way near here to allow for an extra lane - also he mentioned the plan for a decelerating lane into King's Highway.

The Board agreed that this is a vital service to the community.

Mr. Lamond moved to grant the application according to the map prepared by Wesley N. Ridgeway, dated March 19, 1957, showing the addition to the fire house. This is granted because of the irregular shape of the lot whereby this encroachment is necessary and it does not appear to adversely affect property surrounding.

Seconded, Mrs. Henderson

Carried, unanimously.

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8-

GEORGE C. BALES, to permit erection of a dwelling 30 feet of Fort Hill Drive Lot 3, Block C, Wilton Woods, Lee District. (Suburban Res.-Class III).

This plat was marked with the original 30 foot setback line, Mr. Bales told the Board, a restriction which was put on the property in 1940. However, when they came to locate the house in accordance with the present 40 foot setback, it was found that because of the knoll at the front of the lot it was not practical to put the house back to the 40 foot line - which would be on the back side of the nob. The nob causes a ridgeway across the front of the property, rises from the roadway then slides back into a hollow toward the rear of the lot. It is not practical, Mr. Bales continued, to put the house back in the hollow, which would meet the 40 foot setback. The rear of the lot is flat - but a house located in the flat portion would not

NEW CASES - Ctd.

8-Ctd.

be seen from the road because of the high ground in the front, and it would make a very uninteresting and unattractive location. This location would give opportunity for a well designed house, following the contour of the ground. Also there is a 10 foot drop in the flat area toward the rear of the lot.

Mr. Lamond suggested taking off the hill in front, and leveling the lot enough to meet the setback. This would mean taking out many of his trees, Mr. Bales said, and even with some leveling it would still hide the house from the street. Also it would be necessary to build up the land which drops off about 10 feet at the rear of the house.

Mr. Bales noted that only one corner of the house violates the setback - the balance of the building is 40 feet and more from the right of way. The house was designed particularly for the lot, Mr. Bales said, and he did not think it economically wise to build another type house on this property. As it is, the house would set five or six feet above the street. This is a corner lot.

Mr. Don Freidenstein, the builder, called attention to the fact that the building to the left of this lot is located 15 feet from the street and the house to the other side is set back 50 feet from the line. This owner has no objection to this setback. The lot on which the building sets back 15 feet, it was pointed out, is the 'well lot' with the well which furnishes these lots, enclosed in a small building. Across the street the house is set back 75 feet - therefore, Mr. Freidenstein explained, there would be no encroachment on or detriment to any other homes. Even if they cut off some of the hill across the front of the property, Mr. Freidenstein continued - there would still be a big drop. In his opinion this is the only way they can build on this property without creating the necessity for too many stairways from one level to the other.

Mr. V. W. Smith suggested designing another type house, asking if it would be engineeringly possible. Mr. Freidenstein thought not - it would necessitate putting the rooms on too many levels.

Mr. Walter Crain was present - objecting to the law that required the 40 foot setback. It was understood by him that Mr. Schumann had stated that the 30 foot setback would be acceptable here, provided it does not adversely affect the area. Mr. Crain discussed the 30 foot setback line placed on this property in 1940. Mr. Mooreland explained that the Commonwealth's Attorney had held that it is not required to follow an old setback restriction line which was placed on property before the Ordinance.

Mrs. Henderson quoted Section 6-11-7 from the Ordinance regarding setbacks on adjoining property. Mr. Crain pointed to the setbacks of the houses on both sides of this property - one of which is less than required by the present Ordinance.

007

## NEW CASES - Ctd.

8-Ctd. Mrs. Henderson said she could not visualize this from the discussion and would like to see the property before making a decision. She therefore moved to defer the case until April 23rd to view the property.

Seconded, J. B. Smith

For the motion: Mrs. Henderson and J. B. Smith

Against the motion: V. W. Smith, T. Barnes, A. S. Lamond

Motion lost.

In his opinion, this will not hurt Wilton Woods, Mr. Lamond said, but the large variance requested is an important consideration.

Since this appears to be a topographic condition and the setback on the adjoining lot is approximately 15 feet, Mr. V. W. Smith thought the Board could act on this case, perhaps without viewing the property.

Mr. Lamond stated that due to the topographic condition, he would move that the application be granted. He had looked at the property, Mr. Lamond continued, and felt that the applicant had a just reason for his request. He moved to grant this as shown on the plat presented with the case, because in his opinion this would not adversely affect neighboring property.

Seconded, T. Barnes

For the motion: A. S. Lamond, T. Barnes, V. W. Smith, J. B. Smith

Mrs. Henderson did not vote because she could not make up her mind without first seeing the property.

Motion carried.

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9- MRS. HIRAM CLARK, to permit erection and operation of a Primary School on 1.68 acres of land in rear of 917 Great Falls Street, Dranesville District. (Rural Residence Class II).

Mrs. Clark and Mr. Covert were present - Mr. Covert representing the owner of this property, Mrs. Ada Walker.

Mrs. Walker's home is on the front lot of this property, Mr. Covert told the Board, the nursery school will be located on an outlet road to the rear of the Walker home, about 250 feet from Great Falls Road. When it becomes necessary this outlet road will be dedicated to a full 50 foot right of way.

Mrs. Walker has no intention of selling any of the frontage property, Mr. Covert said - she is keeping this for her home site.

This rear site is being sold to Mrs. Clark, who particularly wants the location off the highway which she believes will afford greater protection for the children. Mrs. Walker is perfectly in accord with Mrs. Clark's plans.

Mrs. Clark has a high reputation, Mr. Covert continued, and her standards of teaching are of the best. The school is well planned and as far as he could determine, Mr. Covert stated, there is no opposition from the area.

008

NEW CASES - Ctd.

9-Ctd.

Mrs. Clark showed the Board sketches of the proposed building and floor plan of her school. The four car carport will be used for a wet-weather play area for the children. This will be developed with the best standards - physically and scholastically, Mrs. Clark continued. She called attention to the need to raise the standards of private schools in the County, and hoped to contribute to the betterment of such schools. Mrs. Clark said she will have about 15 pupils to a class room (three class rooms). The building will be one story.

Mrs. Clark called attention to the fact that the architect, Mr. Pickett, has designed many public and private schools in the State. This will be submitted for approval to the State and County agencies concerned, if approval is granted from this Board.

Mr. Covert discussed the spacious plans, the safety of the location of the school, the large window area, each room having its separate entrance, and stated that the school area will be fenced.

The entrance from Great Falls Road was discussed. Mr. Covert said the road was level, without grade - dropping off some distance from the entranceway. However, the visibility at the entrance is very good. There is a heavy planting along the road now which will be removed at the intersection.

Mrs. Henderson moved that the application for the erection and operation of a Primary School be granted in accordance with the two plats submitted with the case - one plat showing the location of the proposed building, prepared by Pickett & Siess, Architects; and the second plat showing the type of building to be constructed. These plats carry no date, but have been dated by the Board to show April 9, 1957. This is granted because it seems to conform to Section 6-12-f-2-a-b-c and it is granted subject to the approval of the property authorities - viz. Fire regulations and of the Health Dept. for approval of the septic tank.

Mr. V. W. Smith suggested adding to the motion that the intersection (entrance to the school) be approved by the Highway Department and the Department of Public Works. Mrs. Henderson accepted the addition.

Seconded, J. B. Smith

Carried, unanimously.

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10-

MILDRED F. JONSCHER, to permit dwelling as erected to remain within 38 feet of the street property line, Lot 23, Simpson's and May's Addition to Chesterbrook Woods, Dranesville District. (Suburban Residence).

Mr. Kohlhas represented the applicant. Mr. Mooreland asked to make a statement regarding the original permit on this house. The original plats are dated October 11, 1954, Mr. Mooreland noted, stating that the house was built at that time and apparently no setback distance was shown on the original permit. The violation was discovered after the applicant had purchased the house - and he, Mr. Mooreland, advised them to come before the Board in order to clear the error.

009

NEW CASES - Ctd.

10-Ctd. Mr. Kohlhass stated since the original location was approved without the distance being shown on the plat - his client did not know of the violation. They now wish to sell the house, and feel that this discrepancy should be cleared.

010

Mr. Lamond stated that in view of the original approval having been given by the Zoning Inspector, without the distance shown on the plat, he would move to grant the application as per map submitted with the case and prepared by D. M. Maher, dated February 10, 1955 showing the location of the building on Lot #23 to be 38 feet from the property line, Simpson's and May's Addition to Chesterbrook Woods. This is granted because only one extreme corner of the house is in violation - the balance of the house departing from the street.

Seconded, J. B. Smith

Carried,

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11- B AND B, INC., to permit erection of one sign on property not occupied by the use (24 square feet) on west side #617, approximately 500 feet north of Woodland Drive, Mason District. (Rural Residence-Class I).

Mr. Thomas Carey represented the applicant. This is a hardship case, Mr. Carey told the Board - because the property involved has a very narrow frontage on Backlick Road, and it is wooded on both sides of the entrance. This would be a logical location for the sign, as it would be visible to cars coming from the Shirley Highway and Edsall Road. It is necessary to have an identifying sign which would be easily visible as they sell largely to new people in the area who would find it difficult to locate the sign if it were located on the property, as it would be shielded and would not give the motorist time to slow down for entrance to the property. This is for a temporary request, Mr. Carey told the Board - perhaps one year.

This request has come about, Mr. Carey continued, as a result of statements from people who have had trouble in finding them, and from people who found themselves in Edsall Park - when they were actually looking for North Springfield.

Mr. Henry Jacobs re-stated the need for this sign in the proposed location. He has leased the property for this sign and lives on the property. It will be located in a grass and evergreen plot, Mr. Jacobs stated, and will be about 15 feet from the edge of the pavement and about 5 feet from the property line.

The Chairman asked for opposition. Mr. George Washabaugh noted that there are woods only on one side of the frontage property of North Springfield - he thought a sign on the property would be perfectly adequate, and that locating the sign as proposed would be detrimental to his property.

Mr. Lamond moved to defer the case until April 23rd to view the property.

Seconded, T. Barnes - Carried, unanimously.

// Mr. Lamond suggested that the applicant furnish plats showing the location of the sign on the property, before viewing the property.

NEW CASES - Ctd.

12-

WILLIAM A. BROMLEY, to permit erection of a carport within 7.8 feet of the side property line, Lot 50, Shrevevood Subdivision, Providence District. (Suburban Residence-Class II).

Mr. Bromley said he wished to purchase this house but he will need a 13 foot carport. He has 20 feet on this one side and 16 feet on the opposite side. A 10 foot carport will not be sufficient, Mr. Bromley pointed out as the chimney juts out into the carport area, and anything less than 13 feet would not give car clearance.

It was brought out that this is a new subdivision.

Mrs. Henderson suggested a carport in the rear of the house. Mr. Bromley answered that this is a split level house, and the basement is at ground level, therefore, it would make too steep a run-way to a garage in the rear. Major Roger Lowe, who owns the property next door to the applicant, told the Board that he was not necessarily objecting to the application, but he would like to see what is planned. They moved to this area, the Major said, in order to have a rural home - and wish to maintain the character of the area. He questioned if this would set a precedent for further similar requests - since there are about 72 houses in the subdivision - he thought this might start the ball rolling for too many others.

It was stated that no more ramblers will be built in this subdivision - they are going into colonial and contemporary homes.

Mrs. Henderson suggested building a carport at the end of the lot or on the other side in the rear - a separate building. Mr. Bromley answered that he probably could do that, but the separate building would be more expensive and he would have to take out a number of very nice trees.

Mrs. Henderson moved to deny the case because there is no evidence of undue hardship as required under Section 6-12-g and because there is an alternate location on the property for the carport.

Seconded, T. Barnes

Carried, unanimously.

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13-

FAIRFAX COON & BEAGLE CLUB, to permit erection of Club House and Field Trails Course, on north side #603, approximately 2400 feet east of #681, Dranesville District. (Agriculture).

Mr. Mooreland had thought the agenda would be behind schedule and had therefore asked the applicants to come in later in the day, at 2:30 p.m. However, the opposition was present and asked to be heard. Mr. Mooreland discussed the case with the Board.

Mr. Mooreland pointed out that the nearest neighbor to the proposed club house is Mr. Sisk, who is a member of the Club and owns the adjoining property. Mr. Sisk has no objection. The club house will be built for the purpose of meetings and for beagle trails. The building will be about 160 feet from the 20 foot outlet road, Mr. Mooreland said, and will maintain proper setbacks from the side lines.

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NEW CASES - Ctd.

13-Ctd. The Board members asked to be instructed in just what goes on in this type of project.

Mr. Mooreland explained that they train the dogs by dragging a coon skin through the woods and the dogs follow the scent. They meet once a month and the members go there at various times to train their dogs. There would be no shooting.

Mr. Herrick stated that he was objecting for his father, who owns property immediately adjacent to this area. His father has owned this property for many years and they have been troubled over a period of time with noisy parties and thefts and people cutting trees. Mr. Herrick thought there should be some kind of good control on the area. They have very little police protection now and he was afraid this would open the area to further unpleasant encroachments. Mr. Gash, who also owns property in the immediate area, and who could not be present, is in opposition. Mr. Herrick asked what kind of club house is planned.

Mr. Mooreland contended that this would not add to the difficulties in the area. They have been holding field trials on this property for a number of years, he continued, without complaint.

Mr. Sisk, who lives at the entrance to the club grounds would act as caretaker. There are 82 members of the club - about 15 or 20 attend each meeting. The building, Mr. Mooreland added, will be a "wonder" type of quonset hut. They have no plan to put up a permanent building because - if the highway goes through this area they could not use this property and this type building could be easily moved.

Mr. Herrick suggested that if the highway does go through this area it will raise the value of property considerably and the presence of a quonset hut would be entirely out of place.

Mr. Guilford owns property down toward the river, Mr. Herrick told the Board - he has a summer house near the river - and he has had a great deal of trouble with hunters and fishermen and others who have left litter of trash, they have cut the holly and dogwood and trampled the shrubbery.

Mr. Mooreland added that they do not have live coon hunts. He noted that Mr. Curtis Miller had donated one acre toward the club. (Mr. Miller's property adjoins the club tract).

Mr. Lamond moved to defer the case until later in the day to hear further from other members of the club.

Seconded, Mr. J. B. Smith

Carried, unanimously.

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012

DEFERRED CASES .

2- MAGAZINE REALTY COMPANY, INC., to permit construction and operation of a Highway Motel, (234 units), at the southeast intersection of #648 and Shirley Highway, Lee District. (General Business).

Mr. Moncure represented the applicant.

This case was deferred for the Bren Mar Citizens Association to investigate the impact of a motel of this size on adjoining residential property.

Mr. Rattner, from the Citizens group, stated that the Association is opposed to this project as evidenced by the petition filed with the Board at the last hearing, and that this opposition was reaffirmed at their last executive meeting, although Mr. Rattner had reported to the Association that his investigation had revealed that motels in the surrounding area in the County have had no adverse affect on neighboring residential property and that they have not adversely affected the public welfare nor safety in the area. Mr. Rattner added that while he made this report, and he himself believed if the Board granted this use as presented it would be a credit to the County, the executive committee and the Association do not agree with him and are still opposed. Mr. Rattner suggested that if a service road were constructed which would cut off prior to reaching Edsall Road, which would lead directly to the motel from the service road - it would not in any way affect the people in Bren Mar Park.

Mr. Herbert Harris, Vice-president of the Citizens Association, asked to discuss the case again as he wished to enlarge on certain evidence which he thought the Board should have. The Board ruled that they would not hear evidence which could ~~not~~ reasonably have been brought up at the last meeting. This was deferred for the report only. It was agreed that Mr. Harris be allowed ten minutes to speak on his point.

Mr. Harris displayed the County zoning map, Sectional Sheet L-7, indicating the commercial area and the relative location of the adjoining Bren Mar Park. Then Mr. Harris showed a Preliminary plat of Bren Mar Park, prepared by Pierre Ghent Associates, dated April 1952, which indicated a zoning line dividing the residential area from the commercial property, which was different from the official County zoning map. The zoning map showed that the commercial zoning stopped about 200 feet short of Hershey Lane, which would leave a tier of residential lots along the westerly side of Hershey Lane. The preliminary plat indicated a zoning line running - not parallel to Hershey Lane - but touching Hershey Lane on the south and running diagonally away from Hersey Lane as it approaches Edsall Road, thereby eliminating the tier of lots and creating a disparity in what it was expected would be a buffer strip along Hershey Lane. Mr. Harris asked - where is the zoning line between Bren Mar Park and the commercial property - with relation to the area to be used for the motel. Does it follow the line drawn on the preliminary plat, does it follow the official County map - or could it veer off in some unknown direction possibly cutting down or adding to the commercial area between the motel property and the residential area. This appears to be a

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DEFERRED CASES - Ctd.

2-Ctd. contested line, Mr. Harris continued - since it shows up differently on the two maps - he asked the Board not to make a decision on this case until the zoning line is settled.

This seriously affects the home owners on the easterly side of Hershey Lane, Mr. Harris added, and the people are greatly concerned. These are new homes representing the biggest and most important investment these people have ever made.

In answer to Mr. V. W. Smith's suggestion that the zoning of this property was not before the Board - and that it is obvious that the area on which the motel would be located is zoned for commercial use, Mr. Harris answered that the zoning between the motel area and Bren Mar Park has an important bearing on whether or not the motel should be granted, and therefore should be resolved.

It was brought out that the zoning map displayed is the official County zoning map, and the Board could see no reason to question it - because another survey differs.

Mr. Harris pointed out that the motel property is located 600 feet from Hershey Lane. If the 200 foot buffer strip is added to that it would create a good buffer for homes across Hershey Lane - if the 200 foot buffer strip is not there - that would make a difference. However, Mr. Harris argued, since this conflict exists, the Board should know for a certainty where the zoning line runs before giving a decision on this.

Mr. Mooreland said the zoning line had not changed, but that the location of the road may have been changed. There were several preliminary plats and many changes in Bren Mar Park, before it was completed - he would have to check these sections.

Again Mr. Harris asked the Board to clear up this confused situation.

Mr. Lamond moved that the application be granted for a use permit to construct and operate a highway hotel. Since the people in Bren Mar Park have been under the impression that there is a question as to the zoning along Hershey Lane, it is understood that there will be a tier of lots along Hershey Lane held in residential use. This is granted on 6.394 acres, being the hatched area which is shown on Vicinity Map by Cecil J. Cross, P. E. and S, dated March 1, 1957, and also on this map the area is shown by metes and bounds description. However, the Board takes exception to the line drawn in dotted fashion as shown on this vicinity map, supposedly indicating zoning. This is granted due to the fact that this appears to be a logical location for a business area, and for this type of business development, which is good for Fairfax County. It does not appear that this would adversely affect the health or welfare of people in the County.

It was added to the motion that the architecture of this structure conform to drawings submitted with the case, and that it be limited to 234 units.

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DEFERRED CASES - Ctd.

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2-Ctd. Also that no structure shall come closer to the Shirley Highway than 100 ft.  
Seconded, T. Barnes  
Carried, unanimously.

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3- CLARENCE R. & IRVIN PAYNE, JR., to permit erection and operation of a service station and permit pump islands 25 feet of the street right of way lines, at the northeast corner of #7 and #244, at Bailey's Cross Roads, Mason District. (General Business).

Mr. Andrew Clarke represented the applicant. Mr. Irvin Payne was also present.

This case was deferred for new plats, which Mr. Clarke presented, which plats indicated the area taken by the Highway Department - which amounted to 15,288 square feet - leaving a total of 13,844 square feet after removing the area used by the buildings to the rear.

The plats showed the entrances and exits - indicating that the property could be entered on Columbia Pike only by cars going west and entrance from Leesburg Pike by cars going in a northerly direction.

The large warehouse now on the property, which is 22 x 99 feet, is presently used by Melpar, Mr. Clarke informed the Board, the adjoining building is 29 x 21 feet and will be used for storage - until Mr. Payne can find another location for his store. These buildings will have nothing to do with the filling station. The only entrances to the warehouse are at one end and one entrance at the front. There is room to get in and out of the building without conflict with this filling station area. The property to be leased for the filling station comes within 6.4 feet of the present buildings - however, there is no connection between the two areas.

Mr. V. W. Smith noted that by granting, the Board was creating a separate lot facing on Leesburg Pike with a 29.5 foot frontage, and 50.11 feet on Columbia Pike.

Mr. Clarke pointed out that entrance to this filling station would necessarily be restricted, because of the traffic islands. He stated that when the State acquired this right of way area - it was stated at that time that it would be necessary to ask for this variance.

Mr. Payne told the Board that the lot to the north would be used for a car-wash.

Mrs. Henderson moved that Clarence & Irvin Payne be granted a permit for a filling station on this property in accordance with revised plat by W. L. Phillips, dated Mar. 29, 1957 - showing the new location of the exits and entrances on Leesburg Pike and Columbia Pike because this conforms to Section 6-16 and the requirements thereof.

Seconded, T. Barnes

DEFERRED CASES - Ctd.

3-Ctd. For the motion: Mrs. Henderson, T. Barnes, A. S. Lamond, J. B. Smith  
Mr. V. W. Smith voted "no" - because of the restricted area and because by  
this action the Board is creating a small lot which in his opinion would be  
hazardous.

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Motion carried.

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The Board recessed for lunch.

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4- RIVER TOWERS, INC. to permit multiple housing with greater density than  
allowed by the Ordinance on 26.8424 acres, south end of Potomac Avenue,  
(Bellevue), Mt. Vernon District. (Urban Residence-Class I).

Immediately upon the opening of this case, Mr. Frederick Ballard came be-  
fore the Board stating that in view of the Commonwealth's Attorney's opinion  
he would request to be heard, either at this time or later in the hearing,  
regarding the Board's jurisdiction to handle this case.

The Chairman explained the order of procedure for these cases as set up in  
the Zoning Ordinance.

It was established that this case was filed under Section 6-14-a-2-c of the  
Zoning Ordinance, which has specific reference to density. The original ap-  
plication was heard under Section 6-12-g - Mr. V. W. Smith quoted from that  
section: "Where, by reason of exceptional topographic conditions..... or by  
reason of other extraordinary and exception situation.... the strict applica-  
tion of any regulation in this chapter would result in peculiar.... or ex-  
ceptional and undue hardship.... the Board shall have the power to.... re-  
lieve such difficulties etc....".

The Board discussed a ruling on Mr. Ballard's request - Mr. Ballard question-  
ing whether or not the Board would be acting on a valid permit if they handled  
this case.

Mr. Schumann called attention to the fact that the Board has received an  
opinion from the Commonwealth's Attorney on that, which he thought should be  
taken into consideration.

That opinion, Mr. Ballard answered, is, in his opinion, in error.

Mrs. Henderson moved that the Board now hear Mr. Ballard, who is contending  
that the Commonwealth's Attorney's opinion as to whether or not the Board  
has jurisdiction in this case is in error. There was no second. Motion lost.  
The Chairman asked for the applican't presentation of the case.

Mr. John Gilmore represented the applicant. Mr. Gilmore displayed an aerial  
photograph of the tract, locating the Bellevue Apartments - immediately to  
the north, the elementary school to the west, the County sewerage treatment  
plant, and other developments in the area, and indicating the general topo-  
graphy of the area.

DEFERRED CASES - Ctd.

4-Ctd.

The applicant is before the Board, Mr. Gilmore stated, to obtain a variance under Section 6-12-g from the strict application of the provisions of the Ordinance with respect to the number of units to be allowed on this tract. The Ordinance provides that the Board can grant such a variance, Mr. Gilmore continued, if it is established that extraordinary and exception conditions exist.... and by reason of practical difficulties or because of undue hardship on the owner. They believe such a situation exists on this property, Mr. Gilmore continued, and they are of the opinion that the Board will agree that granting such a variance would not be detrimental to the public good nor would it impair the purpose and intent of the Ordinance. There is a soil condition here, Mr. Gilmore continued, which would render many other uses prohibitive on this property.

Mr. Gilmore discussed the Ordinance requirements under Section 6-14, which spell out the number of square feet for living purposes, the number of units and the number of rooms allowed for apartments. The present use to which this land can be put would allow 835 one room efficiency apartments, but after extensive studies by their architects and engineers, it has been determined that the 1,169,255 square foot total square foot area of this project, can be used to best advantage by increasing the number of rooms of the units and enhancing the value of the apartments. Surveys have shown, Mr. Gilmore added, that there is a great demand in this area for the luxury-type apartment - the type they are planning, as opposed to the garden type. They believe that this high-rise type of building is designed in such a manner that it will improve the area from an aesthetic standpoint. The three buildings planned will cover only 5% of the 26.4 acres. The type unit proposed will bring about a material improvement on the tax collection aspect of the County in that the unit and its occupants would not require services commensurate with the tax dollar collected.

With regard to the number of children of school age to be expected from this project, Mr. Gilmore made the following comparisons:

Arlington Towers with 691 units has 29 children of school age.  
Hunting Towers with 796 units has 38 children of school age.  
Bellevue Apartments (garden type) with 1000 units has 300+ children in the schools.

This illustrates, Mr. Gilmore contended, that the impact upon the schools from this type of project would be practically nil - compared to the tax dollar collected.

This project will cost approximately \$18,000,000 with a tax yield to the County of \$230,000, Mr. Gilman informed the Board.

These buildings, because of their completely fire-proof construction, will require very little fire protection, police services would be practically negligible, nor will they require other County services. Such a development would contribute substantially to the gain of the County, it is not out of harmony with the Zoning Ordinance (since there are no height limitations) and in this development they will be eliminating what is now an undesirable condition on the ground.

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DEFERRED CASES - Ctd.

4-Ctd. This is a low swampy area filled with a network of open ditches draining into the river, Mr. Gilmore concluded, but it can be made to produce revenue to the County. The land will be drained and filled and landscaped. A practically unusable piece of land can be turned to a valuable and an attractive asset to the County.

Mr. Donald Drayer, Architect for the applicant, detailed his experiences in working out what he contended is the best plan for full development of this land. He thought - at first, Mr. Drayer continued - that the land was nothing more than a dismal and unusable swamp, but upon closer study and planning the thought came to him that if the structure on this property could get above the surrounding trees and take advantage of the view there would be a big demand for apartments here. A firm was then employed to make a soil test for a high-rise type apartment building. Tests showed that soil was not hit until they were 65 feet deep. The building would require piles and the cost of putting down one pile would amount to \$64.85 per foot. Therefore, since the initial cost of setting the pile rigging is extremely high and it cost practically no more to put in a great many piles than a few - it was determined that the answer to construction costs would be the high-rise building. The more floors above the second floor level - the correspondingly more income from the building would result.

During the war, Mr. Drayer told the Board, when mortgage money on apartments was scarce, FHA loaned a great deal of money on efficiency apartments. As a result, there is now a shortage of 1, 2 and 3 bedroom apartments. The larger apartments rent first. FHA now loans money according to the number of apartments rather than on the size of the units.

They plan - per building - 19 efficiency units; 152 one bedroom apartments; 72 (later changed to 78) two bedroom apartments; 72 (later changed to 78) three bedroom apartments - the larger apartments with balconys and two baths. There will be 327 units per building. They also plan club rooms, recreation facilities, and two meeting rooms for civic groups. The dining room will overlook the greens.

The nearest point between these buildings and Mt. Vernon Memorial Highway is about 850 feet - the nearest point to a home development is 1000 feet.

Fort Hunt Road is 850 feet away. They plan 120% parking on the site.

Room sizes are as follows: Living and dining space 26 feet 2 inches by 18 feet; balcony 12 feet 8 inches by 10 feet.

Bedrooms 210 square feet; 134 square feet; and 198 square feet - two baths, kitchen 89 square feet. There is adequate storage space within each unit.

Efficiency units 264 square feet, living and dining space.

Mr. V. W. Smith asked for the total area of the units which Mr. Drayer said he did not have - but could compute it before the end of the hearing.

Mr. Gilmore asked Mr. Ralph Rocks, the builder, to explain something of the difficulties and problems incident to erecting buildings on this land.

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DEFERRED CASES - Ctd.

4-Ctd.

Mr. Rocks, President of Allen Rocks, Inc., stated that a definite hardship does exist here. After having the area cored and making studies, it was determined that the foundation on each of these buildings would cost \$300,000. Therefore, the more units they can put on the foundations the better they can spread the cost. What is their alternative, Mr. Ricks asked? It might seem logical, he continued, to put in a light weight garden type apartment which would be competition with Belleview. However, since the construction costs have increased since Belleview was constructed, this would of necessity be of lesser quality than Belleview. This high-rise building would attract a desirable type person - the apartments would be expensive. The efficiency would sell for \$8,000 ranging up to \$28,000 for the three bedroom apartment. They need a greater number of the larger apartments - as they are the most marketable.

They will not dedicate the roads within this development, Mr. Rocks continued, thereby not calling upon the County for road construction nor maintenance.

Mr. Gilmore again stressed the cost of the pilings, stating that if they spread out the foundation for a garden type of construction, they would be incurring more cost in the foundation construction and at the same time lessening the cost of the units. This would make construction cost as opposed to income-prohibitive.

Much of the swamp land in this tract is below sea level, presenting many engineering problems. It will take a large amount of filling to make it usable. However, these costs can be met and the land used if they can put in the luxury type apartments. Efficiency units only would be detrimental to the area and uneconomic.

Since this land is situated as it is, Mr. Rocks concluded, near the County sewerage disposal plant, and near Belleview, the request they are making is not out of harmony with the area, nor is it in conflict, and the type of person who will live in this development will contribute to the betterment of the community.

The Chairman asked for the reading of the letters from various County Departments in response to the Board's letter of April 2, 1957 - requesting the impact of comments with regard to this project upon the County insofar as each department is concerned.

The Planning Commission Staff Report was read as follows:

"April 9, 1957

A - Density

1. Proposed 981 units on 26.8 acres of land
2. Hunting Towers, Alexandria - 1.5 persons per unit
3. Arlington Towers, Arlington - 1.28 persons per unit

B - Proposed land area per person - based on 1.28 persons per unit - 931 square feet

For comparative purposes, the land area provided in the existing development at Belle View based on 3.49 persons per unit is 680 square feet per person

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## DEFERRED CASES - Ctd.

## 4-Ctd. Planning Commission Staff Report - Ctd.

C - Effect on School System

1. Existing Belle View Apartments - 979 units, 385 children or .393 children per unit.
2. Arlington Towers - 1,691 units, 48 school children or .028 children per unit.
3. Assuming that River Towers will be comparable to Arlington Towers, we have 981 units at .028 children per unit or reason to expect 28 school children from this project.

D - Parking Space

Considering area necessary for access lanes, driveways and turning movements, the plot plan submitted with the application provides space for parking 760 cars at 180 square feet per space.

However, the area of the site is ample to provide space to park one car per unit, which is required by the Ordinance.

E - Recreation Space

An estimate of approximately 50 children of all ages in the project would require a small play-lot.

The remaining area required for general recreational purposes would be less than three acres of park area.

The proximity of park land and the high rise apartments are a desirable feature, tending to isolate an intensive land use by adjacent open space.

F - Traffic

Development of this land under existing regulations is estimated to generate 1648 movements per day on Belle View Drive.

The proposed development should generate 3522 movements per day. Belle View Drive appears sufficient to handle this traffic.

It is our view that the intersections of Belle View Dr. and Fort Hunt Rd., and Belle View Dr. and Mt. Vernon Blvd. should be studied to determine necessary improvement in terms of storage lanes and special turning movements.

It is not our view that improvements are made necessary by this proposal alone, but that improvements are necessary no matter how this or any other land in the area is developed.

FAIRFAX COUNTY PLANNING OFFICE  
/s/ H. F. Schumann, Jr.,  
Director of Planning"

The figures arrived at in this report, Mr. Schumann said, were compiled by means of comparison with other similar apartments in the immediate area, which he thought the most appropriate data the Staff could use.

The following letters were read from the Sanitary Engineers Office, The School Board, and the Department of Public Works, the Planning Commission, and the Commonwealth's Attorney:

"In response to your memorandum dated April 2, 1957 regarding the proposal of River Towers, Inc. to construct multiple housing containing 981 units on the property located at the south end of Potomac Avenue adjacent to the Belleview Apartments, we wish to advise that sewerage service can be made available to such apartments.

Since this property is also adjacent to the existing sewage treatment plant of the County, we see no reason why this project could not be provided sewerage facilities to serve same by providing, at its own expense, service to the Westgate Sewage Treatment Plant adjacent thereto. This installation will require either a new pumping station on their property to serve the project or possibly by the replacement or enlargement of the existing pumping station on the Belleview Apartment property.

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4-Ctd. Letter from Sanitation Department - Ctd.

The pumping station located on the Belleview Apartment property is owned and operated by the County of Fairfax; however, either of the alternates outlined above, the cost of so providing the sewerage facilities will be borne by the developer of the property and not by the County of Fairfax.

We trust that this information is sufficient in order that you may determine the availability of the facilities for such construction; however, if you desire any further information regarding this matter, please call upon us at any time.

/s/ Harry L. Hale  
Sanitary Engineer"

021

Letter from the Fairfax County School Board:

"Receipt of your communication of April 2 in regard to an application for a 981 apartment development near our Belle View School is herewith acknowledged. I am pleased to submit the following information with respect to the number of school children from two somewhat representative apartment developments.

The Belle View Apartments of 971 units are providing at the moment 385 pupils to our Belle View Elementary School. On the other hand, Willston Apartments with approximately 1370 units have only 237 elementary school children. These two developments show considerable variation and will vary from year to year and even from season to season.

Should the River Towers Apartments be somewhat similar to the Belle View Apartments and an extension thereof, I know of no reason why fewer children could be expected. On the other hand, should the River Towers be comparable to Hunting Towers in Alexandria or to the Arlington Towers in Arlington, certainly the experience with Belle View and Willston would be of little value, and information from those two adjoining jurisdictions should be sought.

Our Belle View Elementary School which serves this area and is on adjacent property is currently enrolling 620 pupils. This is a 20 room school showing an average of 31 pupils per room.

This office will not be represented at the hearing on April 9, unless requested by your Board.

FAIRFAX COUNTY SCHOOL BOARD

/s/ George H. Pope  
Assistant Superintendent"

Letter from the Department of Public Works:

"A field inspection was made on the above named apartment site by this office, April 8, 1957, and I report as follows:

- 1) The land is low, and in general, swampy
- 2) Portions of the area have been improved by some land fill.
- 3) Portions of the area are subjected to tidal actions from the Potomac
- 4) During the hurricanes of 1955, portions of the higher ground, within this tract, were inundated by wind tides from the Potomac River. This office observed this fact during a field inspection.
- 5) The Potomac River profiles, obtained from the U. S. Army Engineers Office, indicate that the highest water observed in this area, was approximately 10.0', low water datum in 1933, 7.0' L.W.D. in 1937, and approximately 8.0' L.W.D. in 1942.
- 6) There are several major drainage ways through this area that must conduct the storm water from subdivisions, etc., in the water sheds above, through this property. The County of Fairfax has expended funds in joint participation with the State Highway Dept., for cleanout of these drainage ways, which are subject to tidal action. Careful consideration must be given to these drainage ways during the development of this property.

DEFERRED CASES - Ctd.

4-Ctd. Letter from Department of Public Works - Ctd.

The preliminary site plan for the proposed apartment project, as prepared by S. E. Saunders and Assoc., dated Nov. 1, 1956, is schematic for layout purposes only, and does not contain the necessary topographic data for a complete report on this site.

If more information is needed from this office pertaining to this site, accurate topography, based on Mean Sea Level datum with a contour interval of 1' and spot elevations, where necessary, would be required.

Please advise if this information is sufficient.

/s/ B. C. Rasmussen  
Subdivision Design Engineer"

022

Letter from the Fairfax County Planning Commission:

"In response to your letter of April 2nd, the following Resolution was passed by the Fairfax County Planning Commission at their meeting of April 8th; regarding the affect of the above project on the County, insofar as this department is concerned:

'It was moved that the Board of Zoning Appeals be advised that the Planning Commission is of the opinion that this is a desirable development if it is developed as proposed, viz., with an 18 or 20 story building for about 960 families, providing adequate parking facilities and adequate sewerage, but that the Commission makes no other comments nor recommendations.'

FAIRFAX COUNTY PLANNING OFFICE  
/s/ R. F. Schumann, Jr.,  
Director of Planning"

Letter from the Commonwealth's Attorney's Office:

"In response to the questions set forth in your letter of March 28, 1957, I advise as follows:

1) The use permit granted by the Board of Zoning Appeals as set forth in the minutes of February 25, 1947, Item #11, in my opinion is still in effect on all the land embraced in said application.

2) The use permit was granted by the Board at that time with the only proviso being that 'the builders conform to the recommendation of the Planning Commission'. The only recommendation of the Planning Commission, other than that the application be granted, was 'that the exception be granted subject to the construction of the project in conformance with the 'type of architectural design' indicated by the prospective rendering submitted with the application'. I do not believe that 'type of architectural design' has anything to do with the number of units, size of buildings, height of buildings nor density. It would be very difficult to ascertain and even more difficult to prove what was meant by 'type of architectural design' by the Planning Commission in 1947. The words, 'type of architectural design', would mean to me one of the general classes of architectural design rather than any specific plan or design. I do not believe that the minutes show that the use permit was granted for 1028 units or any other specific number of units. The maximum number of units would be controlled by the provisions of the Ordinance.

3) There is certainly no set percentage in variation from the strict application of the Ordinance that the Board is empowered to grant. The powers of the Board relative to variances are set forth in paragraph (g) of 6-12, Section 7. Each application must of necessity be decided on its own merits and should be decided within the provisions of said paragraph (g).

4) Sections 16-14-b and 6-11-2, of course, appear to be in conflict. Section 16-14 having been adopted subsequent to Section 6-11-2 and having specific reference to apartment buildings is the applicable Section relative to apartments and is an exception to the general rules set forth in Section 6-11-2.

4-Ctd.

Letter from the Commonwealth's Attorney - Ctd.

5) The use permit granted runs with the land and a change in ownership would have no effect whatsoever. I do not believe the original permit was granted for any certain density.

6) It would be very difficult, if not impossible, to prove 'the type of architectural design indicated by the prospective rendering submitted with the application' if the prospective rendering is not available.

/s/ Robert C. Fitzgerald  
COMMONWEALTH'S ATTORNEY"

Mr. George Landrith, who has sold this property to the applicants for this type of development, came before the Board, stating that he believed his interest in what goes on this property is of more concern to him than anyone else as his home is close by, and this project would be easily visible to him. Mr. Landrith stated that he had owned this land for many years and on several occasions had had opportunities to sell it, but had not done so because he wished to be perfectly sure of what type of development would go in.

Mr. Landrith re-stated the facts of revenue to the County from this development - the lack of impact upon County facilities. Mr. Landrith recalled that he had tried in every way to work for the best interests of the County and he sincerely believed this would be a credit in every way.

Mr. Landrith also noted that people in this area can also see the sewerage disposal plant - to which many objected in the beginning, and over which a law suit was filed against the County. The Court ruled against the objectors. He felt the same ruling would result on this - if it should come to a Court action.

People have purchased and built homes in this area since the disposal plant was put in, Mr. Landrith continued - there has been no adverse affect on the area.

This particular area is low and swampy. It is presently being used for an illegal dump - they have been unable to stop people from bringing in trash even after having fenced the property.

This would be an excellent opportunity for the County to clear up this area.

Mr. Landrith continued, and for the development of a project of which the County would be proud.

The Chairman called for opposition.

Mr. Robert Andrews asked that the following letter from Mr. Edward J. Kelly, Superintendent National Park Service, be read into the record:

"National Capital Parks appreciates the opportunity of presenting its views to the Fairfax County Board of Zoning Appeals on the 20-Story Apartment Development proposed for construction on the west side of the Mt. Vernon Memorial Parkway, contiguous to parkway property and south of New Alexandria, Virginia.

The parkway was constructed as a memorial to commemorate the 200th anniversary of the birth of George Washington. It is the responsibility of all of us to preserve the memorial character of this parkway. National Capital Parks from the inception of the parkway has advocated single family dwelling developments adjacent to the parkway right-of-way as being the only type of housing

023

DEFERRED CASES - Ctd.

4-Ctd. Letter from Mr. Edward J. Kelly, Supt. of National Park Service - Ctd.

development in keeping with its memorial character. We have consistently opposed apartment developments of any kind adjacent to the parkway right-of-way. The proposed 20-Story Apartment development is particularly obnoxious to National Capital Parks. These structures will be visible for miles and will stand out as an interruption of the memorial character, which it is our responsibility to attempt to preserve.

From the plans that we have seen, it would appear there has been a lack of sincerity on the part of the developers. The plans show a proposed lake on property under the jurisdiction of this office. This proposal has not been submitted to our office for review and consideration. In addition, National Capital Parks has jurisdiction over the old Mt. Vernon, Alexandria, and Washington Railroad property. One of the apartment units crosses this property. This, of course, is obviously misleading and no building could be built on property under our control.

We have been informed by the promoters that the project would house between three and four thousand people - the population of a good sized small town. This is bound to bring demands for direct access to the parkway, the traffic on which is already approaching the saturation point and would have a devastating effect from the standpoint of additional congestion and traffic safety.

National Capital Parks supports the Fairfax County citizens who are opposing the use of this property for an apartment project of this type, and earnestly requests the support and cooperation of the Fairfax Board of Zoning Appeals in its efforts to preserve the character of this memorial to the man who was the Nation's most revered patriot and Fairfax County's first citizen.

Sincerely yours,

/s/ Edward J. Kelly  
Superintendent"

Mr. Andrews pointed out the location of the Mt. Vernon-Alexandria Railroad right-of-way through the middle of this property, over which the National Park Service has jurisdiction.

Mr. F. A. Ballard, leading the opposition and representing River View Citizens' Association, indicated on the map the locations of the various subdivisions whose representatives were present, and whom he wished to call before the Board: Belle Haven, Westgrove, Hollin Hills, Marlin Forest, Mt. Vernon, and Bucknell Manor. The latter organization have not indicated outright opposition, Mr. Ballard said.

The jurisdiction of the Board in this matter, Mr. Ballard said, had been discussed in the citizens group meetings and it was generally felt that the 10 year old permit was no longer valid. It is their contention, Mr. Ballard continued, that the original permit was granted for approximately 1208 units for construction of a project which would be in accordance with the Planning Commission's recommendation - similar in design to Fairlington. While the Commonwealth's Attorney states in his letter to the Board of Zoning Appeals regarding the "type of architectural design" that it is difficult to ascertain just what was meant by that in 1947 (none of the renderings nor plans of Belleview are available at this time) that, Mr. Ballard argued, is not difficult to determine - the buildings as built are the "type of architectural design" referred to. It is reasonable to assume, Mr. Ballard continued, that the buildings followed the proposed architectural design, otherwise construction would have been stopped.

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DEFERRED CASES - Ctd.

025

4-Ctd.

Under Section 6-12-D-2 (page 91) of the Ordinance it states that no permit shall be valid for a period longer than six months unless a building permit is obtained, etc.... It is their belief that this permit has expired and the Board is not within its jurisdiction to hear this case. Mr. Ballard asked the Board to rule on its jurisdiction.

That Mr. V. W. Smith answered, has already been pretty well agreed upon by the Board. He asked Mr. Ballard to continue.

Mr. Ballard read the portion of the Ordinance under which this case is being heard - Section 6-12-g.

As to hardship, Mr. Ballard pointed out that the applicants must have purchased this property with their eyes open - the difficulties in developing this land must have been perfectly obvious.

Regarding the public good, Mr. Irving S. Brown, Vice-president of Belle Haven Citizens' Association, informed the Board that he had made a detailed analysis on density. Mr. Brown called attention to Mr. Drayer's statement that the project would contain 72 two bedroom and 72 three bedroom apartments. This, Mr. Brown stated should be 78 units of each. Mr. Drayer agreed to the change.

Mr. Brown gave the following chart-analysis:

"ANALYSIS OF INCREASE IN DENSITY WHICH WOULD RESULT FROM GRANTING OF VARIANCE

A. In Terms of Dwelling units

Maximum Permissible Under Existing Ordinance:

26.84 acres @ 43,560 = 1,169,150 sq.ft., +  
1400 per efficiency unit = .....835 units  
Sought under variance.....981 units

Difference, 146 units, or an increase of 17.5%

B. In Terms of Equivalent Areas

Area required under existing Ordinance, for each of 3 proposed buildings containing:

19 efficiency units @ 1,400 .....26,600 sq.ft.  
152 one bedroom units @ 1,800.....273,600 sq. ft.  
78 two bedroom units @ 2,400.....187,200 sq.ft.  
78 three bedroom units @ 2,600.....202,800 sq.ft.

Total area required for each building 690,200 sq.ft.  
or 47.53 acres

Total area required for 3 - building project 2,070,600 sq.ft.

Area available, 26.84 acres @ 43,560.....1,169,150 sq.ft.  
Difference, 20.69 acres, or 901,450 sq. ft.

Percentage overbuilding of site under requested variance 77.1%

C. In Terms of Number of Residents:

Estimated number of residents under existing Ordinance: 835 efficiency units of which it is estimated 3/4 would be occupied by one person each, and 1/4 by two persons each.....1044 residents

Estimated number of residents under requested variance:

57 efficiency units, estimated 3/4 at one person each and 1/4 at two persons each 71 residents

456 one bedroom units, estimated at two persons each 912 residents

## DEFERRED CASES - Ctd.

4-Ctd.

Estimated number of residents under requested variance - Ctd.:

234 two bedroom units, estimated 1/2 as two persons each, 1/2 at 3 persons each	585 residents
234 three bedroom units, estimated at three persons each	<u>702</u> residents
	2,270 residents

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Increase in number of residents which would result from granting of requested variance, 1226 or 117.4%"

Mr. Brown contended that if this variance is granted the applicant would have more than double the density allowed by the Ordinance.

The applicants plead hardship, Mr. Brown recalled, but in his opinion "hardship is not measured by the profit one expects to obtain."

Mr. James Forrestal, President of the Belle Haven Citizen's Association, suggested that no consideration had been given to the Memorial Parkway in the Planning Commission's recommendation, which he thought deserved the most zealous protection. Mr. Forrestal suggested that the Board was assuming the role of the Board of Supervisors by taking on the right to grant multiple housing. He also disagreed with the Commonwealth's Attorney's opinion that this 20 story building is the same as the garden type apartment originally granted. He felt that this Board has no jurisdiction in this case because of the Freehill Amendment. The permit on this case has lapsed, Mr. Forrestal contended. His Citizens Association objects to a variance from the maximum density allowed and in his opinion this variance cannot be granted unless an undue hardship is present. Only a self-induced hardship exists, Mr. Forrestal continued.

The following Resolution from the Belle Haven Citizen's Association was read:

"RESOLVED: - that the Belle Haven Citizens Association is at this time opposed to the granting of a variance from the present zoning ordinance effecting land utilization as proposed by developers of three 20-story apartments to be erected on land (approximately 27 acres) described generally by boundaries as follows: on the north by Belle View Apartments; on the west by Belle View School and Fairfax County Sewer Treatment Plant; on the south by West Grove Subdivision; and on the east by land parallel to the Mt. Vernon Boulevard and owned by the Federal Government, for the following reasons:

1. The variance requested would involve an increase over the allowable "density" in the zoning ordinance of something more than 60% and would increase the population of the proposed apartments by more than 120% as compared with the number of tenants resulting from construction within the requirements of the ordinance, i.e., instead of approximately 1000 population, the project with the variance would house in excess of 2000 persons.
2. Apartments of this type and height would change the general character of the neighborhood and the entire metropolitan area.
3. More than 2000 additional people in the community would overload:
  - a. Roads
  - b. Sewer facilities
  - c. Water supply
  - d. Schools
  - e. Shopping areas

It was further resolved that due to the short notice prior to the hearing, the Board of Zoning Appeals be requested to grant a continuance of these hearings for at least 30 days so that this and other citizens associations in the area may further investigate and seek advice of counsel.

This resolution was adopted unanimously.

Attested by: Lois Saunders, Secretary"

DEFERRED CASES - Ctd.

4-Ctd.

Mr. Forrestal contended that the original permit had expired also because of the complete change in character of the project and lack of use during the ten years. He also disagreed with the opinion of the Commonwealth's Attorney on the jurisdiction of the Board in this matter.

The Chairman asked, in Mr. Forrestal's opinion how much time could elapse before a permit becomes invalid? Never, Mr. Forrestal answered, if work is continuous, but if the land is allowed to languish for ten years - the use is most certainly abandoned.

Mr. Ray Van Hook, President of River View Citizen's Association, stated that he had gone into the jurisdictional matter very seriously. He believed the Board did not have jurisdiction, and if they assumed it - such proceedings could be attacked.

Mr. Van Hook objected to the traffic which would be generated from this project. He noted particularly the impact upon 10th Street, which already has all the traffic it will bear. He pointed to the bad intersections both at Belleview Drive and 10th Street - both of which are difficult to negotiate. Potomac Avenue is also crowded, Mr. Van Hook added. The lack of sidewalks on 10th Street would create a hazard for children in the area. Also the intersection at 10th Street and Belle Haven Road, where Mr. Van Hook said he counted traffic one evening and found the area highly congested, is a hazard. He cited other intersections in the area which are dangerous and have a bad accident record. He felt that from the standpoint of traffic, aesthetics, morals, and change of character of the area, this application should be refused.

Mr. Howard Eisner from Bucknell Manor, stated that his Association voted not to object to this variance - they are farther away from it than the other groups and are not materially affected.

However, if this is granted, Mr. Eisner stated, in his opinion, it should be within the condition that these plans as presented be followed through all the way - including the part restricting this to a cooperative project - that this should not be constructed for rental apartments.

Mr. C. W. Fatus, President of Westgate Citizen's Association, stated that his Association was fearful of the consequences of granting this variance. They had thought this was planned purely as a cooperative apartment, Mr. Fatus stated, but now they do not have that assurance as it is his understanding that if they cannot fill the apartments with purchasers they will rent them, which they do not like.

This granting would be setting a precedent, Mr. Fatus continued. Also they have had odors from the County disposal plant - perhaps this great number of connections to the plant would increase the strain - and also the odors.

Mr. Gilbert S. McCutchen, President of the Mt. Vernon Citizen's Association and representing Marlin Forest and the Board of Directors of the Mt. Vernon Citizen's Association objected for those whom he represented. They are greatly concerned Mr. McCutchen stated over the increase in density, the

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## DEFERRED CASES - Ctd.

4-Ctd. aesthetics and the loss of view. The panoramic view and aesthetic values of the area are important selling points in attracting people to their area. Marlin Forest with 130 foot elevation would always be within the shadow of these tall buildings. This type of architecture would not be allowed in the District, because of height limitations, Mr. McCutchen continued, and he considered that it has no place in this area.

Mr. McCutchen also referred to the 50 foot right of way extension of Potomac Avenue through the property to Westgrove on the south. That strip amounts to about two acres and it is his understanding that that cannot be sold - and therefore cannot be built upon.

Mr. McCutchen asked Mr. Schumann about a small boot-strip at the southeast end of this property - if it is a part of the area zoned to allow multiple housing - under the Freehill Amendment. Mr. Schumann answered - yes, this entire tract is zoned Urban Class I.

Mr. McCutchen also called attention to the vote of the Planning Commission on their recommendation to this Board, which was five for the Resolution, five not voting and two against. Also Mr. McCutchen stated that vote was taken over the protest of one of the opposition present who was not allowed to be heard.

This is not a tax question, as the applicant has continually insisted, Mr. McCutchen concluded, revenue is not the whole question - a steel mill would bring in good revenue to the County - but it would not be acceptable in the County.

Mrs. Caroline Gross, from Tauxemont Chamber of Commerce, showed an aerial photograph of 1949 indicating that no new buildings have been erected in Belle View since that date - therefore - the work has not been continuous.

Mrs. Gross also displayed an Interior Department Geological Survey map - Alexandria-Virginia Quad (edition of 1951) indicating that Belleview had materially changed the area. People in the area feel that apartments will drastically reduce the value of their property.

Mr. Phillip Herrick explained that he had moved to this area for more living space and a rural atmosphere. They bought in Belle Haven. He uses the Memorial Highway for commuting purposes, as the other highways to Washington have become so badly congested. This would add to that congestion. He objected to the precedent and a possible future business development resulting from this project.

Mr. Ballard stated, in conclusion, that the people in this area felt that they should be able to rely upon the maintenance of the zoning, that this is a most drastic change which would completely change the character of the area. The burden which he considered had not been satisfactorily convincing. The legality of this Board handling this case, Mr. Ballard continued, is still in question and the weight of the evidence is against the applicant. However, if the Board finds that it does have jurisdiction in this matter, Mr. Ballard urged them to deny the case.

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DEFERRED CASES - Ctd.

4-Ctd.

Mr. Gilmore, in summation analyzed the opposition. Mr. Gilmore contended that the Board can make a decision in this case if they find that a hardship exists - the ordinance is clear on that point. He called attention to the statements in Section 6-12-g - "Where, by reason of exceptional topographic conditions..... or by reason of extraordinary and exceptional situation, the strict application of any regulation would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner.. .." - the Board may grant such an application.

They have shown by statements from the builder and the architect what affect building on this land will have - the expense of \$1,000,000 for piles, the filling and draining of the land.

The difference between the 835 units and 981 units is the variance they are asking, Mr. Gilmore continued. They have shown the peculiar and extraordinary hardship which would result from the construction of a garden type apartment. Mr. Gilmore regretted the attack upon the integrity of the applicant in the statements made that they would not necessarily put in cooperative apartments.

Mr. Gilmore recalled the meeting with the Citizen's Associations whereby they had explained their plans. One question which arose at that meeting was what assurance the people had that this would be a cooperative apartment. The financing which they are arranging for will be secured under FHA regulations Section No. 213 - which is money designated for cooperative apartments and requires them to sell the apartments on a cooperative basis.

Mr. Gilmore also regretted the reference to the applicant's insincerity because the buildings on the plat are shown on the right of way of the old railroad. They have had the title searched by reputable attorneys, Mr. Gilmore informed the Board, and they knew nothing of this right of way. This most certainly will be looked into, Mr. Gilmore assured the Board.

Mr. Gilmore expressed the opinion that the population figures presented were speculative and compiled by inexpert individuals. He thought the figures arrived at by comparison with Arlington Towers were comparable to this project. The number of people in a two or three bedroom apartment would be questionable. But in apartments selling up to \$28,000 - the population would be at a minimum.

As to the zoning on this property, Mr. Gilmore told the Board, that they had checked with the Planning Office and were informed that this property is zoned for multiple housing use. (Mr. Schumann substantiated this statement) therefore they bought this property.

The question of jurisdiction, Mr. Gilmore continued, was raised at the last hearing. The Commonwealth's Attorney has ruled that this case is properly before the Board of Zoning Appeals, and that the original building permit issued is still in effect. If this were carried to the Board of Supervisors there is no doubt, Mr. Gilmore continued, that the case would be sent back to this Board.

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DEFERRED CASES - Ctd.

4-Ctd.

With regard to maintenance of the Memorial Parkway - if the Congress had thought no building should take place on property near the Parkway - they would most certainly have appropriated money to purchase property to prohibit that construction, Mr. Gilmore contended, and to say that a man cannot build on his own property because it might affect the aesthetic value of the area is not reasonable. However, this will not have an adverse affect on the aesthetic values of the area, Mr. Gilmore contended, and it will enhance all values more than a garden type apartment, however, if this is refused they probably will go into the garden type apartment.

With regard to revenue: they bought this land under the status quo and the structure planned will bring in revenue to the County far beyond any other type of development.

As to precedent, Mr. Gilmore contended that that does not hold water - as each case is handled on its own merits.

Mr. Gilmore suggested that the odors from the sewage disposal plant could very well be from this low swampy land - which this construction will clear up.

Mr. Gilmore agreed that if one were standing at the foot of this building it would be an obstruction to view - but the land rises all around this area and as one leaves the site the less of view decreases.

An additional expense in sewerage facilities will be borne by the applicant, Mr. Gilmore continued - this would therefore be no burden on the County - but on the contrary would be an asset.

Mr. Gilmore agreed that a steel mill would bring in more revenue to the County, but when you are putting revenue into the County and taking out very little in services the result is good for the County.

The evidence before the Board is very clear, Mr. Gilmore pointed out, with regard to Arlington Towers and Hunting Towers - both of which show few school age children and the requirement of diminishing services from the County.

Regarding the burden of proof - Mr. Gilmore asked what evidence the opposition had presented that there were no practical difficulties to building on this property and he believed that the Citizen's Associations who are opposing this are of the opinion that these plans are good and that if apartments do go in here - they would prefer the plans as presented.

Mr. James Keith made the statement that he thought the Commonwealth's Attorney's opinion incredible. If, Mr. Keith contended, the conditions imposed in 1947 are not recognized - how can they be assured that the conditions imposed at this time would remain effective?

Mr. Keith said - personally he would prefer this building to a garden type apartment - as the garden type apartment would come closer to his property, but he would not like the tall building because it is out of keeping and because it obstructs the view and changes the entire landscape.

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DEFERRED CASES - Ctd.

4-Ctd.

Mr. Gilmore stated that actually the last building in Belle View was constructed about five or six years ago - not the ten years as has been contended. Mr. Gilmore also questioned what is meant by architectural design what was meant in 1947 - would it be French Colonial, Gothic - or what...

Mr. Drayer estimated that the average area per unit was 11,040 square feet - 90% of which is in living space.

The evidence, Mr. Gilmore contended, has clearly established the practical and exceptional difficulties and the hardship problem, this is not out of harmony with the zoning map, and every effort will go into the improvement of the area from the aesthetic standpoint.

The following letter from Mr. Schumann to River Towers regarding the present zoning on this property, was read: (This was read in response to the question regarding the zoning on the small neck of property adjoining this tract, as a part of the area.)

"November 14, 1956

At the request of George Landrith is enclosed copy of a portion of the zoning map of Fairfax County which indicates that the Belle View property is zoned for apartment use.

The following are regulations in the County Zoning Ordinance relative to building heights and building locations.

Section 6-14 (b) Height Regulations.

The height of any structure shall not be limited; provided that no part of any structure shall be located closer to any property line than a distance equal to one-half the height of that part of the structure from the finished grade along the property line.

Section 6-14 (e) Paragraphs 1,2,3.

1. No multiple dwelling or its accessory structures shall be located less than one hundred feet from the center line of any boundary street nor less than thirty feet from the right of way of any service drive paralleling a boundary street, nor less than sixty feet from the center line of any interior street.

2. No multiple dwelling shall be located less than fifty feet from any side or rear property line; provided, however, that no part of any structure in any multiple housing project shall be located closer to any such property line than a distance equal to one-half the height of that part of the structure from the finished grade along such property line.

It is my understanding that it will be necessary for loan purposes that each building in this project be located on a separate lot. The provision of this paragraph requiring a multiple dwelling to be located not less than fifty feet from any side or rear property line does not apply to such lines established for such purposes, provided the project as a whole is in one ownership.

3. If any of the structures in a multiple housing project are so located that the front or rear of one structure faces any other structure, a distance of not less than sixty feet shall separate such structures; if any of the structures are arranged in a row, end to end, no such structure shall be closer to any other such structure than a distance equal to the average of their heights; provided, however, that this provision shall not apply to any two structures, if no portion of either building lies within the space between the prolongation of lines along any two opposite walls of the other structure, in which case not less than twenty feet shall separate such structures.

Very truly yours,  
FAIRFAX COUNTY PLANNING OFFICE  
/s/ H. F. Schumann, Jr.,  
Director of Planning"

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DEFERRED CASES - Ctd.

4-Ctd. Mr. Keith stated that he had called the Zoning Office and had been told that this little strip was not in Urban Class I zoning. Mr. Schumann said the map sent to River Towers showed this strip to be <sup>Urban</sup> Class I zoning and the official map so indicates. This zoning was adopted in 1956.

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Mr. Gilmore stated that it was on the strength of this letter that they bought this property. Mr. V. W. Smith noted, however, that the letter did not state that they could have 981 units. That is true, Mr. Gilmore answered - but the letter said there were no height limitations - therefore, they contracted for the land and made these plans.

The Chairman asked Mr. Harry Hale, Sanitary Engineer, to come before the Board. Mr. Hale saw no reason why this project could not be sewerred to the Westgate plant; either by a new pumping station or enlargement of the Belleview plant. They have a contract with the City of Alexandria, Mr. Hale told the Board, whereby sewerage can be diverted there as growth takes place in the County. The load can be increased into Alexandria and thereby decreased correspondingly in the County plant, when it becomes overloaded. Alexandria will accept sewerage for the equivalent of 90,000 people. We are now paying for 45,000 people, Mr. Hale continued. When that plant reaches capacity, it will be expanded and in the future we will have 90,000 capacity through the Alexandria plant.

Mr. V. W. Smith asked if this could hurt the Holmes Run and Cameron Run watersheds, if this is increased. Mr. Hale answered that the population there had been figured on a basis of 10 people per acre, as part of the over-all sewer plan. As to planning for apartments on this tract, Mr. Hale said they had not made such plans - that they could not out-guess density.

In this case, Mr. Hale said, the sewerage would be taken directly to the plant probably by pumping station. The division of the sewerage lines at Quaker Lane makes it possible to control the amount of sewerage going to Alexandria, as the area develops.

Sewerage from the fast growing area near Hunting Creek, Mr. Hale concluded, will not be diverted to Alexandria as there is a new system there now with its own treatment plant.

It was brought out that there is a fee from the County for sewerage flowing to the Alexandria plant.

Mrs. Henderson stated that she agreed with Mr. Gilmore that this property is zoned for multiple housing, but she also stated that there are varying degrees of residential density. If the Board permits a variance of more than double that allowed by the Ordinance the Board is in effect creating a new zoning category and amending the Ordinance by this variation. There are many Court cases, Mrs. Henderson continued, along this line, for instance in the case of the People vs Clarke (215 N.Y.S. 190) where the Court stated that the granting of such variances creates a material deviation from the intent of the Zoning Ordinance - that the Board attempted to amend the Ordinance which is not within the Board's jurisdiction. Mrs. Henderson thought this was a case for rezoning and that the Board should not act.

DEFERRED CASES - Ctd.

4-Ctd. Mr. Schumann asked to what zoning classification? Mrs. Henderson answered - that is for the Board of Supervisors to say - either a new classification or an amendment to the Ordinance to take care of this situation. In her opinion the Ordinance does not cover this case.

The Board recessed for five minutes.

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NEW CASES - Ctd.

13- FAIRFAX COON & BEAGLE CLUB. Mr. Lamond had left the building for a short time - however, the Board took up this case which had been deferred until later in the day when other members of the Club were supposed to be present. Those members did not appear - Mr. Mooreland asked that the Board handle the case at this time.

Mr. Herrick opposed this, stating that Mr. Pickard, who owns 83 acres between this property and the Guilford property could not be present at this hearing, but asked him (Mr. Herrick) to say that if the development proposed will improve the area he is for it, but if it does not improve the area he is opposed. Mr. Herrick said he thought nothing was shown which would in any way improve the property - the little quonset-like "Wonder-hut" he thought would not meet with Mr. Pickard's approval.

It was suggested that a better type of club house be constructed. Mr. Mooreland said this is for a temporary use, and they did not wish to go to any more expense than necessary. (Mr. Lamond returned).

Mrs. Guilford objected to the ugly club house, which she thought would be depreciating to their property.

Mr. Lamond first moved to defer the case for two weeks to see if the Club members could get together with a better looking club house - then at Mr. Mooreland's suggestion that the case be handled - Mr. Lamond moved to deny the case because it does not conform to Section 6-12-d-2-q-b.

Seconded, Mrs. Henderson

Carried, unanimously.

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4-Ctd. DEFERRED CASES - Ctd.

RIVER TOWERS: Presentation of the case having been completed, the Board discussed the case, going back over the original granting on the case in 1947, the control of architectural design, the possibility of a rezoning or an amendment to the Ordinance, the Commonwealth's Attorney's opinion, etc.

Mrs. Henderson recalled that all the records of this case, except the minutes of the February 25, 1947 meeting, are missing - the plans and specifications of the original permit are not available for the Board's consideration - which circumstance caused some speculation on the part of the Board. However, it was assumed that the plans were carried out since the buildings in Belle View are up.

033

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DEFERRED CASES - Ctd.

4-Ctd. Mrs. Henderson recalled her statements made earlier in the meeting, and said she did not feel that the Board has the power to grant this because in effect the Board would be creating a new category in the guise of a variance - therefore, she moved to deny the case.

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Mr. V. W. Smith stated that during the lunch hour he had today obtained information from the Tax Office as of January 1, 1957 - indicating that there were at that time 962 units in the Belleview Apartments. The original application called for 1208 units.

Mr. Lamond said he was not quite clear on Mrs. Henderson's motion - just what she included in her previous statements. He thought it was not within the planning area of Fairfax County to increase the density to this extent. Mrs. Henderson offered to re-draft her motion, which she did after a few minutes break. The motion read as follows:

Although this land is zoned for multiple housing there are also different categories of residential zoning for single family dwellings geared to the varying densities. Mention of the possibility of putting 835 efficiency apartments on the land as would be permitted under the old Ordinance is unrealistic because such a plan is not contemplated by the applicant, nor is it the basis for figuring multiple housing density used by our planning staff. Therefore, Mrs. Henderson moved to deny the case because: should we permit a variance in density to more than double that allowed by the Ordinance we would in effect be creating an entirely new category of zoning under the guise of a variance, which we are not empowered to do under the State Enabling Act of 1938.

Seconded, A. S. Lamond

For the Motion: Mrs. Henderson, A. S. Lamond, V. W. Smith, J. B. Smith

Mr. T. Barnes voted "no".

Motion carried.

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NEW CASES - Ctd.

6- VERNON M. LYNCH & SONS. Mr. Jack Stone represented the applicant.

The sign will be located 10 feet back from the edge of the 30 foot extension of the highway. Most of the sign is located within the agricultural district zoning line. The sign is 13 feet wide and 21 feet high, with 104 square foot area. The actual area of the letters is 84.5 square feet.

Mr. V.W. Smith recalled that the sign ordinance is being revised by Mr. Pomeroy. While there most certainly are inequities in the present ordinance, Mr. V. W. Smith questioned a permanent sign on the Shirley Highway, and said he would like to discuss the new ordinance with Mr. Pomeroy.

Mr. Mooreland said the skeleton draft of the new ordinance has not yet been presented to the Planning Office, and he did not expect the final draft would be ready for some time. These people are going in here, Mr. Mooreland continued, and they need a sign.

NEW CASES - Ctd.

6-Ctd.

It was recalled that this is only a part of the total sign area for this shopping center.

Mr. V. W. Smith recalled the granting of no permanent sign on the Shirley Highway, he thought the granting of this would be setting a precedent.

The size of this sign was compared with Skylark Motel.

This is a part of the shopping center area which is not yet built upon, Mr. Mooreland explained, and is considered part of the use. He called attention to Section 6-2 of the ordinance whereby the business zoning can extend to a distance of 30 feet into a residential area.

New business will be coming into this shopping area, Mr. Stone told the Board, and it is the applicants feeling that they need some kind of general identification - which this sign should give. The shopping area is located back a considerable distance from the highway - and this is necessary to point the way to it.

Mr. Lamond moved to grant the application, due to the fact that the building is so far from the Shirley Highway, and it is necessary to have this size sign to attract people to the business area.

Seconded, J. B. Smith

For the motion: Lamond, J. B. Smith, T. Barnes

Against: Mrs. Henderson and Mr. V. W. Smith - Mr. V. W. Smith voting "no" because a new ordinance is being prepared which he thought the Board should have before acting on this application, and because this would be setting a precedent on the Shirley Highway.

Motion carried.

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DEFERRED CASES - Ctd.

1-Ctd.

HOWARD JOHNSON'S RESTAURANT. Mr. J. B. Smith moved to reopen this case - which was denied earlier in the day, because the phone call saying the applicant would be late was not relayed to the Board - therefore, the case had been denied.

Seconded, T. Barnes

Carried, unanimously.

Mr. Jack Stone represented the applicant.

Mr. Stone pointed out how the back of the Howard Johnson building had been screened in such a way that they need a sign to give advertising to the restaurant and to indicate the entrance to people driving on Hillwood Avenue. The sign would be on the top of the building, Mr. Stone pointed out, and would serve as an attractive shield to the ducts across the roof.

It was noted that a large sign is located at the intersection of Arlington Boulevard and Hillwood Avenue, which is visible to Hillwood Avenue - also - and which Mrs. Henderson thought was sufficient.

Mr. Stone answered that that sign is angled in such a way as to practically miss Hillwood Avenue. Also, Mr. Stone called attention to the large amount

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DEFERRED CASES - Ctd.

1-Ctd.

of frontage this business has - he thought the sign allowance should be in keeping with that frontage.

Mr. V. W. Smith thought such large variance should not be granted under the present ordinance - and that applicants should make it known to the Board of Supervisors that the new regulations should be made available as soon as possible.

Mr. T. Barnes moved to grant the application because the sign is attractive and it is needed to cover up the ducts across the roof of the building; that the variance was justified for aesthetic reasons and because it shields the unattractive ducts. Also this being the rear of the building the sign is needed for identification purposes.

Mrs. Henderson called attention to the mass of signs at this intersection. Mr. V. W. Smith noted that the applicant already has sign area beyond the ordinance requirements - and that in his opinion this was asking too great an additional variance.

For the motion: T. Barnes, J. B. Smith A. S. Lamond

Against: Mrs. Henderson and Mr. V. W. Smith

Motion carried.

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Mr. Mooreland started to discuss an extension on the application of WALDRON ADAMS on U. S. #1, which the Board granted March 27, 1956 - but he withdrew his request upon further investigation of the papers in the case.

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Meeting adjourned.

*Verlin W. Smith*  
\_\_\_\_\_  
Verlin W. Smith, Chairman

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APRIL 23, 1957  
The regular meeting of the Fairfax County Board of Zoning Appeals was held Tuesday, April 23, 1957 at 10 o'clock a.m. in the Board Room of the Fairfax Courthouse with all members present: V. W. Smith, J. B. Smith, A. S. Lamond, G. T. Barnes, and Mrs. Lawrence J. Henderson, Jr.

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037

The meeting was opened with a prayer by Mr. J. B. Smith

DEFERRED CASES:

1- SUNSET DRIVE-IN THEATRE, to permit erection of an additional sign to existing marquee which makes the aggregate area in excess allowed by the Ordinance, (214 sq. ft.), north side of #7, approx. 1/2 mile east of Bailey's Cross Roads, Mason District. (Rural Business).

Mr. Gallow from Neon Sign Company represented the applicant. At the previous hearing the Board expressed doubts about the visibility - particularly upon leaving the theatre. Mr. Gallow showed pictures of the signs pointing out the location of the present sign with relation to the exit and stating that the large tree in front of the marquee would be removed. Mr. Gallow also explained that they always have a traffic control officer on duty when the theatre is cleared. The proposed sign will be so high (standing on 12 foot poles) above the ground that it will not obstruct traffic nor visibility. This sign will be located 42 feet from the center line of Route #7.

It would appear, Mr. J. B. Smith suggested, that this would put the sign on State property, if Route #7 has a 110 foot right of way. The width of the highway was discussed - but the actual right of way was not determined.

The sign requested has about 36 square feet in the letters, Mr. Gallow explained, and although the attraction panel at other theatres has not been counted in the over-all square footage, it has been figured here in the total sign area. They have been operating here for a considerable time, Mr. Gallow went on, and with new theatres in the area (theatres which have more sign area) they are suffering from competition which they believe a more adequate designation of the theatre location will help to relieve.

Mrs. Henderson suggested that the competition was actually miles away - in other areas, which would hardly detract from this location. She thought people looking for an open air theatre would at least know the general location of the theatre they plan to attend.

Mr. Gallow also pointed out that the sign on the back of the screen is visible for a very short distance because it is parallel to the highway and would not attract on-coming cars.

Mr. V. W. Smith asked if the applicant would be willing to take the sign off the screen. If necessary, Mr. Gallow answered.

Mr. V. W. Smith noted that the Board usually requires certified plats showing the location of the proposed sign and the location of existing signs on the property. He was under the impression that this case had been deferred for presentation of such plats. He recalled the Craven case on Route #211 near Bull Run, where the Board had required a certified plat of all signs on the property and he had thought that since that time it was understood

## DEFERRED CASES - Ctd.

1-Ctd. that all sign cases would be accompanied by certified plats....

Mr. Lamond moved to defer the case for the location and size of the proposed sign to be shown on a certified plat and that the plat also show the size and location of all existing signs on the property. It was also requested that the width of the highway be determined. This to be deferred until May 14th.

Seconded, J. B. Smith

Carried, unanimously.

Mr. Gallow said he had no knowledge of the requirement of a certified plat, that the Zoning Office had accepted his plat without question.

Mr. Lamond moved that the Zoning Office be advised by Resolution that the Board requires certified plats of the property in all cases for sign variances, showing location of all proposed signs and the location of all existing signs on the property.

Seconded, J. B. Smith

Carried, unanimously

(NOTE: This case was reopened later in the day and the wording of the motion changed.)

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2- MT. VERNON YACHT CLUB, INC., to permit construction and operation of a Yacht Club, boat basin, swimming pool and buildings accessory thereto, Lot 1, Block H, and Parcel A, Yacht Haven Estates, Mt. Vernon District. (Rural Res.-Class I)

Mr. Spellman represented the applicant.

This will be a membership non-profit, no-stock club, incorporated in the State of Virginia, Mr. Spellman told the Board. It is requested under Section 6-4-a-15-c of the Ordinance as amended and is designed particularly to serve Yacht Haven Estates. It is located at the mouth of Dogue Creek - 1-3/4 miles below Mt. Vernon. There are 168 lots in Yacht Haven Estates, Mr. Spellman continued, averaging about 24,000 square feet each in area and selling up to \$14,000. The homes in the subdivision range from \$27,000 to \$75,000. There are presently 14 families in the subdivision. Eleven additional homes are nearing completion. This is a beautiful portion of the Potomac, Mr. Spellman went on, and the area is especially adaptable to provide facilities for people who have an interest in boats.

Mr. Spellman mentioned other subdivisions in the area and nearby land owners Mr. H. Bryant and Mr. Malcolm Matheson, who do not object to this use, and are in fact greatly interested in its development. This stretch of property was deeded to this Club by Fair Haven Properties. It includes an area of about 3/4 mile to the mouth of the Lagoon.

Mr. Spellman presented a copy of the Charter - which is among the records of this case. The Club was organized in June 1956 and chartered June 20, 1956. The purposes of the club, as quoted from the charter are to advance and promote yachting and boating, encourage the study and use of motor and pleasure

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DEFERRED CASES - Ctd.

2-Ctd.

boats, encourage interest in aquatic sports and promote general recreation for its members. Also they will establish and maintain a library on subjects pertaining to the science of yachting and boats, and the art of navigation. This Club was likened to the Corinthian Yacht Club.

The Club will be for the people in Yacht Haven subdivision primarily, and such other members who might be voted in. However, ownership of a lot in Yacht Haven will not necessarily guarantee membership in the Club, Mr.

Spellman pointed out. A prospective purchaser may apply for membership before purchasing a lot - his application would be acted upon and he would be notified if he is voted to membership before he buys the lot.

There will be five members of the Board of Trustees. The original officers are among the original developers of Yacht Haven.

This area includes about 8 acres of land and water. It was purchased at a cost of \$25,000.

Dogue Creek is navigable, therefore - Mr. Spellman told the Board - it is controlled by the Army Corps of Engineers. Forrest Haven, from whom they purchased this property, got permission to dredge the Lagoon and to build bulkhead walls which hold back the water.

They plan a Club House - not as located on the plat, Mr. Spellman pointed out, but at the lower end of the property on a site which has a 15 mile open view down the river. They plan a 42 x 82 foot swimming pool (Olympic dimensions) with an El for diving. They will also build a series of about 80 slips along the lagoon - slips which will take care of 40 foot boats. Also individual land owners abutting the lagoon will have their own small slips, this with permission of the Club. This will be controlled by the Club, as all land bordering the lagoon for a certain distance is owned by the Club.

Parking space will be provided for 135 cars. Ingress and egress will be provided within the confines of the subdivision. The membership will not exceed 400 members.

Mr. Spellman emphasized the need for recreational facilities along the Potomac.

He located on the map - other Yacht Clubs or Marinas - explaining that most of them are already well filled, inaccessable, in a run-down condition - or membership is restricted to the immediate area. Also, Mr. Spellman went on, there can be no question of the need for another swimming pool. Arrangements can be made, Mr. Spellman continued, for scouts or other organizations to use the pool at off hours - however, they would maintain complete control as it must be assured that this is operated completely as a non-profit club.

The actual plans of the club house are tentative, Mr. Spellman told the Board.

At present they are thinking of a two story building with an observation deck - the building to be about 40 x 30 feet. This would be located about 100 feet from the side property line and ranging from 75 feet to 30 feet from Dogue Creek. However, this plan is not final, because there are new

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DEFERRED CASES - Ctd.

2-Ctd.

people coming into the area and financing is as yet not clear. They will meet all zoning requirements. Also the swimming pool is in the talking stage but it will meet all health requirements also.

Mr. Spellman noted that, contrary to the plat, there will be no storage of gasoline on this property.

The applicant is well qualified to carry out these plans, Mr. Spellman informed the Board, and in his opinion, this will be an asset to the County, The installations will be attractive, the site is admirably suited to the club house, and the whole project will attract people who will build good homes. It will have nothing of a commercial tinge, membership will be controlled. This is actually the same type of charter used in other clubs of this type, Mr. Spellman said.

Mr. Lamond questioned the \$75,000 homes referred to in the presentation.

Mr. Spellman reduced them to \$45,000.

The club house was changed from its original location near the swimming pool, Mr. Spellman said, in answer to Mrs. Henderson's question, as to why the location was changed, in order to reduce congestion around the pool and because of the unusually beautiful site at the mouth of the lagoon.

There were no objections from the area.

Mr. V. W. Smith thought the uses proposed should be spelled out and that the plats should indicate the new location of the club house and the swimming pool and should also show the elimination of the gas-storage tanks.

They plan no restaurant, Mr. Spellman said, at this time.

It was also suggested that the applicant should be assured that the club house will be furnished with water.

Also they plan for no boat repair within the area, Mr. Spellman assured the Board.

Mr. Lamond moved to defer the case until May 14th, pending revision of the plot plan and presentation of a plat the Board could tie a motion to. Also this is deferred for a statement from the owner setting forth the uses they expect to have - this to be in writing. Also it is requested that the applicant investigate whether or not sewer and water will be available. The plat shall show location of proposed buildings and the elimination of the gas-storage tanks.

Seconded, Mr. J. B. Smith

Carried, unanimously

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J. T. MOTON REALTY, INC., to permit garage to remain as erected 8.57 feet of rear property line, Lot 10, 1st Addition to Brookland Estates, Lee Dist. (Suburban Residence). Mr. Moton appeared before the Board and said he had nothing new to relate - that the error is there, the house is sold, the loan was passed by the finance company, and that he would appreciate favorable action on the part of the Board. This is a long beautiful rambler, Mr. Moton

040

DEFERRED CASES - Ctd.

3-Ctd.

continued, and not in any way is it adversely affecting the neighborhood. It would be most difficult for him to do anything about it now - since the house is sold and occupied.

This is his first violation of this kind, Mr. Moton added, although he has built hundreds of houses in the County. He could not account for the error - it was the same thing as misspelling a word in a letter - Mr. Moton continued, something one does inadvertently - one cant always explain how or why a mistake is made. The other home in this area which he built of the same type is not in violation.

The Board took a five minute break while Mr. Mooreland went for the original permit - this at Mr. V. W. Smith's request.

When the Board reconvened, Mr. Mooreland brought the original permit - but the location plot plan was missing. This case has been pulled in and out of the files so many times during the past two years, Mr. Mooreland explained, first trying to get the certified plats from Mr. Moton then when they found the violation - trying to get Mr. Moton to go before this Board to clear up the violation.

The file on this showed copies of letters sent to Mr. Moton from the Zoning Office dating from May 1955 - attempting to straighten this out.

Mr. Moton referred to the Tyler Estate - which borders this property in the rear and from whom he had tried to buy land to make this conform. Mr. Tyler died about the time he became interested in buying this land, Mr. Moton told the Board, and his estate was in a state of confusion - one of the heirs is in an asylum - he had been unable to negotiate with them.

Mr. Lamond suggested that such a purchase did not appear to him completely hopeless - as the executor or administrator of the estate is no doubt handling the affairs. He thought Mr. Moton might try again to make a deal on this purchase.

Mr. Moton said his negotiations for the additional property had caused him to delay in this matter. He kept thinking that the estate would be settled ..

Mr. J. B. Smith moved to deny the case because it is a gross variance from the Ordinance.

Seconded, Mrs. Henderson

Carried, unanimously.

It was agreed to give the applicant 45 days to correct the error.

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NEW CASES:

1-

GARETH M. NEVILLE, TRUSTEE, to permit property to be used for a cemetery at the N. E. corner Route #652 and Route #620, approximately 40 acres of land, Providence District. (Rural Residence-Class II).

Mr. William Bauknight represented the applicant.

Mr. Bauknight located the property with relation to the roads and to the three other existing cemeteries in the County: National Memorial Park, Mt. Comfort, and Calvary Memorial Park - which is immediately adjoining and

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# 16060

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NEW CASES - Ctd.

1-Ctd. surrounding this 40 acres on two sides. The other small cemeteries in Arlington and Alexandria are negligible, Mr. Bauknight stated.

Mr. Bauknight called attention to the appropriate location of this site for a cemetery - being surrounded by Calvary Memorial Park on two sides and by the two roads, Braddock Road and the Burke Station Road on the other two sides. This cemetery is not competing with the one just granted by the Board, Mr. Bauknight noted, (Calvary Memorial) as this is Protestant while Calvary is for those of the Catholic faith. Mr. Bauknight showed on the map that this location is accessible from all parts of the County and surrounding jurisdictions - mostly without having to travel the high speed highways that it is centrally located, the soil - which has been analyzed by Mr. Henry of the Soil Survey Office - is excellent for this use.

Mr. Bauknight handed the Board a chart showing figures on the death rate in Fairfax, Alexandria, and Arlington during the year 1955 - projecting this to 1980 - and thereby indicating the need of this project and showing that with 1000 burials per acre - this cemetery could very well take care of expected burials in the County.

This will be a garden type cemetery with the markers flush with the ground. They would expect the Board to require buffers in the amount of about 3-1/2 acres. This would leave them about 36 acres.

This is a private corporation, Mr. Bauknight explained, four members of the corporation - of which he is one. They intend to make this comparable to Calvary Memorial Park, and will develop with the highest standards.

Mrs. Henderson asked if this would be set up like a separate cemetery - or would it run into Calvary Memorial Park, as though it is one operation?

Mr. Bauknight suggested that they might have a low hedge along the line - that has not been worked out as yet - however they wish to work with the neighboring cemetery to develop the entire tract in conjunction with them. He noted that Mr. Daugherty of Calvary Memorial Park was present, who might wish to speak. Mr. Bauknight recalled the 100 foot buffer strip along the roads on the adjoining Cemetery - which they also are willing to observe.

Mr. Daugherty from Calvary Memorial Park stated that they now have 20 acres being put to cemetery use. If this cemetery is granted, Mr. Daugherty stated - they do not want a hedge between them - but they do ask that the Board require a 200 foot setback between the properties - and that setback be maintained in lawn.

Mr. V. W. Smith recalled that the Board had granted the Calvary Memorial Park a 25 foot setback from adjacent property owners on the outside borders of his property, and no setback from this 40 acre tract. In other words, Mr. V. W. Smith observed, if the Board followed Mr. Daugherty's suggestion they would be allowing Calvary Memorial Park to bury up to the line - and on the presently applied for cemetery - burial would be restricted to 200 feet from the property line. Mr. Daugherty was asked why - the 200 foot buffer? He answered - to set off the two cemeteries.

042

NEW CASES - Ctd.

1-Ctd.

Mr. V. W. Smith read the motion granting Calvary Memorial Park.

Mr. Bauknight said a 200 foot setback along this line would be prohibitive especially since the Board would probably require a 100 foot setback from the two roads. He could not understand a requirement of 200 feet on one cemetery and a 25 foot setback on another. His group is very willing to cooperate with Mr. Daugherty and his cemetery - but he felt the 200 foot setback was unreasonable.

Mr. Lamond moved that this cemetery be granted with a 25 foot setback along adjoining property belonging to Calvary Memorial Park, and with a 100 foot setback from the two roads - Braddock Road and the Burke Station Road. This permit is granted on property noted on the plat as the property of O'Roark - 40 acres + or minus, and said plat prepared by Merlin F. McLaughlin, dated July 17, 1956, property located at the northeast corner of Braddock Road and Burke Station Road (#620 and 652).

Seconded, T. Barnes

Carried.

For the motion: Messrs. Lamond, T. Barnes, J. B. Smith and Mrs. Henderson  
Mr. V. W. Smith voted "no". Mr. V. W. Smith objected to the 25 foot setback adjoining Calvary Memorial Park - stating that the Board had required no setback along the property line between the two cemeteries at the time of granting the Calvary Memorial Park, which contains 181 acres. He thought similar consideration should have been given to this case where the cemetery contains only 40+ acres.

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2-

J. J. MATHY, to permit operation of a cemetery on 157 acres of land, at N. W. corner of Route #236 and Route #655, Schuerman Road, Providence Dist. (Rural Residence Class I and Rural Residence Class II).

Mr. Prichard recalled that Mr. Mathy had come before the Board on this Cemetery about 10 months ago, and was refused because of opposition in the area. That opposition has disappeared now, Mr. Prichard continued.

Mr. Prichard was of the opinion that the need for burial purposes in Fairfax County would be far in excess of those figures given by Mr. Bauknight in the previous application. Mr. Prichard based his larger death-rate figures on the national average.

Mr. Prichard called attention to the three major cemeteries in Fairfax County; National Memorial Park, established in 1937, and which has no more room for expansion; Mt. Comfort, established in 1946; and the recently established Calvary Memorial Park.

The County has grown greatly since the first two cemeteries were established, Mr. Prichard continued, the population is now estimated at 180,000 with an estimated population of 667,000 in 1980 for Northern Virginia.

043

NEW CASES - Ctd.

2-Ctd. With the national average of 5000 deaths per year - this would result in 150,000 deaths in 30 years. While not all burials in the area will take place in Fairfax County, Mr. Prichard stated, there is actually a lack of cemetery space - since National Memorial cannot expand and the small cemeteries in neighboring jurisdictions are either filled or restricted. As a rule plots are bought for families, which sometimes are not used for many years. This creates a demand for lots beyond those which are actually used. People are now wanting cemeteries which can give perpetual care, Mr. Prichard went on, and the demand for large well cared for cemeteries is increasing. They have figured 1000 burials per acre, which on 150 acres would take care of 150,000 burials. Since Fairfax County is the only area left in this part of Virginia with large acreage suitable to a modern cemetery, Mr. Prichard estimated that this County will take care of the greater part of Northern Virginia.

This development would not deprive the County of sewer connections, Mr. Prichard continued, as this property cannot be sewerred. It is located at approximately the geographical center of the County, accessible from all roads, and would not interfere with traffic.

They have contacted Mr. Jesse Johnson, their principal opposition at the former hearing and he no longer objects.

It has been thought that a cemetery might be depreciating and depressing to people living in the area, Mr. Prichard went on, but that has not been proved in the development of other cemeteries. Mr. Prichard cited the experiences of Mr. Carlisle Butler of Richmond, who has designed many cemeteries throughout the Country. Mr. Butler has established the fact that cemeteries often create a better land value, and has stated that home development has continued and become even more extensive since cemeteries have been established. Mr. Butler related his experiences in cemetery development, saying that in many cases property values have even doubled and there was no lag in the construction of homes especially around the new garden-type cemetery. He cited Parklawn as an example to illustrate his contention. Mr. Butler said he could think of no memorial park-type cemetery where land values have not advanced. He cited various cases of this.

Mr. C. E. Alley, who lives in Little River Hills, objected to any entrance or exit which would go through Little River Hills Subdivision. Mr. Alley said the opposition in Little River Hills had mysteriously disappeared - after some suggestion had been made that property has been offered by the applicant for a Little League in this area, and after the Citizens' Association was offered \$500.00 to beautify the community. He felt that these offers had wiped out the opposition. However, Mr. Alley said he still objected to the use of this subdivision as an entrance - or exit.

044

NEW CASES - Ctd.

2-Ctd.

Mrs. Ruth Hatch suggested that this was an important move the Board was making - taking out so much land which is needed in Fairfax County for development purposes.

A tree planted buffer strip around the proposed cemetery was suggested.

Mr. Prichard said they had no plan to make an entrance or exit through Little River Hills, and that whatever entrance they had would be under control of the Highway Department, and that their preliminary studies show entrance from Route #236.

It was noted that this does not include any land east of Scheurman Road.

This eliminated the Candido and Jesse Johnson objections. Mr. Pickett had

stated that he objected to any cemetery, even if the processions did not go past his home. Mr. Pickett, however, was not present.

This ground would be subject to taxation, Mr. Prichard said, as the lots are sold they are recorded in the Clerk's Office in the name of the owner, and he is therefore taxed accordingly.

The State setbacks were discussed - 250 foot setback if the cemetery borders a State road, and a 750 foot buffer without burials if the cemetery borders homes. However, this latter restriction may be waived if permission is given by the home owners to put the cemetery closer.

Mr. Mathy noted that only on two sides is there no road - they have contemplated putting in a road on the west side of the property. It was stated that the State may take additional ground from Mr. Mathy on Route #236 for highway widening.

Mr. Lamond moved to grant the application in accordance with the plat submitted with the case, prepared by Harry Otis Wright, dated August 5, 1956, showing the property of J. J. Mathy consisting of Tracts No. 1, 2, 3 - a total of 157 acres (approximately). This is granted provided the applicant maintains a 100 foot setback off of Route #236 and 100 foot setback from Scheurman Road and a 25 foot setback on all other property lines.

After further discussion, Mr. Lamond amended his motion to require a 50 foot setback instead of a 25 foot setback on property lines other than the two roads (Route #236 and Scheurman Road).

Mrs. Henderson amended the motion also to include the requirement that there be no entrance nor exit to the Cemetery through Little River Hills Sub-division, now or at any future date. And that this is granted because it conforms to Section 6-12-2-a-b of the Ordinance.

Mr. Lamond accepted the amendments.

Seconded, Mrs. Henderson

Carried, unanimously

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045

NEW CASES - Ctd.

3-

LURIA BROTHERS, INC., to permit erection of one sign on property other than the use (48 sq. ft.), on north side of Lee Highway, 900 feet east of Shreve Road, Route 703, Falls Church District. (Suburban Residence-Class II). 046

Mr. T. J. Mays represented the applicant.

This sign is up for approval of the State for location on Lee Highway - but before that approval can be given - it is necessary to have a permit from this Board allowing advertising off the use - Mr. Mays explained.

They do not consider that this sign is used for selling purposes, Mr. Mays continued - as they have learned through years of experience that newspaper advertising brings the greatest number of people to the property. This would serve mostly as a directional sign, Mr. Mays continued.

This sign is located about 900 feet from the intersection of Shreve Road with Lee Highway. Coming from Falls Church, Mr. Mays continued, the road follows a long grade then it curves and leads straight up a hill. There is a steep bank along the north side of the highway, which makes the intersection with Shreve Road almost a blind spot. This sign would be placed just before the bank becomes too high, and it would give a warning to motorists of the intersection and tend to slow traffic.

People coming out from Washington who do not know the area, Mr. Mays continued, need a directional sign - even though they have seen their ad in the papers. This will slow them down and call attention to the location of the property. Mr. Mays thought this would actually be as much help to traffic control in this area as it would be a benefit to them.

The sign is not garish, it is dignified and well designed. It will not be detrimental to the neighborhood, and they are not asking for it to remain permanently. They believe eight or twelve months would be sufficient time.

Mr. Lamond agreed that signs are very valuable in selling real estate and a necessary adjunct. However, it was suggested that a small directional sign would serve the purpose in this area.

Mr. Mays again discussed the hazardous intersection and if one, not familiar with the area, were looking for property - it could cause a real danger. He stressed the value of slowing down the traffic before getting to the intersection.

Mr. V. W. Smith thought this a very hazardous location.

There were no objections from the area.

Mrs. Henderson stated that she objected to this because the sign is far in excess of the Ordinance restrictions and it is not located on the use. In her opinion if this is granted the Board would be flooded with a rash of similar requests - to advertise off the use. She therefore moved to deny the application.

Seconded, Mr. T. Barnes

For the motion: Mrs. Henderson, T. Barnes, J. B. Smith and V. W. Smith

Mr. Lamond voted "no"

Motion carried.

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4-

NEW CASES - 000.  
RONALD G. WEDLER, to permit erection of a carport within 12.2 feet of side property line, Lot 33, Section 1-A, Mill Creek Park, (1120 Lake Boulevard), Mason District. (Rural Residence-Class I).

Mr. Wedler presented a letter to the Board from the neighbor most affected stating he had no objections to this addition.

Asked about the topography of this lot, Mr. Wedler said there is a hill at the back of his house - a rise of about 5 feet. To build a carport there it would be necessary either to remove the hill or build into it.

There were no objections from the area.

Mr. Lamond stated that due to the topography of the land at the back which would make it practically impossible to locate the carport there, he would move to grant the application for a carport not to come closer to the side property line than 12.2 feet. This is granted on Lot 33, Section 1-A, Mill Creek Park, and is granted in accordance with plat submitted with the case prepared by James W. McWhorter, dated March 31, 1954.

Seconded, T. Barnes

For the motion: J. B. Smith, T. Barnes, A. S. Lamond

Voting "no" - Mrs. Henderson and V. W. Smith

Motion carried.

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5-

CITY OF FALLS CHURCH, to permit erection of a storage building within one foot of the side property line, Lot 25, Gordon's Addition to West Falls Church, Falls Church District. (Industrial).

Mr. William Baskin represented the applicant. Also Mr. Head, Director of Public Works of Falls Church, was present.

The two lots shown on the plat (24 and 25) are both zoned for industrial use, and are in both the County and the City of Falls Church. The portion of Lot 25 on which it is proposed to locate this building is in the County. The City of Falls Church is using these lots for a property yard and it is their proposal to put up a building to house equipment and materials used by the Department of Public Works - one foot from the lot line between Lot 25 and 26. It was noted, however, that it was not necessary for the City of Falls Church to come before the Board for this use - the only request is for the waiver of setback.

It is the belief of the applicant that this building which will be about 106 feet x 24 feet will provide better protection for adjoining residential property from the property yard - than if the building were located with required setbacks in which case the back of the building would in time become a catch-all area, cluttered with surplus or unused materials. With this large building all the equipment and materials would be housed. They work at this property early in the mornings and late in the evenings, Mr. Baskin told the Board, and during storms there is a great deal going on during the night. This building would help to block the noise and activity. It would house their own equipment and at the same time furnish protection to the adjoining lot.

047

NEW CASES - Ctd.

5-Ctd. There were no objections from the area.

It was noted that this case comes under Section 6-12-4 of the Ordinance - and Mr. Mooreland stated that while it is a 99 foot variance - in his opinion it is an exceptional case and is warranted.

048

Asked what materials are stored here - Mr. Head answered - copper and brass goods, used meters, materials used for repair, and their equipment. This is not a noisy operation - there would be no hammering nor work on heavy equipment.

It was suggested that the applicant could put his building farther into the lot, leaving the back yard, against the adjoining residential lot, which would be exposed to the property yard and which would have a far more depreciating affect than the long building.

This will be a fire proof building, Mr. Head told the Board, they will store no combustible materials.

Mr. Head said the property was posted and advertised and while he did not talk with anyone in the area - he had heard of no objections. The lady who had objected at the rezoning - has sold her property.

Mr. V. W. Smith questioned the one foot setback, which would not give room for maintenance. A two foot setback was suggested - to which Mr. Head agreed.

Mrs. Henderson moved that the application by the City of Falls Church for erection of a building within one foot of the property line be changed to two feet from the line, and that it be so granted because the building as referred to in Section 6-12-f-4 is to be used for purposes which will <sup>NOT</sup> detract from neighboring property. It is understood that no combustible materials shall be stored in the building and that it shall be constructed of fire resistant materials. This is granted in accordance with plat by Walter L. Phillips, dated July 7, 1955.

Seconded, T. Barnes

Carried, unanimously.

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6- J. C. STORM, to permit dedication of street within 15.7 feet of existing dwelling, west side of private road, 1326 feet south of Magarity Road, adjoining Section 7, Pimmit Hills, Dranesville Dist. (Sub. Res. - Class I).

Mr. Schumann told the Board that Mr. Storm had asked that this case be deferred until May 28th. It is possible, Mr. Schumann continued, that they may be able to resolve the situation here without a variance from the Board.

Mrs. Henderson moved to defer the case until May 28th.

Seconded, J. B. Smith

Carried.

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NEW CASES - Ctd.

43

7-

MRS. DOUGLAS HATCH, to permit a summer day camp and a riding school, on south side #652, opposite west entrance of Meadowbrook Drive, Falls Church District. (Agriculture).

049

Miss Hatch represented the applicant.

Miss Hatch stated that she is conducting a riding school now and she plans the additional activities of hiking, swimming, and summer recreation. She will use the buildings existing on the farm. The property is mostly wooded with riding trails, a lake and picnic area. She expects to have between 50 and 60 children.

Mr. Lamond asked what control the Health Department had over a project of this kind. With 50 or 60 children the drain on sanitary facilities would be considerable, Mr. Lamond continued. He thought this probably should be referred to Dr. Kennedy.

Mr. Mooreland said Dr. Kennedy had resented having this type of thing referred to his office. However, Mr. V. W. Smith recalled that Dr. Kennedy had expressed the wish during a Board of Zppeals hearing that he would like to pass on cases which required the Health Department's approval before such cases are granted by this Board. Mr. Mooreland recalled that Doctor Kennedy had been notified many times of similarly planned projects - but had paid no attention to them.

Mr. T. Barnes could see no reason for not granting this - it is a large tract, with a lake, bridle trails, place for swimming - he thought it ideal for this type of recreation.

Mr. Lamond said he had no objection to it - but thought as a precaution there should be regulations - especially approval of sanitary conditions.

Mrs. Hatch called attention to the fact that the State has nothing to do with a summer camp - no regulations, they are concerned only with projects where children are kept over night. This will be something of a cooperative project, Mrs. Hatch continued. The lake is checked regularly. They have a great many people coming to their place, Mrs. Hatch went on, and they had thought it would be better to have a permit to operate as a day camp which would come under County control.

Mrs. Henderson questioned if the drain field would accommodate 50 or 60 every day. Mrs. Hatch said they often have that many guests - and had had no trouble with the drain field.

Mrs. Sorgen asked what standards the County had for summer camps. From the discussion, Mrs. Sorgen said, she gathered that there was practically no control - no health regulations. She was astonished that a permit could be granted or that children were allowed to congregate in such numbers without the operator having to conform to some standards. It would appear that standards should be set up setting forth requirements to cover the people operating such a project and the facilities, such as septic field, toilets, the number of children, maintenance, etc.

Mr. T. Barnes moved to grant the application in accordance with the plat

NEW CASES - Ctd.

7-Ctd. presented with the case, prepared by Patton & Kelly, dated April 19, 1957 - this to be granted to the applicant only, for a period of three years.

Mrs. Hatch thought this not enough time - as there would be considerable expense involved - she asked for a permanent permit.

Until the Board or the County has some control over this type of project, Mrs. Henderson suggested that any permit granted should be for a limited time.

Mr. Barnes withdrew his motion.

Mr. Lamond moved to defer this case for referral to Doctor Kennedy of the Health Department, in order that a report may be made to this Board on the sanitary conditions - deferred to May 14th. Mrs. Henderson stated that the report from Doctor Kennedy should contain a report on sanitary facilities for 50 or 60 children - whether or not sanitary facilities are adequate and if they are not adequate - what will be necessary to make them adequate.

Seconded, T. Barnes

Carried, unanimously.

Mrs. Hatch said the delay would seriously inconvenience them - that a great deal of preliminary work must be done - and arrangements must be made for teachers. This is practically a public charity, Mrs. Hatch continued - this is merely a means of having organized recreation and watching the children more closely.

Mr. V. W. Smith agreed that that is the responsibility of the applicant, but it is the responsibility of the Board to know that the children have proper protection.

It was noted that the applicant is the one to contact the Health Department.

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8- HERBERT HUBBEN, to permit an addition to dwelling 36 feet of street property line, Lot 172, Section 6, Hollin Hills, (1233 Rebecca Road), Mt. Vernon District. (Suburban Residence).

Mrs. Hubben represented the applicant.

Mrs. Hubben explained that their house is very small - with only two bedrooms, which does not adequately serve their family with three children. This addition is badly needed. One bedroom is only 8 x 10', and there is no space for toys and the extra things which naturally go along with a family of this size. The room is planned just off the kitchen, which would be convenient, and the least expensive location for it. The ground back of the bedrooms, which are at the rear of the house, rises sharply and construction of an addition there would be expensive. On the west is the Popkins farm. They use the area on that side of the house for their outside living. The yard is very fine and they do not wish to destroy that by building on that side of the house. On the south they have a great deal of planting.

050

DEFERRED CASES - Ctd.

3-

MT. VERNON YACHT CLUB, INC. Mr. Spellman represented the applicant.

Mr. Spellman informed the Board that he had with him a letter to the Board, signed by the President of the Club, Harlan Fraley, spelling out the proposed uses planned for this project and also that he had revised plats showing the property location of the swimming pool and club house, which had been changed from the original plats.

Mr. Spellman presented the revised plats and read the following letter:

"Board of Zoning Appeals  
Fairfax County  
Fairfax, Virginia

833 South Washington St.  
Alexandria, Virginia  
May 14, 1957

RE: Application for Use Permit  
Mt. Vernon Yacht Club, Inc.

Gentlemen:

We submit herewith three (3) copies of the revised Plot Plan showing the proposed improvements to the property of applicant, prepared by Associated Engineers, Inc., Washington, D. C. and certified by F. T. Norcross, Registered Land Surveyor.

As indicated on the revised Plan, the applicant proposes to construct a two-story club house (approximately 24 ft x 40 ft), a swimming pool with approximate dimensions of 42 feet by 82 feet, a bulkhead wall, piers and a parking area accommodating about 140 automobiles. These facilities will be used solely by members of the Mt. Vernon Yacht Club, Inc., a Virginia non-profit membership corporation, and their guests. The club house will serve as a meeting place and social center for the membership and will consist of normal clubhouse facilities, including (in the future) a room for serving food. The clubhouse may also be made available in the future as a meeting place for community organizations such as Boy and Girl Scouts, on a non-commercial basis. The other facilities -- swimming pool, piers and parking -- will also be used solely by club members and their guests, on a non-profit, non-commercial basis.

The principal activity of the club will be boating, and the proposed piers or slips will accommodate approximately eighty (80) boats up to forty (40) foot length; a ramp will also be provided for rowboats.

The applicant is not seeking permission to store gasoline or other petroleum products nor to install any gasoline or other fuel pumps on the property.

Water will be supplied to the club house and swimming pool by the Woodlawn Water Company, whose lines now furnish service to the adjoining Yacht Haven Estates subdivision. Sewage will be handled by means of a lift pump back to the existing system, which now extends into the club property at Lot 1 of Block H.

The application herein is intended to cover only the uses and facilities set forth in this letter.

Very truly yours,

MT. VERNON YACHT CLUB, INC.

/s/ Harlan E. Fraley,  
Vice-President"

It was also noted that the abandoned use of gas storage was eliminated from the plat.

Mr. V. W. Smith asked if the lift pump had been discussed with Mr. Hale.

Mr. Spellman answered "no" but that the lines are in up to the point where they will need them, and they will get the necessary permission.

051

02  
5- DEFERRED CASES - Ctd.

B. and B., INCORPORATED, to permit erection of one sign on property not occupied by the use (24 sq. ft.), on west side #617, approximately 500 feet north of Woodland Drive, Mason District. (Rural Residence-Class I). 052

Mr. V. W. Smith stated that he had seen this location and thought the sign was not needed. He felt that if this were granted the Board would be flooded with similar requests to clutter the highways.

Mr. Carey represented the applicant saying that the only way they can know if their present signs are effective is by what people tell them, and they have had evidence many times of people starting out for North Springfield and winding up at their competitors because they could not locate North Springfield. He explained the location of their entrance sign on the property and the difficulty in finding it when people come out on to Backlick Road from Edsall Road because of the woods. They do not realize that the property is just a few hundred yards down the road. If the woods were cleared off they could see North Springfield, but as it is they are suffering greatly from an adverse condition which they do not think is of their own making.

Mrs. Henderson recalled that evidence earlier in the day had been presented to the Board that these directional signs do not sell property - but rather newspaper advertising is of greater importance to the sale of real estate. That probably is true, Mr. Carey answered - but you cannot show a map in the newspapers which people are able to follow - they will go so far, then if they become tangled in directions, they become discouraged and go off to an easier place to find. It is of course necessary to first bring people to the property, Mr. Carey continued - then if you have competent sales people and a good product - that is it. But first people must get to the property and that is often difficult. Mr. Carey discussed the importance of the real estate business in Fairfax County, and the resulting income to the County. Mr. V. W. Smith agreed, but also stated that this Board has an Ordinance to administer and if it is hacked away at all sides - the County in the long run would lose and the highways would be cluttered with signs advertising off the use.

It was agreed that no real need was shown for this sign, there is no topographic condition which would warrant it and Edsall Road enters Backlick Rd. at a dead end stop - it appeared to the Board that an additional sign at this location was not necessary.

Mr. Lamond agreed that these locations are difficult to find for new people in the area, and also for delivery trucks. He thought a limited time might help these people over a period during construction. The sign Ordinance is out of date, Mr. Lamond continued - and each case must be considered on its own merits. He did not think that by a limited granting of this it would necessarily follow that any sign requested off the use would be granted.

Mr. Lamond moved to grant the application for one year.

It was suggested deferring this for the applicant to go before the Board of Supervisors and ask for a new sign Ordinance.

NEW CASES:

1-

IVAN E. JENKINS, to permit division of lot with less frontage than allowed by the Ordinance, proposed lot 1, Third Addition to Brookland Estates, on the east side #613, approx. 1-1/2 miles north #644, Lee Dist. (Sub. Res. - II). Mr. Jenkins and Mr. Moton were both present.

This small parcel of land was left out in the development of the Tyler property, Mr. Moton told the Board, when Mr. Tyler was selling off his land little by little - in acreage. When Mr. Tyler died it was discovered that this strip was not included in any of his sales. The only other property left to Mr. Tyler's estate is the home which includes about three acres, which is about 100 feet from the side line of this property.

It was suggested that more land might be available for purchase which would make this lot conform. The fact that a house could not be put on this property was known to the purchaser before he bought the ground, therefore, it was noted that this was a self-imposed hardship.

Mr. Moton said he did not know of more ground which could be bought. There were so many deaths in the Tyler family - all within a short time and the affairs of the estate are very confused - he actually did not know how things stand now. They are still trying to get the additional 10 feet to make Lot 19 meet requirements - but so far have been unsuccessful. For themselves - they do not wish to purchase any more of the Tyler property.

Mrs. Henderson stated that, since there is available more land which possibly could be purchased to make this lot conform, she would move to deny the case.

Seconded, Mr. Lamond

Carried, unanimously.

If this is an unusable lot, Mr. Moton asked, why should he pay taxes on it. Suggestion - see the Assessor.

//

2-

THOMAS F. SMID, to permit garage within 35 feet of Parramore Drive and 37 feet of Hillcrest Road, Lot 34A, Lincolnia Heights, Mason District. (Suburban Residence-Class II).

The plat presented with the case showed this to be a long triangular shaped lot bounded on two sides by roads. The house has a 35 foot setback, Mr. Mooreland noted - he did not know when or how that was allowed, but presumed it was built before 1947. Mr. Swart had owned this property, Mr. Mooreland told the Board, and has asked for this same variance for the garage setback. It was granted in December 1949 - but Mr. Swart never used the permit. He subsequently sold the house to Mr. Jenkins who is asking the same setback as granted in 1949.

Mrs. Henderson suggested locating the garage at the rear of the house - away from the corner. That is the drainfield, Mr. Jenkins answered - shrubbery and trees are on the other side. The land is very uneven at the rear and falls off rather sharply.

053

Magazine Realty - Ctd.

Mr. Schumann said the original description presented with the rezoning was vague and he did not have confidence in the line as shown on the map, however, he stated that he did have confidence in the line shown on the certified plat by Mr. Cross, and was willing to accept it as the corrected line.

As to the Board requiring the owner of the commercial area to develop a tier of residentially developed lots along Hershey Lane - that is a matter for the Board to make it stick, if they can, Mr. Schumann continued.

Mr. Lamond questioned Mr. Cross' accuracy - based on his own experience with Mr. Cross.

The line could be established by another surveyor appointed by the Board or the County, Mr. Schumann suggested. Mr. Schumann repeated that the individuals who put this zoning on the map did the best they could with the description they had to work with.

It was suggested that a buffer of apartments along Hershey Lane would meet the requirement of 'residential development' - however, it was also stated that this type of use would not be satisfactory to the residents of Bren Mar Park.

Mr. Lamond said in making the motion on this - he had in mind single family homes.

The difficulties of backing up homes to business development was discussed - also the fact that Magazine Brothers could put apartments on the entire area without special permit.

The minutes of the last Magazine Brothers hearing were read.

It was brought out that if the tier of homes were located on the commercially zoned land - each home could become a potential business which would defeat the plan for residential development. Also the fact of requiring the residential lots on business property was questioned - would it stand up in Court.

Mr. Schumann suggested the possibility of asking the Board of Supervisors to hold a public hearing to have the west side of Hershey Lane zoned back to residential use.

Further discussion followed regarding the acceptance of the original plats and description - and it was questioned why the discrepancy was not picked up at the time Bren Mar was put on the map.

The question resolved itself down to - would the Board be protecting the people along Hershey Lane if they required the residential lots. The answer was no - because those lots would be in business zoning.

Mrs. Henderson thought the suggestion of the Board's consideration of a rezoning to residential use a good one.

The idea of going over this with Mr. Moncure or the Magazine Brothers and of notifying Mr. Herbert Harris of Bren Mar was discussed.

Mr. Mooreland questioned his right to grant a permit for the motel unless the tier of residential lots is shown.

054

Magazine Realty - Ctd.

Mrs. Henderson suggested contacting both Magazine Brothers and Mr. Harris of Bren Mar Park, telling them that the Board cannot hold the applicant to the residential lots - they might be willing to drop this requirement and if they are agreeable - this might be worked out. Mr. V. W. Smith thought it not likely that anyone would voluntarily give up two acres of business property.

Mr. Schumann thought the record should be clear on whatever steps the Board takes. He suggested that this be taken up again with all present who are concerned at the May 14th meeting.

Mr. Schumann suggested that this be handled under the section of the Ordinance stating that the Board of Zoning Appeals may determine a zoning line in case of a dispute. He suggested a public hearing on the Board's decision.

Mr. J. B. Smith moved that the Board hold a public hearing on May 14th, for the purpose of establishing the zoning line which is in dispute.

Seconded, Mrs. Henderson

Carried, unanimously.

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Mr. Schumann asked the Board to hear a statement on the SUNSET-DRIVE-IN case. Earlier in the day, Mr. Schumann recalled, the Board had deferred this case, asking for a certified plat of the property with locations of the signs. They sent two men to check on the location of the sign with relation to the right of way and found that it is not within the right of way.

Mr. Gallow has taken this job, Mr. Schumann continued, at a set fee, without knowledge of the Board's requirement of furnishing a certified plat. He has already spent all his fee will allow and if required to furnish the certified plat it would create a severe burden on him financially. This case was deferred one, Mr. Schumann went on, and if Mr. Gallow must go back to his client again with the second deferral it could result in his losing his position. It is known now where the sign structure is located - and Mr. Schumann asked if the Board could accept that - since the information they have required has been established. Such acceptance may eliminate the possibility of Mr. Gallow losing his job.

Mr. J. B. Smith thought this covered the Board's requirement. However, the Board agreed that after this - certified plats should be presented.

Mr. Lamond moved to reconsider the case.

Seconded, Mr. T. Barnes

Mr. V. W. Smith thought this was setting a bad precedent. He recalled that the Board had asked some time ago - and several times since - for certified plats on all business uses. That is the only way the Board can know what is on the property, Mr. V. W. Smith continued, and whether or not it is reasonable to grant additional structures on the property.

055

SUNSET-DRIVE-IN - Ctd.

The vote on the motion: Messrs. Lamond, J. B. Smith, T. Barnes and Mrs. Henderson voted "yes".

Mr. V. W. Smith voted "no"

Motion carried.

Mrs. Henderson moved that the application be denied as this is an unreasonable addition to the sign area already on the property and in her opinion evidence of undue hardship has not been shown. It is possible to see the existing signs for a considerable distance which signs give clear evidence that this is a drive-in. There was no second.

Mr. Schumann told the Board that Route #7 has an 80 foot right of way and the existing sign is 4.3 feet back from the existing right of way line. The sign actually could go on the property line, Mr. Schumann noted.

Mr. Lamond moved that the application be granted for a sign to be placed above the existing marquee, which is 4.3 feet off the right of way of Route #7, and the "Sunset-Drive-In" sign shall be removed from the screen wall. This is to grant a sign 8' x 12.5'.

Seconded, T. Barnes

For the Motion: Lamond and T. Barnes

Against: Mrs. Henderson, V. W. Smith, J. B. Smith

Motion lost.

Mr. V. W. Smith objected to the solid area at the bottom of the marquee - as being an obstruction to visibility. He suggested that that be taken off.

Mr. V. W. Smith thought the application should be heard again with the applicant present.

Mrs. Henderson suggested that the Board advise Mr. Gallow that they will take Mr. Schumann's location of the sign as being 4.3 feet from the right of way of Route #7 - and ask him at that time to remove the lower 'filled-in' portion of the marquee.

Mr. Lamond moved that the Board inform Mr. Gallow that in lieu of presenting the certified plat as requested, that he appear at the hearing of May 14th to further discuss the signs on the property and the proposed sign, but that Mr. Gallow be informed that the Board has pinned down the location of the structure and will not require the certified plat.

Seconded, Mr. T. Barnes

For the motion: Mrs. Henderson, Messrs. Lamond, Barnes and J. B. Smith

Mr. V. W. Smith voted "no".

Motion carried

Mr. Lamond moved that the Board rescind the action taken on the Sunset-Drive-In case at the morning session. Seconded, J. B. Smith. All voted for the motion except Mrs. Henderson, who voted "no". Motion Carried.

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Meeting adjourned

*Verlin W. Smith*  
Verlin W. Smith, Chairman

056

The regular meeting of the Fairfax County Board of Zoning Appeals was held May 14, 1957 at 10 o'clock a.m. in the Board Room of the Fairfax Courthouse with all members present - Mr. Verlin W. Smith, Mr. Bryant J. Smith, Mr. A. Slater Lamond, Mr. George T. Barnes, and Mrs. L. J. Henderson, Jr.

057

The meeting was opened with a prayer by Mr. J. B. Smith

DEFERRED CASES:

1- CLYDE A. FORNEY, to permit utility room to remain as erected 9' 4" from side property line, Lot 6, Block 1, Section 1, Calvert Park (416 Stone Hedge Dr.) Mt. Vernon District. (Suburban Residence).

Mrs. Forney represented the applicant. A letter was read from the Calvert Park Citizens Association asking the Board to grant this hardship case which has resulted in a serious difficulty for the applicant. Also Mrs. Forney read her own statement of reasons for not presenting a new plan of the addition which would conform to setback requirements. Several contractors have told her, the statement read, that building this addition over the drain field would result in blocking the drain and therefore would create a health condition. The construction necessary to change this would develop into an additional expenditure of over \$1000, which Mrs. Forney said they could not afford.

The Board again discussed the original building permit which located this addition across the back of the house, and the fact that the change in plans to put the addition partly on the side of the house and therefore in violation of the Ordinance was discussed. Mrs. Forney insisted that this being their first experience in building, they were unaware of the necessity of coming back to the Zoning Office to discuss this change.

Mr. Lamond moved to grant the application as a hardship case as outlined in the written statement of Mrs. Forney - due to the location of the drain field it would be impossible to make this addition to the house.

Seconded, Mr. T. Barnes

For the motion: Mr. Lamond and Mr. T. Barnes

Against: Mrs. Henderson, V. W. Smith, J. B. Smith

Motion lost.

Mr. V. W. Smith suggested to Mrs. Forney that they could turn the side structure into an open porch, which would conform to the required setback. Considerable discussion followed - Mrs. Forney stating that this would defeat the purpose of their addition, Mr. Lamond contending that the location of the drain field had an immediate bearing on the hardship as the applicant could not build over it, and it was not practical to tear the drainfield out. The Board should consider cases of this type further, Mr. Lamond insisted, and if the drainfield is there and there is no practical way the applicant can rearrange the addition to comply with restrictions, the Board is not being of service to the County if it cannot vary from an Ordinance which in this case would appear to create a hardship.

DEFERRED CASES - Ctd.

1-Ctd. Mr. V.W. Smith asked if a mis-placed drainfield in any case should be reason to overlook a violation of the Ordinance. He thought this was not an "extraordinary and exceptional situation.....which would result in peculiar and exceptional practical difficulties or undue hardship.....". This is a situation which could happen to anyone, Mr. V. W. Smith continued.

But, Mr. Lamond continued, this Board is in a position where it can take care of a condition like this - the septic is there where the utility room would normally go - and only this Board can make it possible and legal to use a portion of the side yard for the addition.

The fact of this being a self-imposed hardship and not a hardship created by the Zoning Ordinance, the fact that the septic was built too close to the house, the fact that the County would give a contractor a permit to put the septic so close to the house ( this was labeled a Health Department matter) were all discussed.

Mrs. Henderson moved to deny the case.

Seconded, J. B. Smith

For the motion: Mrs. Henderson, J. B. Smith, V. W. Smith

Against: Mr. Lamond and Mr. T. Barnes.

Mrs. Forney asked, "Now what am I to do - with the violating portion of the addition - chop it down?" "If so - when?"

Mr. Mooreland told Mrs. Forney that unless the Board sets a specific time, his office would give 30 days in which to remove the violating structure.

The case was closed.

//

2- SUNSET DRIVE IN THEATRE, to permit erection of an additional sign to existing marquee which makes the aggregate area in excess allowed by the Ordinance, (214 sq. ft.), north side of #7, approximately 1/2 mile east of Bailey's Cross Roads, Mason District. (Rural Business).

Mr. Gallow represented the applicant.

Mr. Gallow said he must have misunderstood the basic reason for his coming before this Board. In the beginning he had thought he was here because of a man's need for a larger sign - for which he was asking to help meet competition in his theatre business. Now he finds himself involved in the discussion of a traffic hazard.

This sign (the attraction panel) has been here for many years, Mr. Gallow continued, and there has never been a question of a traffic hazard. They have a traffic officer on duty when the theatre lets out. The sign is there, it will remain there, this man is in competition with other theatres in the area which have much more sign area than he is requesting, the sign on the back of the screen parallels the highway and is therefore effective for a very short distance.

058

DEFERRED CASES - Ctd.

2-Ctd. Every theatre is entitled to an attraction panel or marquee, Mr. Gallow continued, it is considered in most jurisdictions to be a part of the theatre and is therefore not figured in the sign area. This marquee is small compared to his 400 foot frontage.

Mr. Gallow also pointed out that the owner of this theatre is the only Drive-In owner who is a County man.

Mr. Schumann recalled the background of the request of the Board for a certified plat showing location of this marquee from the right of way of Route #7 and that his office had established the fact that the sign is presently located 4.3 feet from the right of way of Route #7, and therefore the Board had recinded its motion and accepted the plat as presented by his office.

Mr. V.W. Smith asked if the solid portion of the panel could be removed.

Mr. Gallow answered that little shelves are built in the back of that solid area, in which the letters are stored to set the attraction on the panel. It is a great convenience to have them there, Mr. Gallow continued, but they could, if necessary, be stored some place else. Mr. V. W. Smith then suggested that the entire solid area be removed and the sign (requested) and the attraction panel be placed on poles. Mr. V. W. Smith contended this would help to reduce the traffic hazard.

Mr. Gallow insisted that this sign as it exists is not a traffic hazard - that he had checked it carefully and one could see up and down the highway as far as the eye could carry - there was no obstruction. The supports would not look good, Mr. Gallow thought, the solid area now hides the studding on the rear of the structure. It was suggested removing about 4 foot of the solid area. Mr. Gallow agreed to that.

Mr. Schumann gave the following listings of sign area granted on other open air theatres:

Sunset Drive In	- 214 square feet
Jefferson Theatre	- 270 square feet
Lee Highway	- 340 square feet
Super 29	- 250 square feet

indicating that this applicant is asking for less than the total sign area on other theatres in the County.

Mrs. Henderson asked if in granting such variances as these - is the Board amending the Ordinance.

Mr. Mooreland re-stated the fact that the marquee has never been considered a part of the restricted sign area - that it has been considered a part of the theatre.

It was noted that without the marquee this applicant would have 114 square feet of sign area.

059

DEFERRED CASES - Ctd.

2-Ctd. Mr. V. W. Smith read the definition of a sign - from the Ordinance. Without doubt, Mr. V. W. Smith concluded, the marquee is a sign and should be so figured.

Mr. Mooreland said in holding that the marquee was a part of the theatre he was quoting what other jurisdictions have held.

Mr. Schumann thought this a matter of equity - that this man is asking for considerably less sign area than any other theatre in the County.

They have no solid area on their signs, and their signs are not located 4.3 feet from the right of way, Mr. J. B. Smith answered. Because an over-large sign area is granted on one property is certainly no reason to grant another, Mrs. Henderson suggested.

Mr. Schumann told the Board that it would appear practically impossible for anyone to present a case for sign variance to them - with sufficiently equitable reasons for granting that variance - which the Board would accept as justifiable. He suggested that people might as well understand that unless this sign ordinance is changed they will have to live with the 60 square foot area, even though there are many others in the area who - under substantially the same conditions - have been permitted a larger sign area. It was recalled by the Board members that each case is handled on its own merits.

Mr. Gallow said the applicant would remove four feet of the solid area on the attraction panel, to which some members of the Board had objected - because of visibility. However, if this requested sign is denied, Mr. Gallow warned the Board, the attraction panel with the solid lower half will remain as it is - visibility will in no way be affected by the granting or refusal of the case. Granting of the case would in fact improve conditions as they would remove part of the solid area. Refusal will serve only to keep his client from adequately identifying his business.

Mr. Lamond moved to grant the application because in reviewing the size of signs on other theatres of like nature, this is in line with their sign area and it would create a hardship on the applicant to refuse the request.

Seconded, Mr. T. Barnes

For the motion: Mr. Lamond and Mr. T. Barnes

Against: Mrs. Henderson, J. B. Smith and V. W. Smith - Motion lost.

Mrs. Henderson gave as her reason for voting against the motion - the aggregate sign area on the property, which is too far in excess of the Ordinance. She did not vote against the motion because of the solid structure under the lettered part of the marquee.

Mr. Lamond suggested several compromises, but the Board was not agreeable to any change in the motion. Case denied.

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060

DEFERRED CASES - Ctd.

3-

MT. VERNON YACHT CLUB, INC. Mr. Spellman represented the applicant. Mr. Spellman informed the Board that he had with him a letter to the Board, signed by the President of the Club, Harlan Fraley, spelling out the proposed uses planned for this project and also that he had revised plats showing the property location of the swimming pool and club house, which had been changed from the original plats.

061

Mr. Spellman presented the revised plats and read the following letter:

"Board of Zoning Appeals  
Fairfax County  
Fairfax, Virginia

833 South Washington St.  
Alexandria, Virginia  
May 14, 1957

RE: Application for Use Permit  
Mt. Vernon Yacht Club, Inc.

Gentlemen:

We submit herewith three (3) copies of the revised Plot Plan showing the proposed improvements to the property of applicant, prepared by Associated Engineers, Inc., Washington, D. C. and certified by F. T. Norcross, Registered Land Surveyor.

As indicated on the revised Plan, the applicant proposes to construct a two-story club house (approximately 24 ft x 40 ft), a swimming pool with approximate dimensions of 42 feet by 82 feet, a bulkhead wall, piers and a parking area accommodating about 140 automobiles. These facilities will be used solely by members of the Mt. Vernon Yacht Club, Inc., a Virginia non-profit membership corporation, and their guests. The club house will serve as a meeting place and social center for the membership and will consist of normal clubhouse facilities, including (in the future) a room for serving food. The clubhouse may also be made available in the future as a meeting place for community organizations such as Boy and Girl Scouts, on a non-commercial basis. The other facilities -- swimming pool, piers and parking -- will also be used solely by club members and their guests, on a non-profit, non-commercial basis.

The principal activity of the club will be boating, and the proposed piers or slips will accommodate approximately eighty (80) boats up to forty (40) foot length; a ramp will also be provided for rowboats.

The applicant is not seeking permission to store gasoline or other petroleum products nor to install any gasoline or other fuel pumps on the property.

Water will be supplied to the club house and swimming pool by the Woodlawn Water Company, whose lines now furnish service to the adjoining Yacht Haven Estates subdivision. Sewage will be handled by means of a lift pump back to the existing system, which now extends into the club property at Lot 1 of Block H.

The application herein is intended to cover only the uses and facilities set forth in this letter.

Very truly yours,

MT. VERNON YACHT CLUB, INC.

/s/ Harlan E. Fraley,  
Vice-President"

It was also noted that the abandoned use of gas storage was eliminated from the plat.

Mr. V. W. Smith asked if the lift pump had been discussed with Mr. Hale.

Mr. Spellman answered "no" but that the lines are in up to the point where they will need them, and they will get the necessary permission.

DEFERRED CASES - Ctd.

3-Ctd. They are starting the bulkhead walls and have dredged the lagoon (permission from the Army Engineers) and hope to go ahead with further final construction within six months.

062

Mrs. Henderson moved that the application of the Mt. Vernon Yacht Club be granted according to the plan as revised and shown on map presented, prepared by Associated Engineers, dated May 10, 1957, and that this case shall conform to the provisions of the letter dated May 14, 1957, from the Mt. Vernon Yacht Club, Inc., signed by Harlan Fraley, Vice-President, which letter sets forth the uses on the property. This is granted because it conforms to Section 6-12-7-2 a and b of the Ordinance, and it is understood that the swimming pool shall conform to any pending swimming pool Ordinance adopted by the County and the applicant shall provide parking on the property for all users of the use.

Seconded, J. B. Smith

Carried, unanimously.

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4- HERBERT HUBBEN, to permit an addition to dwelling 36 feet of Street property line, Lot 172, Section 6, Hollin Hills, (1233 Rebecca Road), Mt. Vernon District. (Suburban Residence).

Mr. Lamond told the Board that he had seen the property and felt that he definitely could not recommend it for granting. He had discussed it with Mrs. Hubben, who stated that she would not press the case further. Therefore, Mr. Lamond moved that the case be denied.

Seconded, Mrs. Henderson

Carried, unanimously.

//

5- MRS. DOUGLAS HATCH, to permit a summer day camp and a riding school, on the south side #652, opposite west entrance of Meadowbrook Drive, Falls Church District. (Agriculture).

No one was present to discuss the case. Mrs. Hatch had been duly notified of the hearing time and date, Mr. Mooreland said.

This was deferred for a report on sanitary conditions from Dr. Kennedy.

Mr. Lamond moved to defer the case until the next meeting, May 28th, and that Mrs. Hatch be notified that if she is not present at that time - the case will be dropped.

Seconded, J. B. Smith

Carried, unanimously.

(Note: This case was taken up later in the day when Mrs. Hatch was present with a statement from Dr. Kennedy - and granted).

//

NEW CASES:

1- IVAN E. JENKINS, to permit division of lot with less frontage than allowed by the Ordinance, proposed lot 1; Third Addition to Brookland Estates, on the east side #613, approx. 1-1/2 miles north #644, Lee Dist. (Sub. Res. - II). Mr. Jenkins and Mr. Moton were both present.

This small parcel of land was left out in the development of the Tyler property, Mr. Moton told the Board, when Mr. Tyler was selling off his land little by little - in acreage. When Mr. Tyler died it was discovered that this strip was not included in any of his sales. The only other property left to Mr. Tyler's estate is the home which includes about three acres, which is about 100 feet from the side line of this property.

It was suggested that more land might be available for purchase which would make this lot conform. The fact that a house could not be put on this property was known to the purchaser before he bought the ground, therefore, it was noted that this was a self-imposed hardship.

Mr. Moton said he did not know of more ground which could be bought. There were so many deaths in the Tyler family - all within a short time and the affairs of the estate are very confused - he actually did not know how things stand now. They are still trying to get the additional 10 feet to make Lot 19 meet requirements - but so far have been unsuccessful. For themselves - they do not wish to purchase any more of the Tyler property.

Mrs. Henderson stated that, since there is available more land which possibly could be purchased to make this lot conform, she would move to deny the case.

Seconded, Mr. Lamond

Carried, unanimously.

If this is an unusable lot, Mr. Moton asked, why should he pay taxes on it. Suggestion - see the Assessor.

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2- THOMAS F. SMID, to permit garage within 35 feet of Parramore Drive and 37 feet of Hillcrest Road, Lot 34A, Lincolnia Heights, Mason District. (Suburban Residence-Class II).

The plat presented with the case showed this to be a long triangular shaped lot bounded on two sides by roads. The house has a 35 foot setback, Mr. Mooreland noted - he did not know when nor how that was allowed, but presumed it was built before 1947. Mr. Swart had owned this property, Mr. Mooreland told the Board, and has asked for this same variance for the garage setback. It was granted in December 1949 - but Mr. Swart never used the permit. He subsequently sold the house to Mr. Jenkins who is asking the same setback as granted in 1949.

Mrs. Henderson suggested locating the garage at the rear of the house - away from the corner. That is the drainfield, Mr. Jenkins answered - shrubbery and trees are on the other side. The land is very uneven at the rear and falls off rather sharply.

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## NEW CASES - Ctd.

2-Ctd. Mr. Lamond moved to grant the application because of the unusual character of the land, due to topography and the irregular shape of the lot.

Seconded, J. B. Smith

For the motion: Lamond, J. B. Smith, T. Barnes, V. W. Smith

Mrs. Henderson refrained from voting.

Motion carried.

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3- CHARLES D. FORD, to permit dwelling to remain 42.5 feet from Pine Tree Road and 19.5 feet from side line, Lot 12, Section 2, Westmont, Dranesville Dist (Suburban Residence-Class III).

Mr. Neill, the builder, represented the applicant. They planned the house with proper setbacks, Mr. Neill explained, but ran into difficulties when the required location of the septic field put them on filled dirt. To avoid that and to put the house on solid ground, they moved the house forward - thinking they had sufficient leeway to do that. But the right of way of Pine Tree Road curves in just enough to cause the discrepancy in the front set back. The front points are 160 feet apart - they went back 46-1/2 feet with the house proper. The width of the 20.2 foot living room on the front of the house is the only part in violation. It has a jog of 2.8 feet beyond the main building and the building setback line.

On the side, they cannot understand the error as that setback was checked three times. Each time it measured 20 feet 2 inches.

This was originally Pimmit Green Subdivision, Mr. Mooreland told the Board, and three of the houses there were built with the 40 foot and 15 foot setbacks. It was resubdivided into 15,000 square foot lots because of no sewer, with a setback of 45 feet and 20 feet. This was one of the houses built with the 40 foot and 15 foot setback. The other two are a couple of blocks away and across the road.

This was discovered one day before the last meeting, Mr. Mooreland told the Board. The applicant stopped work immediately and made this application. To all appearances this is unobtrusive. This builder has just started in the County, Mr. Mooreland continued, he has been doing a very good job. Asked if he had his inspection at the first floor joists, Mr. Neill said "yes", but since the applicant is handling his own financing and there was no check by a surveyor and the garage was not up at the time the house foundation was in - the check was probably incomplete. They were greatly delayed on this, Mr. Neill continued, the winter was bad during construction and they delayed starting the garage and breezeway because they were on filled dirt. The ground was icy and they had considerable snow - the work progressed slowly - therefore the check was not made early in construction of the entire structure. There is about \$1000 worth of stone in the front projection, Mr. Neill told the Board.

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NEW CASES - Ctd.

3-Ctd. Mrs. Henderson moved to grant the application because of the peculiar situation regarding the drainfield having to be in its particular location, and the fact that the variances are on two points of the building and they are minor. Also this is granted in accordance with the plat dated March 29th, 1957, prepared by Carl Hellwig, Certified Land Surveyor.

Seconded, Mr. Lamond

For the motion: Mrs. Henderson, Mr. Lamond, J. B. Smith, and T. Barnes  
Mr. V. W. Smith refrained from voting.

Carried.

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4- EDWARD RISLEY, to permit erection of an addition to dwelling 36.5 feet of street property line, Lot 220, Section 9, Hollin Hills, (402 Beechwood Rd.) Mt. Vernon District. (Suburban Residence-Class III).

Mr. Neer represented the applicant.

This is probably the smallest house in Hollin Hills, Mr. Neer told the Board, it having only about 1000 square foot area, but it has a very distinctive type of architecture to which an addition must be planned with great care. He has planned this addition taking into consideration the lines of the house, the needs of the family, the planting and topography of the lot.

This is a rugged but attractive lot, Mr. Neill continued, there is a hill at the rear which would preclude the addition, on one side it would block the light to the kitchen and it would be necessary to remove the terrace, directly in front it would be in violation and with this addition the violation is at one corner only.

It was suggested chopping off the violating corner, or eliminating the entry way. Mr. Neer objected to these changes, contending that they would destroy the unique lines of the house or would not fit the needs of the family to do away with the entry way.

This house has received several architectural awards, Mr. Neer continued, he could not agree to any addition which would impair the style and design of the building. This is a strict design, Mr. Neer explained, it is restricted in that a wrong type of addition would greatly reduce the resale value of it.

Mr. Neer showed pictures of the addition which cantilever out beyond the footings. This addition is for a master bedroom and bath.

The angled position of the house on the lot was noted.

There were no objections from the area.

Mrs. Henderson pointed out that only one real reason had been presented for the granting of this variance - aesthetics. There is actually an alternative location for the addition. But violating of aesthetics cannot be considered a hardship.

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NEW CASES - Ctd.

4-Ctd.

Mr. Lamond thought this not in conflict with the neighborhood and to change the type of addition or the location would destroy the lines of the house. For one to purchase this type of house which had an addition which was out of keeping with the lines of the house would certainly reduce its value. This is an extreme type of architecture, Mr. Lamond continued, therefore the continuity of design becomes important. He thought the case could be granted on these grounds.

Mr. V.W. Smith could not see where this was unusual or exceptional in any way, but rather it appeared to him to be a problem of the architect. There are alternative locations, Mr. Smith continued, and according to the Zoning Ordinance, aesthetics have no bearing on the granting of a case.

Mr. Risley noted the shape of the lot, stating that it is not feasible to add on to the rear. He needs to expand, Mr. Risley continued, and he would like his home to be a credit to the neighborhood.

Cutting down the size of the room-addition was discussed, but not thought practical by the applicant.

This does not hurt anyone in the area, Mr. Lamond insisted, and to change the design would hurt the house. Mr. Risley suggested deferring the case to view the property. Mr. Lamond so moved - defer until May 28th - to view the property.

Seconded, Mr. T. Barnes

Carried, unanimously.

Mr. Lamond agreed to view the property and report on it at the next meeting.

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A. H. YOUNG, to permit division of Parcel A, with less area than allowed by the Ordinance, Parcel A, Chinquapin Subdivision. Dranesville District.

(Agriculture).

This is a 5.372 parcel of land on which one house is built - the house in which Mr. Young lives. He plans to sell this house and build his own home on a high site near Rocky Run. In order to keep out of the flood plain and to have the septic field and also to put the house on the highest knoll it would be necessary to divide this parcel into a 3.44 and a 1.929 acre tract. Since this is Agricultural zoning the second parcel does not quite meet the two acre requirement. This house would face on Route #676 and would meet all setback requirements.

This will not affect the usability nor the beauty of the house presently on the property, as that house is higher than the proposed location for the second house. The ground is rugged but very beautiful, Mr. Young continued, both houses will be sitting on the knolls which are ideal building sites. If the line were placed to give this second lot the full two acres it would not be possible to put in the required septic field. These large lots were laid out before the Freehill Amendment, Mr. Young told the Board.

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NEW CASES - Ctd.

5-Ctd.

This is less than 1/10 of an acre variance. The lot line which will be more than 20 feet from the proposed house will be well screened.

Mr. V. W. Smith said he knew this property well, and concurred in what Mr. Young had said about the topography. Mr. Young has done a beautiful job in the development of his tract, Mr. Smith continued and in his opinion this division will not affect anyone adversely.

Mr. Lamond moved to grant the application because of topography and because it will not impair the intent of the Zoning Ordinance, and will have substantially no ill affect upon the public good. This is granted as per plat dated January 5, 1955, prepared by Joseph Berry.

Seconded, Mrs. Henderson

Carried, unanimously.

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Mrs. Douglas Hatch was present with a letter from Dr. Kennedy regarding the summer day camp on her property, the letter stating that the water supply has been approved and two sanitary pit privies are to be constructed for the use of the children.

Mr. Lamond moved to approve the application for a summer day camp, granted to the applicant only ~~for a period of three months from the date of the~~ in view of dated May 14, 1957. the letter from Dr. Kennedy. This is granted as per plat submitted with the case - plat prepared by Patton and Kelly, dated April 19, 1957.

Seconded, T. Barnes

Carried, unanimously.

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6-

DAVID H. BROWN, to permit erection of a carport within 8 feet of the side property line, Lot 12, Section 1, McLean Heights, Dranesville District. (Suburban Residence-Class II).

Mr. D'Antonio represented the applicant - who was also present. There is a swale which runs the length of this lot, Mr. D'Antonio told the Board, and the house would necessarily be located too close to that swale to put the carport on that side. When the water rises it comes very close to the house site would be impractical on that side. The lot drops off very rapidly into the stream. While this is a large lot there is very little usable land, Mr. D'Antonio pointed out, because of the swale. If the house is pushed nearer the swale to give room for the carport on the opposite side, it would flood - if the carport is located on the swale side - the house would be too close to the side line. The ground slopes to such an extent that if it were pulled in nearer the swale it would require 14 steps between the carport and the house.

Mr. V. W. Smith suggested designing another house which would fit the topography. Mr. D'Antonio answered that the applicant needs all the house he can get with a minimum of expense - he has six children. Also it is necessary to keep the house on high ground in order to get into the sewer.

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May 14, 1957

NEW CASES - Ctd.

6-Ctd. Mrs. Henderson asked if the house were located back farther on the property could it still be connected with the sewer. Mr. D'Antonio thought not - as the lot falls off two ways.

Mr. Lamond moved to grant the application due to the exceptional topographic condition and the extraordinary situation on this lot with regard to the swale which runs through the property. This is also granted because it does not appear to adversely affect property in the neighborhood.

Seconded, T. Barnes

For the motion: Messrs. Lamond, Barnes, J. B. Smith and Mrs. Henderson

Mr. V. W. Smith voted "no"

Motion carried.

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7- WILLS HOME, INC., to permit dwelling as erected to remain within 18.5 feet of the side property line, Lot 47, Section 2, Wilburdale, Mason District. (Rural Residence-Class II).

Mr. J. E. Wills represented the applicant.

The only explanation of the error in setback, Mr. Wills told the Board, is that during the grading on the lot the stakes marking the house location were pulled up and were not replaced correctly. It is only 18 inches off.

The house is completed. The error was discovered in Mr. Mooreland's office. Mr. Wills continued, when certified plats were turned in. The contracting superintendent - who probably knew of the error - left the job and did not tell the superintendent who followed him. There was no inspection made of the footings.

No objections from the area.

There is a house on Lot 46 - adjoining. He could not buy property from them to make this conform, Mr. Wills explained, as they may want to enclose their carport - which they can do with their present side yard - but if they sold a strip - his lot would be too narrow. Mr. Wills was not sure just how far that house stands from the side line.

Mrs. Henderson moved to defer the case until May 28th for the applicant to bring information to the Board as to how much distance there is between the side line and the house on the adjoining Lot 46, and the possibility of the applicant getting property from the owner of Lot 46 to make this conform.

Seconded, Mr. J. B. Smith

Carried, unanimously.

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NEW CASES - Ctd.

8- ERNEST T. SHIFFLETT, to permit erection of sign denied by Zoning Administrator and operation of a business of giving out sightseeing and tourist information in connection with gasoline station operation, Lots 1 and 2, Fairfax Heights Subdivision, Providence District. (Rural Business).

Mr. Frank Swart represented the applicant.

Mr. Shifflett took over this business from Mr. Starnes, who had operated it for many years. The business has dropped off considerably, Mr. Swart told the Board - so Mr. Shifflett has tried to build it back up - therefore he put in a tourist information service. Mr. Mooreland denied him a permit for the sign advertising this additional use on the property.

This is a confusing situation, Mr. Swart declared - here we have business property and a permitted use - which Mr. Mooreland says cannot go on this property. Mr. Mooreland has contended that only the filling station is granted on this property and the addition of any other business is not in his jurisdiction to grant. Mr. Swart disagreed with this, as he explained it is the business of practically all filling stations now to give out tourist information. But Mr. Swart went further than this - he contended that any permitted business use which does not require a special permit - should be allowed on this property. The sign sketch which they have presented, Mr. Swart continued, will be changed to a more simple wording - "Washington Information" or a like sign. They do not know the exact square feet they would have in the sign, but it would not be over the maximum required.

Mr. Mooreland defended his objection by saying that the Board granted this filling station with great variances, and in his opinion to put another business on this small lot at the intersection of these busy highways would be too much. He did not think the Board had the power to grant the two businesses with such a large variance. It would tie up traffic and would create a hazardous condition. The sign for the information service has been put on a truck which is parked on this property.

The Chairman asked for opposition.

Mr. Konicz presented a petition signed by 27 business people on Route #50 stating they objected to this application because it would have a tendency to divert tourist trade away from this area, and would therefore be an injustice to the local business people.

All the motels and filling stations have authentic tourist information to hand to tourists, Mr. Konicz continued, and there is no need for a sign advertising a tourist agency which would not cater in any way to local business. Mr. Konicz stated that he understood that one such agency operating in the County sends inquiring people out of the County - to hotels and motels in Washington. These agencies are operated by people from Washington - who give information regarding Washington. He was of the opinion that locally operated information such as is now dispensed by filling stations and motels would do local people more good.

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## NEW CASES - Ctd.

8-Ctd. Mr. Swart said he would like to ask Mr. Konick a few questions and would like to have him under oath. The Board did not ask Mr. Konick to answer under oath.

Mr. Swart asked Mr. Konick if these people would be in competition with him. Mr. Konick answered that they may be. Mr. Swart asked if Mr. Konick's information service handled other motels in this area. Mr. Konick answered yes, that they often refer their business to him.

Mr. Swart stated to the Board that the signatures of those on the petition were mostly the motels in this area who are themselves interested in attracting tourists and giving out travel information. People come to this area, Mr. Swart continued, primarily because of their interest in Washington and in his opinion a business of this kind which has official information on Washington and vicinity would be very valuable. This man wishes to tie in with Cities Service - which would be in competition with Mr. Konick, who now handles much of the travel information for motels in the area. This would naturally be in competition with Mr. Konick. They do not refer people out of the area, Mr. Swart added, they refer tourists to the motel or hotel nearest their destination. This has become part of a service station's normal business, and is well placed to meet tourist demand.

Mr. Lamond asked if motels have to have a special license to give out tourist information. Mr. Mooreland answered no. His objection, Mr. Mooreland added, is based on the fact that so great a variance was granted on this property that he had refused the sign - not because of the sign area, but because of crowding too much business on this lot.

Mr. Swart brought out that the variance was necessary for location of the pump islands - it had nothing to do with the business use, that any retail trade or service is allowed here.

Mr. Mooreland asked if after allowing a variance on a special use permit - can you allow any other business to go on that property? There is no change in the building, Mr. Swart answered, why not - when it is a permitted use.

Mr. J. B. Smith moved to defer the case until May 28th, to study the case and to view the property.

Seconded, Mr. T. Barnes

Carried, unanimously.

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9- ROSE HILL DEVELOPMENT CORPORATION, to permit dwelling to remain as erected 14 feet of the side property line, Lot 17, Section 4, Rose Hill Farms, Lee District. (Suburban Residence-Class II).

Mr. Lytton Gibson represented the applicant. This is only a one foot variance on the side, Mr. Gibson pointed out. The house on Lot 18 sets 16.1 feet from this side line, which gives the required 30 feet between houses, Mr. Gibson continued, and they have explored the idea of purchasing that one foot from the owner of Lot 18 to make this conform. If this were done it would reduce

## NEW CASES - Ctd.

the width of Lot 18 to less than the required 80 feet at the building setback line. The houses on both Lots 17 and 18 have been sold and there are loan commitments which must be settled promptly. With the loan market as it is - one cannot get a new loan if you let one run out, Mr. Gibson informed the Board.

As to the blame for this, Mr. Gibson said he did not know where to place it. Perhaps it could be chalked up to human error. Mr. Phillips was the surveyor - it could have been his mistake - or it could have been the bricklayer's. This is the first Board of Appeals case in Rose Hill subdivision since Section One, Mr. Gibson pointed out - they have maintained a remarkable degree of accuracy. This was discovered when the final plats were prepared.

Mrs. Henderson suggested that the whole house could be moved over - the one foot....The inaccuracies in checking the footings locations were discussed. Mr. Walter Phillips said he could not explain the discrepancy - any more than to say it was <sup>a</sup>human error. Stakes - no matter how accurately they are placed, can be knocked down and replaced incorrectly. These are checked carefully when they are placed, Mr. Phillips continued, and it is assumed they are still in the correct location when construction starts. They have put in 300 houses without requesting a variance.

There were no objections from the area.

Mrs. Henderson asked what is the evidence of hardship? The answer was - the cost of moving the house. That, Mrs. Henderson answered is the applicants self-created hardship. The Ordinance does not consider economic hardship a cause for granting a variance.

Mr. Gibson asked anyone to tell him of any variance granted which did not come back to economic hardship on the applicant - one way or another. But this is self-created, Mrs. Henderson answered - it is not imposed because of the nature of the land. Of course one can always buy another piece of land, Mr. Gibson answered - however it was agreed this would result in confiscation.

The basis of the formation of the Board of Zoning Appeals, Mr. Gibson continued, is to relieve situations where variances are necessary. Mr. V. W. Smith thought the function of the Board broader than that. Mr. V. W. Smith read the hardship clause, Section 6-12-g, stating that he could not see how the Board could grant this unless there is shown an exceptional situation or condition, or extraordinary difficulty which would result in an undue hardship, or unless there is some topographic condition. These conditions do not exist in this case, Mr. V. W. Smith continued. Instead we have a situation where the house is almost completed.

Mrs. Henderson again suggested that there is sufficient room on the lot to have the house moved so it will conform.

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## NEW CASES - Ctd.

9- Ctd. That could be done, Mr. Gibson stated, at a considerable expense - but this does not in any way impair the health, welfare, or morals of the neighborhood, there are 30 feet between the houses, and they cannot purchase additional land without impairing the required lot width on Lot 18 adjoining. Mrs. Henderson asked if the house on Lot 18 has a carport. Mr. Gibson did not know.

Mrs. Henderson moved to deny the case because there has been no evidence that the hardship is created by the Ordinance.

There was no second - Motion lost.

Mr. T. Barnes stated that since there are 30 feet between the houses and to move the house for a violation of only one foot would not be fair, and it would not appear that neighboring property would be adversely affected and people in the neighborhood do not object, therefore, Mr. Barnes moved to grant the application.

Seconded, Mr. Lamond - for the reasons stated - this is only a one foot variance - and to move the house for that amount of error would be unreasonable, this will not adversely affect the safety, health, welfare, or morals of the neighborhood. He felt this was the type of difficulty the Board should take care of - this was an honest mistake and there is the required space between the houses. This is not a case, Mr. Lamond continued where a man is trying to squeeze a large house on a small lot.

For the motion: T. Barnes, A. S. Lamond, J. B. Smith

Against: Mrs. Henderson and V. W. Smith

Motion carried.

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10- DAVID S. BOGER, to permit extension of Ancient Oaks Trailer Court (50 trailer sites) on south side of Lee Highway immediately adjacent to Ancient Oaks Trailer Park, Falls Church District. (Rural Business).

Mr. William Hansbarger represented the applicant, who with his son, Mr. Boger, Jr., was also present.

Mr. Hansbarger said he had no qualms about trailer parks in Fairfax County. He felt that controls sufficient to assure good operation could be required but he felt that it was a difficult position to be in to tell a man whose property is zoned capable of taking a certain use, that he cannot have that use on his property if he so desires - provided he can meet all County requirements.

This same case was before the Board in November of 1956, Mr. Hansbarger reminded the Board, at which time it was thought that a trailer park Ordinance with definite standards would be enacted within a short time. That has not come to pass, Mr. Hansbarger continued, Now the applicants wants to do something with this business zoned ground, therefore he is back asking under Section 6-16 for 50 additional trailers to the existing trailer park which has 75 trailers.

072

10-Ctd.

The land all the way from Mr. Boger's property to Graham Road is high density, Mr. Hansbarger explained, with business or urban zoning. He indicated on the map the zoning and uses on all surrounding areas, showing that the character of the frontage on Lee Highway is not residential.

There is probably considerable opposition to this extension, Mr. Hansbarger admitted, and he could well understand that if the trailer part were not here first. But this trailer park has been operating for something over 20 years, Mr. Hansbarger continued. This was mostly a vacant area at that time, very few residences. Whatever homes are in the area now - almost every one has come in since the establishment of this trailer park. They knew it was there and they knew it was a very messy development - yet they bought - up to the very boundaries of Mr. Boger's property.

Mr. Hansbarger said he honestly believed that this trailer park is the worst one in the County. But that is because it is old Mr. Hansbarger continued, established at a time when very little was required or expected of trailer parks. The place has run down - it needs new life and new planning, which it will get if this case is granted - if it is allowed to expand. In so doing the entire park will be improved along with the new area.

There is a tavern and a store on the property, Mr. Hansbarger continued, both of which will be eliminated and the building will be used for offices for the trailer park. (Mr. Hansbarger thought the people in the area objected to the tavern almost as much as the trailer park.)

In lieu of the trailer park amendment to the Zoning Ordinance, this trailer park will conform to the requirements in the Boca Code, Mr. Hansbarger told the Board. (He read from the Building Code - Page 83). The entire tract will be board fenced and planted with a hedge along the fence, Mr. Hansbarger went on, for permanent screening. He pointed out that the 20 foot travel lanes, wash racks, sewer and water would all be available. This would not be a health problem.

Mr. Hansbarger called attention to the plat which was approved by the Fire Marshall on October 15, 1956.

The lot sizes will be above State requirements, each trailer will be connected with water and sewer, they will apply for approval of ingress and egress from the State. This will not conflict with the subdivision adjoining in any way, Mr. Hansbarger continued, and there is no reason to believe that this will adversely affect people residing or working in the neighborhood.

A trailer park does very often have an adverse affect upon a neighborhood, Mr. Hansbarger admitted, but in this case the trailer park was here already operating and homes have sprung up all around it. Also, Mr. Hansbarger pointed out, since this property is zoned for business use - other and more obnoxious uses could be put in here without special permit. The time will come, Mr. Hansbarger prophesied, when this property will be too valuable for trailer use. This is probably a semi-temporary use. The nature of growth and development will no doubt change and determine what will in the future go on this property.

the trash and debris are exposed and are extremely unattractive.

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10-Ctd. Mr. Boger told the Board that he has revised his plat which limits ingress and egress which he now has planned for either end of the trailer park. This would cut down the number of lots but it would make for better circulation within the trailer park and for better access. This plan would have a road all around the park. They would use the one entrance which they are using now. This plan was completed just before this meeting, Mr. Boger explained, therefore he could not present the revised completed plat. Mr. V. W. Smith asked about the future of the presently operating trailer park.

Mr. Hansbarger answered that the situation definitely would be changed, that Mr. Boger would submit to any regulations the Board would place upon him for improvements. This is the golden opportunity to get this place cleaned up and rearranged into a well operated trailer park, Mr. Hansbarger contended. Mr. Boger, Jr. said he was working on this improvement project - cleaning up the old lots and laying plans for future improvements. The lots will be made larger and more uniform. He stated that he hoped to complete this project for his father within a short time. They will put in one way asphalt streets, ranging from 12 to 20 feet in width. They have their own well water which they will continue to use for the old section but will have public water for the new section and will hook up to the city sewer for the entire trailer park. On the new lots the cars will be parked between the trailer and the street for safety purposes. Mr. Boger, Jr. called attention to the trees they had left in the park which have been very welcome in the summer. He thought the park could be made both adequate and attractive.

This park became run down while he was away, Mr. Boger told the Board, but he hopes now, with the help of his son, to gradually get the old part in good shape.

In answer to Mr. Hansbarger's questions, Mr. Boger said he definitely would improve the old section if this is granted.

The Chairman asked for opposition. There were about 20 present opposing this extension.

Mr. John Everhart spoke representing Oak Noll Citizens' Association, and a group of other people in the area objecting.

Mr. Everhart concurred in Mr. Hansbarger's opinion that this is the worst trailer park in the County. He showed photographs of the area surrounding the trailer park, calling attention to the number of homes in the immediate area of the trailer park with values ranging from \$15,000 upward. This trailer park and its expansion is not in the interests of public welfare, Mr. Everhart contended. The area was at one time an open rural section and it made little difference if the trailer park was there. But the character of the area has now outgrown the old run down trailer park era. It is urbanized and well developed with homes. With 75 trailers already on the property and the 50 additional - as proposed - the density would overload the area and tax facilities (school and police), and devalue property.

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NEW CASES - Ctd.

10-Ctd.

Mr. Everhart recalled that the Board of Appeals had objected to apartments on this property because of increased density. This is the same thing, he argued. This would stifle future home development and would place an unwanted impact upon the neighborhood.

It was noted that Mr. Boger had sold a group of homes immediately adjoining his trailer park development - Mendota Street backing up to his trailer park. Mr. Barnes, by questions, brought out the fact that the great majority of the homes in the area were built and sold after the trailer park was in operation.

Mr. Lamond suggested that the community has made an impact upon the trailer park, rather than the trailer park making an impact upon the community. True, Mr. Everhart answered, and rendered it obsolete and incompatible with the area.

Mr. Hudson, whose property is immediately to the east of the area, proposed for more trailers, objected for reasons stated and because of sanitary conditions. The nearest sewer to this property is Vista Drive, Mr. Hudson told the Board. To connect with that Mr. Boger must either put lines down Lee Highway or get an easement across his property which he would not allow.

Mr. Boger answered this by stating that he had put the sewer in on Mendota Drive and turned on Oak Street to the edge of this property. This line is ample to serve his entire trailer park, Mr. Boger informed the Board.

Mrs. Beas Fromme, owner of 2-1/2 acres across Lee Highway from the trailer park - and immediately opposite the area on which the additional trailers are proposed, objected.

Mrs. Fromme related the fact that she was a property owner in this area before the trailer park appeared.

They have an old remodeled home (the Dr. Graham dwelling) and another nice house on their property. This is good property, Mrs. Fromme continued, but they are greatly concerned over the devaluation to their property which would result from this extension. They bought this property in 1939 - if the trailer park was there at that time it was very small.

Mr. Boger said the trailer park was started in 1933 or 1934. The old house on the property burned and there were ten cabins and 50 trailers on the property when he bought it in 1942.

Ray Thompson, 302 Oak Drive, who lives within view of the trailers, objected.

Mr. Thompson said he purchased his home recently and he did not know the trailer park was there - but when he bought - it was shielded by trees. He did not greatly object to the park as it was, but he does object to the extension. Also he thought the place would be cleaned up or improved as time went on - but it has not and it is depreciating as it stands.

The houses on Mendota Street are nearest to the trailer park. They are valued at about \$14,500. It was brought out that the Veterans Administration required a fence along the rear of these properties to screen off the trailer park. In summer the trees help, the objectors stated, but in winter the trash and debris are exposed and are extremely unattractive.

075

May 14, 1957

NEW CASES - Ctd.

10-Ctd. Mr. V. W. Smith said he had heard that trailer parks depreciate property but here is a case where homes have sold at a good price - after a trailer park, which has been labeled the "worst in the County", was established. Mr. Thompson said the people were probably told the trailer park would be taken out or improved. He noted that the last brick homes sold - but very slowly.

Mr. McLaughlin, from Fenwick Park Citizens' Association, read the petition from his Association (the petition which was presented at the last hearing which stated their objections to health menace, unsightly conditions, depreciating and depressant to realty values, and the lack of improvements over the past ten years. The petition contained about 200 signatures.) Mr. McLaughlin told of the progress the people in the area have made in the development of their recreational program and community improvements - the whole area is going ahead, Mr. McLaughlin continued, except the trailer park - and they object to this obsolete, ill-kept, value-depressing development and to its expansion.

Mr. Ferguson, who lives immediately adjoining the trailer park area, objected, stating that the homes on Mendota Drive at least have their back yards toward the trailer park. His front yard is toward the park. Mr. Ferguson thought the area immediately around the trailer park already showed signs of blight, people who probably looked out at the trailer park and thought - "What's the use?" Mr. Ferguson's other objections had been covered by previous speakers.

Mr. Hansbarger asked Mr. Ferguson if he bought since the trailer park was established. The answer was - "yes". And, Mr. Hansbarger asked, "Did you get a V. A. loan?" The answer again was - "yes". Mr. Hansbarger said - "Even with the trailer park facing you!"

Mrs. Tappa, who lives on Oak Drive, immediately adjoining the trailers, objected. This was a lovely lot when they saw it in the winter, Mrs. Tappa told the Board, but it was covered with snow. When the snow melted, after they had bought, they realized that the lot adjoining was littered with trash and debris. They complained to the Health Department, to the police, and to Mr. Boger - but nothing happened. The trash is still there.

Mrs. Tappa questioned the amount of taxes paid by trailer occupants. The people in the County need trash and garbage collection and other public facilities, which facilities are already burdened - and these trailer people create an impact which apparently the County cannot handle. Mr. Boger has done nothing to show his good will nor his willingness to improve the place.

Mrs. Fromme noted that the trash cans across from the trailer park are always full to overflowing.

076

NEW CASES - Ctd.

10-Ctd. These trash cans have been put there by the State, Mr. Boger answered Mrs. Fromme, and people from all over the County dump there. These cans are not used by his trailer park because he has built a large incinerator to burn all trash from his trailer park. These cans in front of his trailer park are left until they are over-full and collected by State trucks, Mr. Boger said.

Mr. Hansbarger read a list of uses which could be put on this property - some of which might be obnoxious. However, he thought that the tenor of the opposition is that people would not object if they could know that this entire trailer park would be improved over what it is now. The Board of Zoning Appeals is in a position to require that improvement now, Mr. Hansbarger pointed out, by the granting of this use and the requirement of improvement in the presently used trailer park area.

The people in these subdivisions purchased homes after the trailer park was there. When one buys property, Mr. Hansbarger went on, it is the burden of the purchaser to investigate and know what is in the area. Mr. Boger sold a group of these homes adjoining his trailer park. He did not misinform the purchasers, Mr. Hansbarger continued, the trailer park was there in bold evidence as to what was being operated in the area. However, no evidence of this park having an adverse affect upon the area has been shown. The V. A. has loaned money after the trailer park was in, the people have bought the homes knowing the trailer park was there apparently with no thought that the property would be devaluated by the park. Therefore, Mr. Hansbarger concluded, it is reasonable that the Board grant this permitted use which it has been established is not shown to create an adverse affect on the area. The Board cannot take action on this case today, Mrs. Henderson suggested, because of the incomplete information on the plats presented with the case. The Board should see all the lots, with their location and sizes, the Fire Marshall should approve the completed plat. The roads and road widths should be shown, also a play area - which in her opinion is very essential - and should be large enough for the entire park. Mrs. Henderson asked the applicant when he could submit complete plats along the lines she suggested. Mr. Hansbarger thought by the next meeting - May 28th.

Therefore, Mrs. Henderson moved that in view of the fact of the incomplete plats presented with the case - and because of certain pertinent data which the Board requires - this case be deferred until May 28, 1957.

The plats to be presented shall show the following information:

The new lot sizes proposed for lots in the old and presently operating portion of the trailer park (in view of the statement of the applicant that he will improve and enlarge the old lots);

The lot sizes proposed on the extension area together with all roads and road widths in both the old trailer park area and in the proposed extended area;

077

May 14, 1957

## NEW CASES - Ctd.

10-Ctd.

Recreational area sufficient to serve the entire trailer park;  
Drying yard;  
Show where storm and sanitary sewers will be located;  
Approval of the Health Department;  
Ingress and egress from all roads;  
Approval of the Fire Marshall;  
Landscaping, fencing, and screening to assure the fact  
that this will not adversely affect neighboring property.

Seconded, Mr. Lamond

Carried, unanimously.

It was also suggested that a copy of the proposed trailer park ordinance be forwarded to Mr. Hansbarger, together with a listing of requirements in the motion - to be used as a guide to road widths and other requirements under consideration by the Planning Commission.

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TREMARCO CORPORATION, to permit erection and operation of a service station with pump islands within 35 feet of the street property line, Part of Lot 6, Gray's Subdivision, (S. E. corner of Palmer Street and Route #123), Providence District. (Rural Business).

Mr. Sherman Johnson represented the applicant. Twenty feet have been given to the widening of Palmer Street, Mr. Johnson told the Board, but as far as he had been advised no plans have been made for the widening of Route #123. He talked with Mr. Bottom of the Highway Department and other officials on this. The present right of way is now 30 feet from the centerline of Route #123, 15 feet of which the applicant has dedicated. The plat shows the pump island to be 50 feet from the centerline of Route #123. It was noted also that the building is 71 feet from the dedicated right of way. This would give sufficient room to move the pump islands back in case of further widening. The 15 foot dedication has not yet been used - and the pump islands are setting back 35 feet from the presently used road line.

Mr. Lamond moved to grant the application in accordance with the plat submitted by J. A. McWhorter, dated April 22, 1957.

It was noted that while the island is 35 feet back from the old right of way it is only 20 feet from the dedicated right of way.

Mr. V. W. Smith thought the Board should not grant less than a 25 foot setback from the actual right of way.

Mr. Lamond amended his motion to state that the application is granted provided the pump islands are located not closer than 25 feet from the newly proposed right of way of Route #123.

Mr. Thompson said the 25 foot setback would not make a good layout for the entrance as it would require too severe an angle from the highway to the island - that it would work a serious hardship for him to move the islands back.

NEW CASES - Ctd.

11-Ctd. It was called to Mr. Johnson's attention that the required setback is actually 50 feet here.

This was granted because it does not appear to adversely affect neighborhood property nor does it adversely affect the public welfare.

Seconded, T. Barnes

Carried, unanimously.

This, Mr. Johnson said would inconvenience them greatly - that it would necessitate increasing the concrete by 5 feet and it would probably be necessary to use 180 foot frontage of the property in order to make the proper entrances. The possibility of shifting the building was discussed.

Mr. Lamond amended the granting of this case to include the 25 foot setback and the requirement that the applicant re-submit his plans to the Zoning Office and to the Board at their meeting of May 28th.

Mr. T. Barnes and other members of the Board agreed.

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12- EVON CORPORATION, to permit dwelling as erected to remain within 14.5 feet of the side property line, Lot 74, Section 1, Devon Park, Dranesville District. Mr. Morton-Noble and Mr. Brodie were present to discuss this case. It was noted that the house violates only at the rear corner - the front corner is 15.5 feet from the side line.

Since this is an old subdivision of record before the Ordinance, Mr. Mooreland stated that the old setback must be honored. The house is not up to the first floor joists.

There were no objections from the area.

It was noted that the line on this side of the lot is not entirely parallel with the opposite side line - it slants in toward the house. This was not noticed in the location of the house.

The applicant stated that they had thought of trying to move the lot line between this house and the dwelling on the lot adjoining, but that house is just 15 feet from the side line.

Mr. J. B. Smith moved to grant the application because it will not adversely affect anyone, it is only the corner which is in violation, this was a reasonable mistake because of the crooked side lot line, and the variance is very slight - being only 6 inches or less.

Seconded, T. Barnes

Carried - all voted for the motion except Mr. V. W. Smith who voted "no".

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13- JOHN H. & MABEL V. WAGNER, to permit pump islands of a service station within 12 feet of Kirby Road and Route #123, S. W. corner of Kirby Road and Route #123, Dranesville District. (Rural Residence-Class II).

Mr. Daniels from the Standard Oil Company appeared with the applicants.

Mr. Mooreland stated that this is a non-conforming use on residential property, with residential property next door. He doubted the authority of the Board to grant the extension of a non-conforming use - as requested in the application.

079

May 14, 1957

NEW CASES - Ctd.

13-Ctd. Mr. Wagner told the Board that this station has been located here for about 20 years - operated continuously. They have put from \$30,000 to \$40,000 into this property - it represents their old age insurance and their life savings. They own 500 feet of frontage on Chain Bridge Road, running back 800 feet on Kirby Road. The property on which the non-conforming use is located is surrounded by his property, Mr. Wagner continued.

The Highway Department put in a four-lane divided highway along Route #123, taking 18 feet of his property. This put his pump island 10 feet from the right of way of Route #123, and the underground fuel storage tanks are - one of them on the property line - the other within the 18 foot right of way.

Mr. Wagner plans to move this pump island back to 12 feet from the new right of way and will locate the underground tanks on his adjoining lot.

Because of the fact that the four-lane highway makes it difficult for the traveling public on Route #123 to get into his property, the State will make a break-in 500 feet from the intersection of Route #123 and Kirby Road whereby people can cut across to his filling station.

He has signed an agreement with the State dedicating the 18 foot strip and must move his pump island back to the 12 foot location by June 1st. He cannot locate the pump island back farther than the 12 feet because of the location of the building which is approximately 31 feet from the new right of way.

Mr. T. Barnes asked why the State did not move the pump island back themselves.

Mr. Wagner said he had discussed that with them - but they came up with the plan for the intersection of Kirby Road and Route #123 - whereby a pump island could be located cross-wise, facing the intersection. If a pump island is located there - the State agreed to give Mr. Wagner two 50 foot entrances one on Route #123 and one on Kirby Road, which would give an adequate access to this pump island. This pump island - the State suggested would be 12 feet from both Kirby Road and Route #123 - in line with the proposed location for the other pump island on the original lot.

This would appear to him a good proposition, Mr. Wagner continued, he has had a good business here - pumping something over 40,000 gallons per <sup>month</sup> ~~day~~.

It has been a tax asset to the County. However, if he does not get this variance it will reduce his business by easily 50%. They will remove the little house now on this lot at the intersection of Kirby Road and Route #123.

The whole place will look better and it will assure a profitable business.

The State will allow him \$1000 for the little house.

There were no objections from the area.

Mr. Schumann questioned the authority of the Board to grant the setback for a pump island on Kirby Road. It was pointed out that the lot at the intersection of Kirby Road and Route #123 was not included in the non-conforming use - therefore if the Board granted the location at the intersection they would be extending a non-conforming use on to residential property which they cannot do.

This is definitely a hardship case, Mr. Wagner continued, if they do not get

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NEW CASES - Ctd.

13-Ctd.

the use of the pump island at the corner their business will be reduced by one half. They would lose most of the trade from people traveling west in the north lane of Route #123. The pump island at the intersection would be a great help.

The Board was agreed that the use could not be extended to the residential lot. Mr. Wagner asked if he could move the underground tanks temporarily on to that lot until he can get the property rezoned.

It was suggested that Mr. Wagner had been a little hasty in consummating his contract with the State - but Mr. Wagner said he had no choice, the State was starting condemnation proceedings.

Mr. Lamond suggested that this was actually a hardship case - the State took 18 feet along the front of Mr. Wagner's property to widen the highway, leaving him only a 31 foot setback for his building and bringing the pump island 10 feet from the new right of way line, the business has been operating for a long time and he thought the applicant had been penalized.

Mr. V. W. Smith thought there should have been a payment for the loss of the business.

This being a hardship on Mr. Wagner, Mr. Lamond moved to grant this on the basis of the fact that the pump island may be located 12 feet from the new right of way line on Route #123, and that the storage tanks be moved back of the State right of way. However, Mr. Lamond added, that this pertains only to the island on the lot now being used, and does not extend this use to the corner lot on Kirby Road.

Mr. Daniel, representing Standard Oil Company, who has a lease on this property, indicated that as far as his company was concerned they had entered into no definite settlement as yet.

Mr. Lamond stated that in his opinion the State had done an injustice here and it was up to the Board to do what it could to help the applicant, therefore, he restated his motion and moved that the pump island be allowed 12 feet from the new right of way line and that the storage tanks shall be moved to a place convenient to the pumps. This is not to include the corner lot at Kirby Road and Route #123.

Seconded, T. Barnes

Mr. J. B. Smith was of the opinion that the State showed irresponsibility here and this is a situation which could happen at any time and place. He thought some one should be responsible for what the State is doing.

Mr. Wagner said - when the State men drew up the plans for the corner pump island, he signed accepting their offer.

Mr. V. W. Smith said he would like to see the State's final plans for the widening of Route #123 at this point before voting on this. Mr. Schumann volunteered the information that the State wants 50 feet from the centerline.

Mr. V. W. Smith thought the Board was, to some extent, operating in the dark - it would appear that an injustice had been done. Mr. Wagner but stated that the Board did not have all the facts of what happened between Mr.

081

May 14, 1957

## NEW CASES - Ctd.

13-Ctd. Wagner and the State. He suggested that this be referred to the Planning Commission. This is a serious matter, Mr. V. W. Smith continued, and the Board should have the advice of the Commission. There appears to be no final settlement with Mr. Daniel, the lessee, Mr. V. W. Smith continued, as Mr. Daniel stated that the State is dealing directly with Mr. Wagner and not with Standard Oil Company.

They must sign the papers, Mr. Daniel stated, but there are no negotiations between his Company and the State. That, Mr. V. W. Smith could not understand.

It was thought that the State would make some extension on this agreement beyond June 1st, as it would be necessary to arrange a discussion with the Planning Commission and possibly the Board of Supervisors.

Mr. Lamond thought this a matter for this Board and that by referring it to the Planning Commission the Board was simply dodging their duty. Mr. V. W. Smith disagreed - saying that the Planning Commission is an advisory body and they should be better informed on these matters than this Board. They are studying the business plan for the County and might be in a position to give the Board real assistance. He thought the Board should have all the information on this that was available. The Commission may be able to advise this Board if this area will be recommended for business property in the Commission's business plan - should the building be moved back, and what will be the affect on the traveling public and the utilization of public roads in this area.

For the motion: Messrs. Lamond and Barnes

Against: Messrs. V. W. Smith, J. B. Smith and Mrs. Henderson

Motion lost.

Mr. J. B. Smith moved to defer the case for study and for information from the Planning Commission.

Seconded, Mrs. Henderson

Mr. V. W. Smith agreed to discuss this with the Planning Commission.

Mr. Wagner agreed to ask for an extension on his agreement beyond June 1st.

It was decided that if the extension is not granted the Board would hold a special meeting on May 21st - if the extension is granted the case will be heard May 28th.

Carried, unanimously.

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14- HERBERT F. SCHUMANN, JR., Zoning Administrator, for determination of exact location of easterly boundary line of General Business Zone at S. E. corner of Shirley Highway and Edsall Road, Lee District. (General Business). In view of the disputed easterly boundary line on the 50 acre general business tract lying at the southeast intersection of the Shirley Highway and Edsall Road, Mr. Schumann explained that it was his desire, as Zoning Administrator that the Board of Zoning Appeals exercise its authority in this matter. (the authority granted by the Zoning Ordinance) to make a determination

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May 14, 1957

NEW CASES - Ctd.

14-Ctd. Mr. Schumann gave a resume of the history of this case, stating that this parcel of land was zoned for business in 1949. The description presented with the original rezoning request was at best - vague. It gave one or two courses and many of the distances were plus or minus - therefore the property was plotted on the zoning map as best it could be from that description. When the case came before the Board of Supervisors they rezoned 50 acres out of the total 67 requested, excluding the 170 foot depth along the Shirley Highway, an area of approximately 3 acres and a triangular area on the south-easterly boundary - being an area of approximately 14 acres. This reduced the total 67 acres to the 50 acres the Board wished to rezone. The Planning Commission was instructed to compute the 50 acres - eliminating the two areas indicated.

A certified plat has been filed by Mr. Cecil Cross, Professional Engineer and Surveyor, attesting to the location of the boundary line, Mr. Schumann continued. As far as he is concerned, Mr. Schumann continued, he has no conviction as to the east boundary line of this property, but stated that he is willing to accept Mr. Cross' survey as correct. It is stated in the Ordinance that the Board of Zoning Appeals can determine the line when there is a dispute - he therefore requested the Board to make that determination. Mr. Cecil Cross' map was displayed, Mr. Schumann explaining that in an effort to tie the property down, the surveyor worked from two fixed points - one at the north end of the property at Edsall Road - the other at the south-east end of the property.

The area which was excluded from the original 67 acres was arrived at by measuring in a straight line from the northerly fixed point to the south-easterly fixed point - then measuring along the easterly boundary line a distance of 525 feet to a point - then back to the fixed point in Edsall Road. The distance as shown from the fixed point in Edsall Road to the new point in the easterly boundary line, Mr. Schumann continued, is the same as the distance shown on the new plat.

The Board went over the original plat presented with the rezoning case - Mr. Schumann pointing out the discrepancies, stating that there was no description of the right of way of the Shirley Highway, the description presented with the case did not close - and with plus and minus distances it was practically impossible to plot this on the map with any assurance of accuracy. Hershey Lane was not in at that time, Mr. Schumann pointed out - there was no subdivision platted.

Mr. V. W. Smith asked that plats of Section 3 and 4 of Bren Mar Park, showing Hershey Lane be brought to the Board room for study.

Mr. Schumann brought the plats which indicated the zoning in the same location as that on the Cecil Cross plat presented earlier in the hearing.

Mr. Victor Ghent (from Cecil Cross' office) informed the Board that as early as September 11, 1950 they put out a plat showing this commercial property.

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## NEW CASES - Ctd.

14-Ctd. The only way they could have established that line at that time was by the records in Mr. Schumann's office, Mr. Ghent said. They also measured from the fixed points and along the easterly boundary 525 feet. By excluding this triangular area and the 170 foot strip along the Shirley Highway they came up with a total area of 50.7 acres. Later Mr. Basiliki had two acres rezoned - up to the 60 foot line of the Shirley.

This plat, with this designated boundary line, was shown to Magazine Bros. when they purchased the property, Mr. Ghent continued, and all plats that have been submitted to Mr. Schumann's office have carried this same line. It has been accepted by everyone, Mr. Ghent stated. The line was shown on the Bren Mar Park plats, which were recorded in 1955.

The original zoning map, Mr. Schumann explained, was on a 660 scale, while the present zoning map is on a 400 scale - which is a blow-up of the 660 map. A discrepancy in location of the zoning line could have taken place in the transfer from one scale map to the other.

They have in his office, Mr. Ghent stated, a full set of the County Sectional sheet maps, which they have examined very closely and in quite a few cases have found subdivisions incorrectly located. These maps are drawn schematically, Mr. Ghent explained, and are therefore not always accurate.

Mr. V. W. Smith asked about the rules and regulations governing rezonings in 1949. They did not require certified plats at that time, Mr. Schumann answered - often plats were drawn from the recorded deed.

Mr. V. W. Smith suggested that the minutes of the Board of Supervisors on the original rezonings should be read before any determination was made, in order to learn the intent of the Board of Supervisors and to see if the minutes give any hint which might guide the Board of Zoning Appeals in its decision.

Mr. Joseph Luria spoke representing the builder and purchaser of property - a lot which he indicated on the plat. Mr. Luria stated that he would not attempt to say which map was correct - by the zoning map the people across Hershey Lane are protected - by the plat as presented today - they are not. This, he thought should be seriously considered by the Board.

When they contracted to buy this property, Hershey Lane was not laid out, Mr. Luria continued, but before they had completed settlement it was put in. The zoning line with relation to Hershey Lane was of no concern to them.

Yet you purchased the land on the basis of the existing line - Mr. V. W. Smith noted.

They actually thought there would be a buffer strip all along Hershey Lane, Mr. Luria admitted, but they did not think in terms of pinning down the zoning line - all they wanted was the buffer strip which would be a protection to the people in the residential area.

Mr. V. W. Smith asked Mr. Luria why they purchased the land when on the plat it was shown to be commercial - practically up to the Hershey Lane line.

084

NEW CASES - Ctd.

14-Ctd.

They actually thought there would be a buffer strip all along Hershey Lane, Mr. Luria answered, they did not go into the exact location of the zoning line - all they considered was that there would be a buffer strip to protect the residential area. They knew - in a general way - where the zoning line was - they were told they would have the buffer strip against the commercial zoning - therefore they did not raise the question of the exact location of the line.

Mr. Herbert Harris, representing the residents along Hershey Lane, asked to be heard. The Board agreed - if his remarks were pertinent to the establishment of the line in dispute. Mr. Harris said his remarks would definitely pertain to that.

Mr. Harris pointed out that the County zoning map existed when the people along Hershey Lane bought their homes, and that map indicated that the zoning was residential on both sides of that street. If this map is to be used as the official zoning map of the County, Mr. Harris stated, he considered its inaccuracy an affront to the Board of Supervisors. He urged that the minutes of the Board of Supervisors on the original business zoning be investigated before taking any action.

Mr. Harris displayed the map which was shown purchasers of Bren Mar Park. It showed residential lots on both sides of Hershey Lane. While it did show the line which Mr. Ghent now claims is the official zoning line - the map did not indicate it to be the boundary line between residential and commercial zoning. They were told that residential lots were included in the plans of the subdivision.

Mr. Lamond pointed out that actually only four lots at the lower end of Hershey Lane would be immediately affected by the business zone line as the line veers away from Hershey Lane - creating a gradually widening strip of residential property all the way to Edsall Road. Therefore, Mr. Lamond continued, those lots (other than the first four lots) would be across from residential zoning - as they had been told at the time of purchase. This land cannot be used for business purposes - and it does create a buffer, Mr. Lamond concluded.

Mr. Harris again urged that the minutes of the Board of Supervisors be investigated to learn the intent of the Board at the time of the rezoning. He pointed out that the school property on the plat shown purchasers was not shown partly to be in business zoning. A change in this line, Mr. Harris, continued, would in his opinion violate the intent of the Board of Supervisors. He again stressed the fact that the people bought under misrepresentation; the owner of the commercial and residential, being the same, knew where the zoning line was - but it was not so indicated on the plat; the surveyor's plat shown at this hearing, Mr. Harris continued, is no more accurate than the one shown the purchasers in Bren Mar Park, the metes and bounds were inaccurate. Therefore, an accurate zoning line would be impossible to draw.

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085

NEW CASES - Ctd.

14-Ctd. Mr. V. W. Smith asked Mr. Harris if he checked the zoning in the zoning office before he made his purchase. Mr. Harris answered - "no".

Mr. Rich, purchaser of Lot 27, saw the zoning map while this motel case was pending. However, Bernard Silver stated that he investigated the map in March of 1957.

Mr. Schumann told the Board that in his previous statement regarding the description on the original rezoning - he probably had over-stated his case. He did not mean that no zoning line could be established from the description given - but merely that the description given did not close - the boundary did not meet at a fixed point on the plat. The two fixed points, referred to earlier, were unquestioned, Mr. Schumann stated. They were used both in reducing the amount of the area to be zoned and in the establishment of the line by Mr. Cross. He did not question the accuracy of that line, Mr. Schumann said.

It was noted that the actual amount of ground zoned for business was less than 50 acres when computed. If it was the intention of the Board of Supervisors to zone a full 50 acres, Mr. V. W. Smith pointed out, and the computed area falls short of that - then - had the area been properly computed the zoning line could have fallen farther into Bren Mar Park - perhaps thru the homes facing Hershey Lane. If the line were accurate it would appear to him necessary to move it over into Bren Mar Park in order to include the entire 50 acres.

Mr. Schumann again explained how the area was reduced - by measuring from fixed point to fixed point - measuring back on the east boundary 525 feet then back to the Edsall Road fixed point. But the line the Board is trying to determine, Mr. V. W. Smith contended, is the line to which the Board of Supervisors zoned this land. That, Mr. Schumann answered, is a matter for the judgement of the Board. If the Board presses for the full 50 acres it could undoubtedly eat into the homes along Hershey Lane.

Mr. V. W. Smith thought this Board should carry out the Resolution of the Board of Supervisors.

Mr. Ghent explained that his office did establish that line and at the time it was established there were 50 acres included. They did not know that the plat was not completely accurate (surveyors can come up with differences which are unexplainable). Once the boundaries are established, Mr. Ghent continued, they must go by the fixed points. The line was established from the information in Mr. Schumann's office - the only information available. The Board continued to discuss the matter of reducing the original zoning and questioned whether or not this should be resolved by a change in the line to increase the area to 50 acres. It was noted that if the line were moved to include the homes on Hershey Lane - those homes could all be used for commercial purposes.

Again Mr. V. W. Smith suggested reviewing the minutes of the Board of Supervisors in an effort to determine the original intent.

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NEW CASES - Ctd.

14-Ctd.

They wish to go ahead with the motel, Mr. Moncure told the Board, and since the zoning line has nothing to do with the area to be used for a motel - Mr. Moncure questioned whether or not he could obtain a permit for construction of the motel. Mr. Schumann said he had told Mr. Moncure that he could get a building permit if they asked for it. However, that is not a moot question until the request is made, Mr. Schumann continued.

Mr. V.W. Smith thought it was questionable whether or not a permit could be issued.

It was brought out that the applicant could get a permit for a hotel, under any circumstances, and if the applicant were forced to develop homes on the northerly side of Hershey Lane those homes could become potential businesses with all their entrances and traffic on Hershey Lane.

Due to the discrepancy in the zoning map, Mr. Harris told the Board, that the people of Bren Mar Park have found themselves involved in an untenable situation - they are involved in a zoning dispute which is not of their making, and they would therefore suggest that this matter be placed before the Board of Supervisors before any action is taken.

Mr. Schumann produced the minutes of the Board of Supervisors on the original W. W. Smith rezoning (the property under discussion). This case was granted by the Board of Supervisors on July 19, 1950 (page 419, Book 14).

The description on the original rezoning was read and compared with the original plat - showing the two areas eliminated. It was pointed out that there was no description of the Shirley Highway boundary line but Mr. Ghent stated that they found stations along the Shirley which were used in establishing the 170 foot strip which was excluded.

The Board adjourned for dinner.

Upon reconvening, Mr. Moncure came before the Board and stated that in his opinion this is a matter for an expert - and, Mr. Moncure continued, there is only one expert present - Mr. Ghent. The line established here has been accepted on all plats subsequently placed on record. The granting of this motel, under the Board's former motion is tantamount to a rezoning, Mr. Moncure continued. He had, therefore, requested Mr. Schumann to discuss this with the Commonwealth's Attorney. Mr. Schumann has done so and the advice of the Commonwealth's Attorney was that this Board has no authority to take an action which is tantamount to a rezoning.

The line shown on the Cecil Cross plat has been confirmed by three other surveyors, Mr. Ghent told the Board. The line as established by description in the minutes of the Board of Supervisors is the line shown on the present plat. It is the only place the surveyor could put it.

Mr. Harris continued to insist that it was impossible to establish the line accurately and that this matter be taken before the Board of Supervisors for correction. Mr. Harris read the following Resolution passed by the Executive Committee of the Bren Mar Citizens Association:

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087

## "BE IT RESOLVED:

That the Executive Committee of the Bren Mar Park Civic Association directs that representation be made to the Board of Zoning Appeals of Fairfax County during the public hearing scheduled for May 14, 1957, to wit:

The maintenance of residential zoning at a minimum depth of 165 feet on the west side of Hershey Lane from Beryl Road to Bren Mar Drive is of vital importance to the members of the Bren Mar Park Civic Association and is essential to the health and welfare of the Bren Mar Park community.

## AND BE IT FURTHER RESOLVED:

That since the zoning map which had been established by the Planning Commission has been the basis of reliance by the residents of Bren Mar Park and since this map sets up residential zoning in a manner as above described that this map shall not be changed or altered in any respect.

The above motion was passed unanimously by the Executive Committee of the Bren Mar Park Civic Association, meeting on May 3, 1957.

/s/ Herbert E. Harris, President  
Frances C. Crawford, Secretary

## BREN MAR PARK CIVIC ASSOCIATION"

Mrs. Henderson stated that it appears from the evidence presented today that this new plat dated April 19, 1957, by Cecil J. Cross is more correct than the County Zoning map. From evidence presented by Mr. Victor Ghent and the description of the metes and bounds in the Board of Supervisors minutes, Mrs. Henderson stated that in her opinion the Board has no choice but to accept the line as established on the above mentioned plat as the boundary line between the residential and the commercial zoning. She, therefore, moved that this line as established by Mr. Cross be accepted as the corrected zoning line.

However, if anything could be worked out between the people of Bren Mar Park the owners of the commercial property, it would be a good thing, Mrs. Henderson continued - such as a possibility of rezoning a portion of the business property - but the Board is bound by the evidence presented and has no choice but to correct the line.

Seconded, Mr. Lamond

For the motion: Mrs. Henderson, Messrs. Lamond, T. Barnes and J. B. Smith. Mr. Verlin Smith voted "no" - because in the minutes of the Board of Supervisors there appears to be a conflict. While he is sympathetic toward this line as established, Mr. V. W. Smith continued, he did not feel in a position to vote without consulting with an attorney. Mr. V. W. Smith made it plain that he was neither for nor against the motion but he was of the opinion that because of the conflict in the minutes of the Board of Supervisors the Board should consult with the Commonwealth's Attorney. In view of the fact that the previous motion granting the motel would place a tier of residential lots in a largely business area, it was suggested that a new motion should be passed on the Magazine Motel application. Since the Board now has additional evidence regarding the location of the zoning line which was not available at the previous hearing, Mr. Lamond moved to re-hear the application on the Magazine Motel, which application was heard by the Board on April 9, 1957. Seconded, J. B. Smith

088

DEFERRED CASES - Ctd.

14-Ctd.

Carried, unanimously.

Mr. Lamond read the motion as passed on that date. Mr. Harris took exception to the wording of the motion as read - saying it was not identical with the one he had received from the Planning Office. That was explained by the fact that the motion read was the one incorporated in the form of a letter of notification sent to the applicant.

Mr. Lamond moved to rescind the motion formerly taken on the Magazine Realty Company's request for a motel (granted by this body on April 9, 1957) and also moved that the part of the minutes be rescinded regarding the action taken by the Board of Zoning Appeals because of the fact that the information has been presented establishing the fact that the County zoning map is in error, in that the line now on the map showing the zoning boundary line is in error.

Seconded, J. B. Smith

Carried, unanimously.

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Mr. Lamond moved that the application of Magazine Realty Company for a motel be granted for a highway hotel on the Magazine Brothers tract located on the map submitted by C. J. Cross, dated March 1, 1957, showing the location of the property. The motel is to occupy an area of 6.39 acres - this is hereby approved for the issuance of a use permit.

Mr. Harris asked to speak to the - uncompleted motion.....

In considering this property for use as a motel, Mr. Harris stated, serious consideration should be given to the type of zoning between the residential area and the motel, that it was of vital importance to the property owners along Hershey Lane to be protected from this business use and that the conditions under which people purchased property on this street should be an important factor. It now appears that the County zoning map is incorrect and the people have no voice in determining what type of business is established across from them. It is a serious situation, Mr. Harris contended, when the people cannot know for a certainty what kind of zoning is around them and no County should be subjected to such careless irresponsibility. He urged that this matter be referred to the Board of Supervisors. He felt that people in this area had been seriously impinged upon.

Mrs. Henderson called attention to the large area between the motel and the residences. But - Mr. Harris contended, the people thought they had the 175 feet of residential zoning, that to them is very important.

Mr. Lamond continued his motion: That the highway motel be approved on 6.394 acres of the Magazine tract, said motel area being outlined on the map prepared by C. J. Cross, dated March 1, 1957. This is granted for not more than 234 units and this project shall conform to the County Zoning Ordinance as far as setbacks are concerned and also that the drawing designating the type of architecture shall be used as submitted with the application, said drawing being designated as No. 5608, prepared by Corning and Moore.

089

## DEFERRED CASES - Ctd.

14Octd.

Also; Mr. Lamond continued, no part of the structure shall come closer to the Shirley Highway than 100 feet and it is understood that sufficient parking space shall be provided on the property for all users of the use. This is granted because it conforms to the requirements of Section 6-16 of the Zoning Ordinance.

Seconded, Mr. T. Barnes

Carried, unanimously.

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The Chairman read a letter from Mr. Ed Gasson asking for a re-hearing on the J. J. Mathy case - application for a cemetery - granted by this Board on April 23, 1957. This request was made on behalf of Gordon F. Singhas.

Mr. Gasson asked for time on the agenda at the next meeting to explain his reasons for the requested re-hearing. The Board agreed that Mr. Gasson be heard, May 28th.

In case of a re-hearing, Mr. V. W. Smith questioned whether or not the case should again be re-posted and re-advertised. The Secretary was instructed to write a letter to the Commonwealth's Attorney asking him these questions and requesting a reply in writing.

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The following letter was read from the Springfield Citizens Association:

"April 25, 1957

Mr. John W. Brookfield  
Springfield, Virginia

Dear Mr. Brookfield:

The Springfield Civic Association at its meeting on April 17, 1957 passed the following resolution and requested me to send a copy to you and the other members of the County Board of Zoning Appeals:

'Resolved that with respect to any petition filed by a Springfield resident with the Board of Zoning Appeals for an exception to be granted under the Zoning Code to permit the enclosure of a carport by the construction of additional living space in such area, the Board will be guided by the following principle:

If the petitioner has obtained the written consent of the owners of 20 properties nearest to the property of the petitioner and if there has been no objection by any other resident in the Springfield area communicated in writing or in person to the Board, then such petition so supported shall constitute prima facie evidence to the Board in favor of the granting of said petition, and shall indicate to the Board that it is in the best interest of the Springfield area to grant said petition.'

Your adoption of the principles set forth in this resolution will be greatly appreciated by the Springfield Civic Association.

Yours sincerely,

/s/ Joseph C. Wheeler, President"

Since the Board cannot follow the pattern set up by the Association, Mr. Schumann was asked to reply to this letter setting forth the fact that the Board is bound in its decisions by the Ordinance, and not necessarily by approval of a community. Mr. Schumann agreed to answer the letter.

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090

DEFERRED CASES - Ctd.

Mr. V. W. Smith also read a letter from Mr. Walter Crain regarding the granting of a variance in the Bales matter. Mr. Schumann stated that the Commonwealth's Attorney has stated that old zoning restrictions have no validity that as in the case of Mr. Bales - the present zoning restrictions must be followed. This restriction line was established by the developer and is less restrictive than the Ordinance.

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A letter from Mr. C. C. Massey was read regarding the right of this Board to employ council when necessary or to seek the advice of any Department Heads.

Mr. V. W. Smith agreed to answer the letter.

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Mr. V. W. Smith suggested that the Board discuss the reasonability of requiring applicants to notify adjoining property owners in the case of Board of Appeals requests for variances or exception. It was agreed that more responsibility should be placed on the applicants to notify interested parties and therefore the following Policy Resolutions were agreed upon to assure more adequate posting and notification:

That signs posted for cases to be handled by the Board shall be placed at intervals of at least one sign for every 400 feet, and at least one sign shall be posted on every road frontage.

That the Board adopt the same Policy as that established by the Board of Supervisors in cases of rezoning as to requirement of the applicant to notify people in the immediate area of the date, time, and place of hearing on cases to come before the Board of Zoning Appeals.

This would require that the applicant notify five property owners in the immediate area, two of whom are adjoining property owners. This notification may be by registered mail or in writing with acknowledgement of receipt thereof. This proof of notification shall be presented with the case.

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The meeting adjourned

*Verlin W. Smith*

Verlin W. Smith, Chairman

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The regular meeting of the Fairfax County Board of Zoning Appeals was held Tuesday, May 28th, 1957 in the Board Room of the Fairfax Courthouse, at 10 o'clock a.m., with all members present: Messrs. Verlin W. Smith, J. B. Smith, A. Slater Lamond, George T. Barnes and Mrs. L. J. Henderson, Jr.

092

The meeting was opened with a prayer by Mr. J. B. Smith

DEFERRED CASES:

- 1- J. C. STORM, to permit dedication of Street within 15.7 feet of existing dwelling, west side of private road, 1326 feet south of Magarity Road, adjoining Section 7, Pimmit Hills, Dranesville Dist. (Sub. Res.-Class I).  
This case was withdrawn by the applicant.

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NEW CASES:

- 1- LOUIS G. MELTZER, to permit erection of 2 signs on property other than the use (total area 107-1/2 sq.ft.), at N. E. corner Bevan Drive and Route #50 and north side Route #50 adjacent to west side of Safeway Store at Kamp Washington, Providence District. (Rural Bus & Sub. Res.-Class II).  
The applicant sent word through Mr. Mooreland asking that this case be deferred until June 11, 1957.

Mr. J. B. Smith so moved

Seconded, Mr. T. Barnes

Carried unanimously.

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- 2- MACE PROPERTIES, INC., to permit location of 2 signs on property other than the use (43 sq. ft total area), at N. W. corner Route #236 and Route #617 and S. W. corner Route #236 and Route #649, Mason Dist.(General Business).  
Mr. Showalter, Sales Manager for Mr. Mace, represented the applicant.  
These are directional signs to guide their clientele to the property (the Bristow Tract) which they are selling. Experience has taught them, Mr. Showalter stated, that newspaper advertising - even with specific directions to the property is not sufficient. People start to the property from the District, they get lost and wind up in Springfield - buying lots in one of the other nearby subdivisions.

This is a 900 acre tract, Mr. Showalter continued. They have had to start development from the wrong end of the property because of the location of utilities. Had they been able to start on Route #236 where they have 4000 feet frontage, their problems would have been solved.

Mr. Showalter explained that it is necessary to have the arrow directing people on - at the intersection of Route #236 and Backlick Road as one can very easily slip by Ravensworth Road. The warning that the customer is approaching Ravensworth Road and is nearing the turning point to the property slows up the driver - then he sees the sign at Ravensworth Road and is prepared to make the turn.

NEW CASES - Ctd.

2-Ctd.

Mr. V. W. Smith suggested a smaller directional sign. The road is heavily traveled, Mr. Showalter answered - people would not focus attention on so small a sign. However, Mrs. Henderson noted that there is a traffic light at this intersection. It is their intention, Mr. Showalter answered, to use the traffic light to the best advantage. The first sign starts the slowing up process - they hit the traffic light, have time to see the second directional sign - then turn toward the property.

People often get off on to Backlick Road, Mr. Showalter explained, where they run into many subdivisions south of Route #236; Carr, Hengen, Crestwood, Steinberg, etc., all about alike. It is very easy to confuse one development with another. They often miss Ravensworth Road entirely.

Mr. J. B. Smith suggested that granting this would put the Board in a position where it would be difficult to refuse the other developers in this area.

Mrs. Henderson suggested routing the people down Columbia Pike - which would miss Backlick Road.

It was noted, however, that there are many subdivisions in this general area which have been built and sold without such apparent difficulty and without "off the use" signs.

Mrs. Henderson moved to deny the case because the requested signs are not on the property being advertised for sale and because the directional signs allowed by the Ordinance are sufficient in size.

Seconded, J. B. Smith

Mr. V. W. Smith questioned whether or not the size of directional signs is sufficient - if not, Mr. V. W. Smith continued - this could very well be discussed with the Board of Supervisors. He did not agree with the statement in the motion that "directional signs are sufficient".

The motion was changed to read that the case be denied because the signs are not on the property being advertised for sale and because directional signs are permitted by the Ordinance. The change in wording of the motion was agreed to by both Mrs. Henderson and Mr. J. B. Smith

Carried, unanimously.

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3-

PATRICIA K. RUFFNER, to permit operation of a pony stable for hire and conduct riding instructions, at southeast junction of Burke Station Road, #652 and Guinea Road, #651, Falls Church District. (Agriculture).

Mrs. Ruffner stated that she had had a permit for this use in 1950. They moved to Alexandria where they continued the business and now are back in the County on the farm and wish to renew the old permit which expired during her absence.

(The original permit was issued in the name of Patty Archer and Del Hatch).

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NEW CASES - Ctd.

3-Ctd. Mr. V. W. Smith questioned the location of the stable, which showed a 15 foot side setback from the property line. Mr. Mooreland said that building was allowed because it is not used as a commercial building. Actually, it could come within 10 feet of the side line, Mr. Mooreland added.

094

This is a business, Mr. V.W. Smith contended, and the stable is being used in connection with that business, the ponies are being housed in the stable. That is not a hobby, Mr. V. W. Smith continued, and the stable would appear to him to be a part of the use, which would place it in a commercial category. Mr. Lamond moved to grant the application as per plat presented with the case, prepared by H. O. Wright, dated May 1, 1957, because it does not appear that this use would adversely affect the health or welfare of the Community and it is understood that if the applicant has a pony ring, it should necessarily be located 100 feet from all property lines. This is granted to the applicant only.

Seconded, Mrs. Henderson

For the motion: Mrs. Henderson, J. B. Smith, T. Barnes and A. S. Lamond

Mr. V. W. Smith not voting

Carried.

Mr. V. W. Smith said he did not oppose the use, but felt that the stable should not be located 15 feet from the side property line.

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4- ROSE HILL FARMS COMMUNITY CENTER, INC., to permit operation of a community swimming pool with buildings accessory thereto, Lot 2, Highland Park, Lee District. (Suburban Residence-Class II).

Mr. Stanley Brown represented the applicant.

The fact that the swimming club granted in this area a few weeks previous to this date is an entirely separate venture from this case, was established.

Mr. Brown read from a prepared statement detailing the intentions of the Temporary Board of Directors of the Rose Hill Farms Community Center, Inc. regarding this use:

A committee was set up by the Rose Hill Civic Association to look into the possibility of a swimming pool and recreation area for the community, charged with the responsibility of gathering pertinent data from other communities and finding out what the residents of Rose Hill Farms desired in the way of a pool and recreational facilities.

This committee was approached by the Morell Construction Company with a proposal for establishment of a pool and recreational area as stipulated by the developer. This proposition would provide that the developer would provide the land for the area with the dairy barn on the property to be remodeled and used for the bathhouse and community house facilities. This project would cost \$250,000. It would provide for 1000 members at \$250.00 per membership. When 500 memberships were sold the Association would assume the indebtedness of \$125,000, control of the corporation would then be turned over to the existing 500 members.

NEW CASES - Ctd.

4-Ctd.

This proposition was discussed by the Civic Association and disapproved because it was too large both in membership and cost and too much water in the cost. Mr. Morrell was informed of the Association's rejection of his offer. The terms of this proposal as offered to the Civic Association have not changed basically. At the time of hearing of the Morrell application before the Board of Zoning Appeals, Mr. Hill from the Civic Association was present as an observer.

When the Morrell project failed of approval by the Association, they set about getting a pool and recreational center of their own, one designed for approximately 400 or 500 families. The Committee selected a site and took steps toward an option on the property. The project was then outlined to a cross-section of the Rose Hill residents, discussing the land cost, topography, the necessary steps to incorporate, etc. They then set up a temporary Board of Directors. Articles of Incorporation were filed for a non-profit non-stock corporation to be known as Rose Hill Farms Community Center, Inc. This was approved May 1, 1957 and adopted by vote of the Association on May 7, 1957.

All funds received from memberships or other sources must be used for the development of the recreational area.

During the next year they plan to have a pool designed for 500 families. The pool will be 82' x 42' with a 35' x 35' diving ell, a 15' apron and a wading pool 25' in diameter - along with a bath house. The pool will be fenced, parking will be provided for 150 cars. All of this will cost approximately \$80,000 with a \$200 membership fee including tax.

They have not yet solicited funds, Mr. Brown continued, and will not do so until this is granted by this Board, but they have reservations for 99 families. These names were secured within a period of two weeks.

It is noteworthy, Mr. Brown continued, that the people in the area closest to the pool have signed a statement, which statement he presented to the Board, indicating their non-objection.

They do not plan a picnic area and will have a buffer zone of trees on the land facing Climbhill Road to minimize noise and to assure privacy. The area will include 6.16 acres.

In answer to Mrs. Henderson's question, Mr. Brown answered that it was the Citizens Association which met on May 7th to adopt the Articles of Incorporation; about 74 members were present.

Mrs. Henderson noted that there was no opposition present at the Morrell hearing the next day. Mr. Hill came as an observer only, Mr. Brown answered, as a section in their by-laws states that they could not take a position without a ballot vote of the entire membership - which they obviously could not get in that time.

095

## NEW CASES - Ctd.

4-Ctd. A large map of the area was displayed showing the relative location of this area and the Morrell project - indicating that they are practically at opposite ends of the subdivision.

Mr. Lamond asked about the drainage situation.

It was stated that there is no problem of sewage and water - both will be available and since this is high ground there will be no drainage problem.

Mr. Dale Vinning who lives next to the pool area stated that he has no objections - he realizes the great lack of recreational facilities in the County. He has two boys and is highly in favor of this project.

Mr. Coffey was present, representing his father who owns adjoining land. His interest was in the entrance road - would it be extended and would it be curb and guttered. Mr. Coffey said his father had no objections to the project.

Mr. William McKay, who lives at 2310 Climbhill Road offered no objections. He preferred this location of a recreational area to the Morrell project and favored the plan as outlined to the Board. His home faces this site.

Mr. George Cross from 2311 Climbhill Road approved of the project for reasons stated. He disliked the idea of a pool membership of 1000 families. In answer to a suggestion by Mr. George Leone - Mr. Brown said the pool square footage per member was about 27 square feet per person. The pool would take about 174 people at one time - in other words, the chances of swimming in this pool is about twice as good as swimming in the Morrell pool.

Mr. Kenneth Park, who lives across from the proposed site, said he had at first doubted if he could approve this, but he felt the buffer of trees will be sufficient to protect them, and he was very favorably impressed with the cooperative manner in which the group has gone about plans for this project. He heartily endorsed their plans.

There were eleven present favoring the use as applied for - no opposition. It was noted that the two swimming pool projects would be about 3500 feet apart.

The successful operation of two pools in this vicinity was discussed. Is the Board considering economics - or public welfare, it was asked. The people want this project, Mr. Vinning stated, they are willing to work for it and pay for it - irrespective of the other pool - they are asking for this. Mr. Vinning questioned if the Board was sitting in the capacity of God-father. The Board is not attempting to act as God-father, Mr. V. W. Smith answered, but it is most important that the Board consider the welfare of the community.

It was questioned what was necessary to connect with the sanitary sewer. The answer as given by Mr. Hale, it was stated, was that the property could be sewerred provided an easement can be had through the lots to the east. It was also stated that the pool can be emptied into the storm sewer on Telegraph Road - back of the Millwork Company, down Highland Drive.

096

NEW CASES - Ctd.

4-Ctd. It was asked if letters objecting to this use had been received by the Board. Mr. V.W. Smith answered that no letters have been received.

Mr. V. W. Smith read the motion granting the Morrell case.

If an applicant only partially completes a project, Mrs. Henderson asked, what happens - is there a time limit on it?

Mr. Mooreland answered that the Commonwealth's Attorney has ruled (see River Towers case) that a granted permit on which work has been started is valid for an indefinite time. That, however, Mr. Mooreland explained, has been questioned - and it is possible that some time limit will be set up in the Ordinance.

Mr. Bell, from the Sanitary Engineers office, explained the location of the sewer lines, and showed that sewage would be available to this project by way of the easement through the lots to the east.

Mr. Brown also explained that this site is on a hill about 50 feet above Telegraph Road, which would afford good drainage. The easement to sewage on Climbhill Road would be no problem, Mr. Brown continued, as they have discussed that with one of the residents who has agreed to the easement. They would connect with the storm sewer on Telegraph Road for the pool.

Mr. Lamond moved that the application of Rose Hill Farms Community Center, Inc. as submitted on plat prepared by Wesley R. Ridgeway, dated October 24, 1955, showing the outline of the buildings, with the parking as shown, and the various facilities, be approved as it will not adversely affect persons residing or working in the community and will not ultimately affect adversely the use and development of neighboring property. This is granted subject to approval of any swimming pool Ordinance adopted by the County.

It was noted that the plat was certified in 1955 and that the certification therefore does not include the recent information added.

Mr. Lamond amended his motion to state that the applicant have the plat certified to and returned to this Board and that the Board take final action on June 11th.

Mr. Brown said the certification was for the boundary line only - the buildings and other markings on the plat were added to the boundary survey, which they had thought was all that was necessary. However, they were agreeable to furnishing complete certified plats, showing location of all the buildings and facilities.

Mr. Lamond changed his motion to state that the case be deferred to June 11, 1957 for certified plats showing the buildings and their setbacks.

Seconded, Mrs. Henderson

Carried, unanimously.

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097

May 20, 1971

NEW CASES - Ctd.

5- MRS. PHYLLIS D. EASTMAN, to permit enclosure of existing carport as a recreation room within 31 feet of the street property line, Lot 7, Block 8, Section 7, Holmes Run Acres (2413 Cypress Drive), Falls Church District. (Suburban Residence-Class II).

098

Mrs. Eastman appear@d before the Board. They are badly in need of another room for recreation and living space, Mrs. Eastman told the Board. The neighbors do not object to this encroachment. The addition will be built in the same style and of the same material as the house - cypress wood.

This carried the old zoning setback, Mr. Mooreland told the Board, the dwelling can come within 40 feet of the front with a 10 foot projection for a carport, and with a 5 foot leeway on the side yard.

There were no objections from the area.

To Mrs. Henderson's suggestion that the addition be put in the back, Mrs. Eastman answered that there is a steep bank into which they would have to dig to make any addition to the house. Also to build there would cut off windows to the bedrooms and the kitchen. The drainage comes down toward the house as it is - further construction would increase that run-off. There is not room on the other side of the house.

Mrs. Henderson moved to defer the case until June 25th to view the property because of the topographic condition in the rear yard, and to see if it is possible for this addition to be in an alternate location.

Seconded, Mr. Lamond

Carried, unanimously.

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DEFERRED CASE

5- DAVID S. BOGER, to permit extension of Ancient Oaks Trailer Court (50 trailer sites), on south side of Lee Highway, immediately adjacent to Ancient Oaks Trailer Park, Falls Church District. (Rural Business).

This case had been deferr@d for plats. Since the time of the hearing had arrived and several were present in opposition, Mr. Mooreland announced that the attorneys in this case had contacted him, stating that it would not be possible to have completed plats at this time, and asked that the case be deferred until June 11th.

Mr. Lamond moved to defer the case until June 11th.

Seconded, J. B. Smith

Mr. Tappa, owner of property on Mendota Street, asked what was the purpose of this deferment. Mr. V. W. Smith explained the requirements placed upon the applicant at the last meeting.

Mr. Tappa stated that they still object - even if the conditions of the required plat are met. The people in the area object to the extension of this use - which in his opinion would result in a serious detriment to the people in the area.

The motion to defer carried, unanimously.

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OTD-NEW CASES

6- WARREN C. THOMPSON, to permit extension of existing service station, approx. 250 feet west of Route #28 on south side Routes #29 and #211, at Centreville, Centreville District. (Rural Residence-Class II).

This is a non-conforming business operating on residential property, Mr. Mooreland told the Board. In his opinion, Mr. Mooreland continued, the Board has no authority to grant this. He stated this to the applicant, Mr. Mooreland continued, but the applicant still wished to come before the Board. Mr. Thompson asked how it was determined that his property is residential? He had called the Zoning Office a number of times, Mr. Thompson continued, asking to what point the business zoning is measured from the intersection of Routes #28 and #29-#211. Each time he was given a different answer. How do they know now that this is not within the commercial zoning, Mr. Thompson asked? Measuring from the corner he had thought the commercial zoning carried on 150 feet beyond the diner. His property is assessed as though it is commercial.

Mr. Mooreland told the Board that both a certified plat of this area and the aerial photograph had agreed with the zoning line shown on the map - which does not include Mr. Thompson's property. In determining the zoning distance they had measured from the intersecting point of Routes #29-#211 with Route #28 - Mr. Thompson had measured the zoning line from the right of way line.

Mr. V. W. Smith suggested that the tax assessment was probably made on the basis of the business use.

Mr. Mooreland suggested deferring this for Mr. Thompson to get a certified plat - tying the line to two points.

Mr. Thompson said he had a plat on record which showed this to be in the business zoning.

This should be tied in with the centerline of the Manassas Road and #29-#211, the Board agreed, the property should be located and the distance of the commercial zoning computed from the intersecting point of Routes #28 and #29-#211.

Mr. Lamond moved to defer the case until June 11th for presentation of a map showing the distance of this property from the centerline intersection of Manassas Road with Routes #29-#211 and the proper boundaries of the commercial zoning shall be outlined. The point of intersection of these two roads should be shown and the distance of the property from this intersecting point.

Seconded, Mrs. Henderson

Carried, unanimously.

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099

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May 28, 1957

## DEFERRED CASES:

2- EDWARD RISLEY, to permit erection of an addition to dwelling 36.5 feet of street property line, Lot 220, Section 9, Hollin Hills, (402 Beechwood Road) Mt. Vernon District. (Suburban Residence).

Mr. Lamond had seen the property. Mr. Neer and Mr. Risley were unable to meet him at the property according to their plan, but he talked with Mrs. Risley. This addition could not very well be located at the rear of the house, Mr. Lamond suggested, as there is an incline which would make this impractical. Added to either side it would run into side setback restriction.

Mr. Lamond said he had suggested eliminating the entrance way - but Mrs. Risley objected to that as it would leave them without a place to store the lawn mower and yard tools.

This is a matter of having more living space, Mr. Risley told the Board, they have tried in every way to arrange this addition so it would give them that space and conform to setback requirements, and still retain the design of the house. They do not wish to re-arrange the house into an inferior design - it would <sup>be</sup> depreciating to the neighborhood.

Mrs. Henderson suggested building on to the terrace side. That would enclose windows which they could not possibly do, Mr. Neer answered. Mr. Neer enlarged upon the need to preserve the design of the house which would be a credit to the neighborhood and the impracticability of allowing an inferior design which would depreciate the resale value of the house. This is an extreme design, Mr. Neer pointed out, and its special character must be preserved.

But there is an alternate location for this addition, Mr. V. W. Smith noted, which would provide the same additional livable area for the applicant. It might not result in as good a design, but it could be done, which he thought important to the Board.

Mr. Neer again stressed the quality of the design - its impact upon the neighborhood and the County. This will not have an adverse affect on anyone in the area, Mr. Neer continued, the neighbors do not object. It is in the power of this body to grant something which will be a credit to the County, rather than to depreciate the neighborhood, and will in no way harm anyone. This Board acts in the capacity of defender of the people, Mr. Neer continued, this would result in doing the most good for the most people.

Mr. V. W. Smith read the hardship clause from the Ordinance under which the Board can grant this variance.

There are not many communities like this - Mr. Neer continued - where the architecture is of a distinct design and where the development has such individual and special features. He felt that it would be a hardship on both the applicant and the community to destroy the prevailing character of the area. In his opinion, Mr. Neer continued, the Board could interpret this as a hardship case, and that it would be to the benefit of the people involved.

100

MAY 20, 1971

DEFERRED CASES - Ctd.

2-Ctd. Mrs. Henderson moved to deny the case because there is an alternate way of putting on the addition and no evidence of hardship has been shown - which was created by the Ordinance.

Seconded, J. B. Smith

Carried, unanimously.

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3- WILLS HOMES, INC., to permit dwelling as erected to remain within 18.5 feet of the side property line, Lot 47, Section 2, Wilburdale, Mason District. (Agriculture).

Mr. Wills represented the applicant. This was deferred to give the applicant the opportunity to arrange to move the side property line. This may be done, Mr. Wills told the Board, but it would create a less setback on the adjoining lot and the people living there could not enclose their carport. However, that lot has not been sold.

In that case, Mrs. Henderson stated, this case should be denied - because additional property to make this setback conform is available.

Mr. Wills withdrew the case.

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4- ERNEST T. SHIFFLETT, to permit erection of sign denied by Zoning Administrator and operation of a business of giving out sightseeing and tourist information in connection with gasoline station operation, Lots 1 and 2, Fairfax Heights Subdivision, Providence District. (Rural Business).

Mr. Frank Swart represented the applicant. This was deferred for study of the two uses. Mr. Mooreland noted that the Commonwealth's Attorney had stated that these two uses presented a debatable question.

Mr. Lamond told the Board that many other filling stations are carrying on the same type of business along with their gasoline station operations and they have signs - saying free tourist information. If the Board does not allow this use - Mr. Lamond thought the other signs advertising the same thing should be taken down also.

Mr. Swart stated that this business would require no additions to the building and no vehicles other than the normal flow of traffic into the filling station. They will use the present filling station office.

This is actually a joint operation, Mr. Swart informed the Board - without being a technical partnership. Mr. Swart introduced Mr. Farra, who will conduct the sight-seeing business.

This is a partnership only in that Mr. Shifflett hopes to sell more gas because of the tourist service, and Mr. Farra expects to pick up "information-seeking" tourists, because of the filling station, Mr. Farra explained.

Financially their businesses are not connected.

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## DEFERRED CASES - Ctd.

4-Ctd. Then this is a separate and distinct use of the property - to disseminate tourist information - Mr. V. W. Smith stated. Mr. Frank Swart answered - "yes and no". The two services are so inter-related they can hardly be considered two completely different businesses. One is dependent upon the other. He would consider this more of an additional use.

Mr. Lamond thought this setup was in the nature of two separate businesses. Usually filling stations give out free tourist information as a part of their service, Mr. Lamond continued, such service is not handled by another person who is operating on his own and selling tourist information.

Mr. Swart noted that the application is for the sign - and if the tourist business comes in - naturally more business will accrue.

It was noted that Mr. Farra pays no license to the County.

There are many others in this area from Kamp Washington to Fairfax Circle operating like this, Mr. Swart explained. The only sign they will have is "Washington Information".

Mr. V. W. Smith recalled that the previous application on this property was for a filling station only - it was granted with many variances. This would appear to be two separate businesses - while they complement each other, they are separate. Any filling station can give out tourist information - and the filling station operator may have a sign that does not exceed the Ordinance. He saw no reason to grant another business.

Mr. Lamond moved to grant the application because this would not appear to adversely affect the health and welfare of the neighboring community. This is granted as shown on plat presented with the case by Walter L. Ralph, dated November 23, 1955, the location of the sign shown on the map outlined in red block. The sign shall be 8 feet from the ground level. (This is in addition to the signs already on the property). But in no case shall the sign area on the property exceed a total of 120 square feet - nor 60 square feet for any one sign.

Seconded, T. Barnes

For the motion: Messrs. Lamond and Barnes

Against: Messrs. V. W. Smith J. B. Smith, and Mrs. Henderson

Motion lost - therefore, case denied.

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Mr. Gasson appeared before the Board asking for a re-hearing in the J. J. Mathy case - which was heard by the Board on April 23, 1957 - granting a cemetery. Mr. Gasson represented Mr. Gordon Singhas, presenting a petition with 17 names opposing the granted use. The petition stated that the undersigned were unaware of any need or requirement for an additional cemetery in the County, and believed that the removal of this property from tax rolls would impose additional tax burden on the County. They also objected to the commercial aspect with resultant decrease in property values.

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It was noted that this case was advertised according to law and the property was duly posted.

Mr. Gasson quoted from the Ordinance which states that the property must be posted with "suitable placards". These people objecting live on the west side of the property, Mr. Gasson went on, and they do not feel they were properly notified.

Mr. Singhas stated that his property is on the northwest side of the Mathy property - they have about 1400 feet of common boundary. After the hearing Mr. Singhas said that he and Mr. Gasson went down Route #236 looking for the posting signs. They found one on the corner of Route #236 and Scheurman Road and one in front of the Mathy house on a post. That was all. From his property, Mr. Singhas continued, these posters were .3 of a mile. The posters were about letter size and could not be read from the road. It was not only inconvenient but hazardous to slow up on a high speed highway to look at signs. It would actually have been necessary to pull off the highway and get out of the car to see what was on the signs. He saw no posters on Scheurman Road, Mr. Singhas continued, however two signs were put up on Scheurman Road after the first hearing. Mr. Singhas said he therefore considered this improper posting.

After the first hearing on the MATHY cemetery which was denied by this Board, Mr. Singhas said he had asked that he be notified in case a cemetery came up again on this property. He was never notified. He does not read the Fairfax Herald - therefore he considered that he had not had proper notification of this hearing.

The first he heard of this hearing was after the case had been granted, Mr. Singhas concluded.

Since this would appear to be a long drawn out hearing, Mr. Lamond suggested that the Board take up the WAGNER case, dispose of it before lunch and continue the Mathy case after lunch. The Board agreed to this.

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6- JOHN H. & MABEL V. WAGNER, to permit pump islands of a service station within 12 feet of Kirby Road and Route #123, southwest corner of Kirby Road and Route #123, Dranesville District. (Suburban Residence).

Mr. Schumann read the following recommendation from the Planning Commission:

"May 28, 1957

TO: Fairfax County Board of Zoning Appeals  
FROM: Fairfax County Planning Commission  
SUBJECT: Recommendation on application of JOHN H. & MABEL WAGNER, to permit pump islands of a service station with a setback of 12 feet from both Kirby Road and Route #123.

The Commission recommends that the Board permit the proposed pump island to be located in front of the existing gas station with a 12 foot setback from the new right of way line of Route #123.

This recommendation is made for the reason that to require the pumps to be re-located a further distance back from Route #123 would locate them so close to the existing building as to render service from the side of the pump island adjacent to the building practically impossible.

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## DEFERRED CASES - Ctd.

6-Ctd. (Recommendation from the Planning Commission - Ctd.)

The Commission directed that upon favorable action of the Board of Zoning Appeals, the Director of Planning notify both the Commissioner and the District Engineer of the Department of Highways that this action:

1. was taken due to the fact that the location of the existing building would not permit the pump island to be practically placed further back from the road,
2. would not have been taken without the existence of this circumstance, and that,
3. is not to be construed as a precedent.

The Commission further recommends that the Board not permit the proposed pump island at the corner of Chain Bridge and Kirby Roads, for the reason that the property is zoned Rural Residence-Class II, in which zone the Board does not have the authority to permit such facilities on land in this zoning class.

FAIRFAX COUNTY PLANNING OFFICE  
/s/ H. F. Schumann, Jr.,  
Director of Planning"

Mr. Lamond moved that the application be granted providing that the pump island may be re-placed not closer than 12 feet from the right of way of Route #123 and that the requested pump island at the intersection of Route #123 and Kirby Road be eliminated from this granting. This is granted as per plat dated April 19, 1957.

Seconded, Mrs. Henderson

Carried, unanimously.

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The Board adjourned for lunch.

Upon reconvening Mr. Gasson again took up the discussion of the J. J. Mathy case.

As his new evidence, Mr. Gasson asked to present Mr. Kane from Alexandria, who would testify as to the affect this cemetery would have upon land values in the area.

Mr. V. W. Smith suggested to Mr. Gasson - that certainly that evidence could have been presented at the original hearing.

But they did not have adequate notice of that hearing, Mr. Gasson contended. Mr. V. W. Smith asked the Board if they wished to hear this evidence - did they consider it new evidence.

Mr. Lamond called attention to the fact that this is not a re-hearing. He thought the reasons for this re-hearing should be reduced to writing and only those reasons should be considered at this time. It is not fair to the petitioner to go into the evidence of whether or not a cemetery would depreciate property. If evidence is to be discussed the petitioner should be present, Mr. Lamond concluded.

If the re-hearing is granted, Mr. Gasson stated, the petitioner would naturally be present - these people are here to discuss the fact that they have not had reasonable notice of the original hearing. Mr. Pritchard had stated at the hearing that there was no objection to this use - that was not true, Mr. Gasson contended - the people were not there because they did not know. Mr. Pickett, who had expressed his opposition - was not present.

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They have heard of it only through hearsay, Mr. Gasson contended.

The Zoning Office would not agree to notify the people in the area if this case was scheduled to come before the Board - and since the posters were inadequate the people in the area feel that a full hearing was not held, Mr. Gasson contended.

That should be the only question discussed, Mr. V. W. Smith told Mr. Gasson. The Board will make no decision on the affect of this cemetery on property values, Mr. V. W. Smith continued, or any other evidence which could have been presented at the former hearing. If Mr. Gasson was ready to proceed with his new evidence - the Board will listen and make its decision.

Mr. Lamond stated that he could not see why the people in the area did not see the signs - the posters used were the same as the County has been using all over the County for many years in both rezoning cases and in Board of Appeals cases, and they have been considered satisfactory.

Mr. Gasson contended that it depended upon the type of case and the amount of property involved - and the relation of that property to property owners in the vicinity. This was a 157 acre tract, Mr. Gasson continued. It was posted only at the intersection of Scheurman Road and Route #236 and in front of the Mathy house. The property location said at the corner of #236 and Scheurman Road, which was misleading. Driving on Route #236 you cannot read the signs from your car - one would have to get out of the car and go up to the sign to see the small lettering. It is practically impossible to stop on Route #236, Mr. Gasson continued.

Mr. Gasson asked that Mr. Kane from Alexandria make a statement showing that the Board should not have granted this case, as it would adversely affect the neighborhood.

Mr. Lamond objected to the inclusion of this evidence. It is evident that adequate notice was given of that hearing, Mr. Lamond continued, the property admittedly was posted according to law, the hearing date was advertised - he contended that the Board was wasting time.

Since this case had been before the Board previous to this last hearing, Mrs. Henderson thought the people in the area should have taken the trouble to get out of their cars and read the posted signs. She could see no negligence on the part of the County in notifying these people.

Mr. V. W. Smith asked - should the Board hear Mr. Kane.

Mr. Lamond answered that the Board should first take action on whether or not the property was properly posted - then decide whether or not to hear Mr. Kane.

W. P. Collins, who passes this location twice a day, said he did not see the sign - and if he had seen it he would have felt it impossible to stop along Route #236 long enough to read it.

Mr. Lamond contended that this talk was out of order - all the Board needs to know at this time is whether or not the property was properly posted.

He suggested that the presentation keep on that tract. The burden of proof that the property either was not posted properly or not advertised - is all the Board can consider, Mr. Lamond concluded.

Mrs. Henderson and Mr. J. B. Smith agreed.

Mr. Gasson again went into the fact that most of these people did not know of the hearing - they were informed of it after the case was granted. He noted that the signs from the old hearing were still on the posts and it was confusing to them. The signs were tacked on telephone poles - where there are always signs advertising political candidates or public affairs - it would not have occurred to them that a sign on a telephone pole might advertise a case of this kind.

Mr. Mooreland stated that signs were posted by his inspectors 10 days before the hearing at the corner of Route #236 and Scheurman Road and one in front of Mr. Mathy's house. A sign was posted on Scheurman Road particularly because of the opposition of Mr. Pickett at the former hearing, Mr. Mooreland said. They put two signs on Scheurman Road and two on Route #236. He had also checked these postings with Mr. Prichard. The notice was also advertised in the Fairfax Herald. This is the usual procedure, Mr. Mooreland continued, and has been held to be sufficient and in accordance with the Ordinance. These signs have been used since 1941, Mr. Mooreland concluded.

Mr. Cerrick told of his having seen two signs back in the woods, which were put up after the hearing. He saw no sign on Scheurman Road. He did not see the sign at the Mathy house.

Mr. Singhas noted that he did know of the hearing one year ago - and did not object because the property next adjoining him was not included at that time.

Mr. Alley said he saw the poster - his male dog found it while walking in the woods. However, he could not read it from his car. Even though the motion granting this case prohibited a right of way through Little River Hills to the Cemetery - he was still apprehensive - and objected.

Mr. Alley said he would not have seen the sign had it not been for the dog.

Mr. Alley emphasized the dangerous intersection at Route #236 and Scheurman Road, where it is impossible for one to stop. He criticized putting these signs on telephone poles.

Mrs. Marsh spoke of the old signs left up from the first hearing which were confusing.

Mrs. Cerrick also stated she did not see the signs - although she travels Route #236 regularly.

Mr. Berry from Little River Hills, objected to the type of posting.

Mr. Collins did not see the signs, nor know of the hearing although he lives across the road from the proposed Cemetery - stating he could not have seen the signs from the road.

It is agreed, Mr. Lamond stated, that the property was posted - he thought further discussion unnecessary.

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Mr. Gasson read from the Ordinance regarding posting - contending that the requirement that the property be posted with signs that "clearly indicate" the time and place of hearing was not met. He had no desire to criticize the Zoning Office in the posting., Mr. Gasson continued - but on this size property it is most certainly desirable and necessary to post more signs and signs that are legible. This was a controversial case, Mr. Gasson pointed out, and it should be posted with the greatest care. All they want is the opportunity for a re-hearing to present the opposition, Mr. Gasson continued, these people feel very keenly about this - they do not contend that it was the fault of anyone - but they want the opportunity to voice their objections along with their reasons. If this re-hearing is refused, Mr. Gasson implied that the people would probably take it to Court - at least he would recommend that to them.

Mr. Beatty, who lives across from the Duer property (now purchased by Mathy and included in this cemetery case); Mrs. Singhas, Mrs. Johnson - all testified to the inadequacy of the posting.

It was recalled that Mr. Mathy had held meetings with people in the area to discuss his proposed cemetery, and had claimed that if the people objected he would not go ahead with it. Later it was said he changed his mind.

Mr. Gasson called attention to the fact that all the people at the west end of the Mathy property who are adjoining property owners object, and those across the street. These people feel bitterly about this, Mr. Gasson went on - they are honest and serious in their belief that they were not adequately notified. Had the property been properly posted these people would have been present in opposition - and it is possible the case would not have been granted.

Some of the people in the area knew of the hearing, Mr. Gasson continued, but not those most affected. All they are wanting now is a chance to state their opposition. The posting was careless, to say the least, Mr. Gasson contended - since there is a question of the proper posting - certainly it is incumbent upon the Board to give these people a hearing to which they - as tax payers - are entitled.

Mr. Mooreland said he had discussed the posting with his inspector and was told that the property was posted in two places on Scheurman Road and in two places on Route #236, and he is positive of those postings. He was sure Mr. Pickett had been notified.

It would appear that no evidence has been presented at this meeting that the property was not properly posted, Mr. Lamond stated, the people who saw the signs did not take the trouble to get out of their cars to read them, therefore, Mr. Lamond moved to deny the re-hearing.

Seconded, Mrs. Henderson

Mr. V. W. Smith questioned if the posting had met the words "clearly indicate" as stated in the Ordinance. He thought perhaps more posters should have been put along the property and at the corner.

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Everyone knew that Mr. Mathy had proposed this cemetery at an earlier time, Mr. T. Barnes suggested, and had been turned down - he thought the people should have been on the alert at the appearance of any sign on the property. Mr. Singhas admitted that he had been at a meeting at Mr. Mathy's house regarding this hearing.

Mr. V. W. Smith asked how reasonable it was to expect people to keep a constant vigil over signs on property.

Mrs. Henderson answered that that is a very necessary thing to do.

It was noted that the Board has now adopted the same procedure in the posting of signs as that used by the Board of Supervisors - which would give unquestioned notification to adjoining and nearby owners. However, this applies to future postings.

For the motion: Messrs. Lamond, J. B. Smith and Mrs. Henderson

Mr. T. Barnes refrained from voting.

Mr. V. W. Smith voted "no"

Carried to deny the re-hearing.

Mr. Gasson noted that they would probably appeal this decision.

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Mr. Mooreland asked the Board to give him a decision on a tea room:

Mrs. Thompson, the owner of Briarwood, has leased the home on her property to the persons who run her motel. They want to use this house for overflow guests, and they wish to serve breakfast. It was agreed that the use of the house as a "guest house" up to five rooms is allowable, but, Mr. Mooreland continued, the Health Department has refused motels the right to serve coffee unless they have the approval of this Board. This use was not granted with the granting of the motel, therefore, the Board did not approve the serving of breakfast in a motel.

The Board then discussed a definition of a "Tea Room" as distinguished from a restaurant.

Mr. Lamond suggested that Mr. Mooreland be asked to bring to the next meeting a definition of a tea room - setting up what he thinks - from his own knowledge and from research - what he thinks constitutes a tea room.

Also, Mrs. Henderson suggested each member ask friends and acquaintances what their conception is of a tea room. The Board agreed to both these suggestions. It was also suggested checking other ordinances for definitions.

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TREMARCO, INC., to permit erection and operation of a service station with pump islands within 35 feet of the street property line, part of Lot 6, Section 4, Grays Subdivision.

A new set of plats were presented to the Board and approved.

Mr. Lamond moved to grant Tremarco, Inc., the granting being tied to the new map dated May 21, 1957, prepared by James McWhorter, No. P.C. 130, Tremarco Corp., showing the pump island to be located 25 feet from the right of way of Route #123.

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Tremarco, Inc. - Ctd.

Seconded, Mr. T. Barnes

Carried, unanimously.

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The meeting adjourned

Verlin W. Smith

Verlin W. Smith, Chairman

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June 11, 1957

The regular meeting of the Fairfax Board of Zoning Appeals was held Tuesday, June 11, 1957 at 10 O'clock a.m. in the Board Room of the Fairfax Courthouse, with four members present: Messrs. V. W. Smith, J. B. Smith, A. Slater Lamond and T. Barnes. Mrs. L. J. Henderson absent.

The meeting was opened with a prayer by Mr. J. B. Smith

DEFERRED CASES:

- 1- ELLIS G. HARRINGTON, to permit storage shed to remain as erected two feet of side and rear property lines, Lot 4, Block 8, Section 3, Hollin Hall Village, (406 Fairfax Road), Mt. Vernon District. (Urban Residence).

The applicant had been advised that it was not necessary for him to be present.

The storage shed is already built. Since the revised Ordinance will no doubt be changed to allow a storage shed to be located the same distance from property lines as a detached garage, this case was deferred for completion of the Ordinance.

Since the Ordinance is not yet completed, Mr. Lamond moved to defer the case for 90 days, pending adoption of the new Ordinance.

Seconded, Mr. T. Barnes

Carried, unanimously.

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- 2- CHANDLER B. ESTES, to permit tool shed as erected to remain within 12.5 feet of the side property line, Lot 11, Block 35, Section 9, Springfield, (6301 Julian Street), Mason District. (Suburban Residence).

Colonel Estes told the Board that he had erected the little 4 x 7 foot shed without knowledge of requirements of the Ordinance and therefore without a permit. The neighbors most affected do not object. This shed is constructed of frame, the same material as the house. It was built to keep garden tools, gardening equipment, bicycles and small items which cannot be accommodated in the garage. This would appear to be the only logical location for the shed - it is attached to the rear of the garage where it is easily accessible to the yard. They have no back yard, Colonel Estes continued, this being a corner lot.

Colonel Estes was asked why this could not go on the other corner of the house, which would give a better setback and would also be farther from the adjoining neighbor.

The answer was that there are double french doors and extra windows at the other corner, which could not be covered with a shed. If it were detached it would be unsightly, Colonel Estes continued, and depreciating to the neighborhood to have this little shed sitting out in the yard. This way it is not noticeable - but rather it blends in with the house and becomes a natural part of the building. Also, Colonel Estes explained, there is a considerable drop in the ground toward the rear of his property - a drop of about two feet from the street elevation. None of the neighbors

object. Colonel Estes continued.

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DEFERRED CASES - Ctd.

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2-Ctd. Mr. V. W. Smith recalled the letter from the Springfield Citizens Association requesting a granting on cases where the neighborhood does not object. That Mr. Lamond answered, had no bearing - in his opinion. Each case should be handled on its merits, irrespective of citizen pressure. The Board agreed. It was also brought out that the living room area is at the opposite side of the house, and the plan was to keep the tool shed near the kitchen and garage entrances for utility purposes. Colonel Estes thought this would not easily be seen by his neighbor as his windows on this side are high and the bedrooms face Colonel Estes' house.

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There were no objections from the area.

Mr. Lamond moved to defer the case until June 25th, to view the property.

Seconded, J. B. Smith

Carried, unanimously.

It was agreed that it was not necessary for Colonel Estes to appear at the deferred hearing.

Mr. V.W. Smith called attention to the alternate location for the building and the fact that the applicant constructed this addition without a permit. If granted, Mr. V. W. Smith thought it would encourage wholesale requests of a similar nature.

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NEW CASES:

1- WILLIAM LOWENTHAL, to permit carport within four feet of side property line, Lot 611, Section 6, Barcroft Lake Shores, (624 DeLashmutt Circle), Mason District. (Suburban Residence).

Mr. Lowenthal told the Board that he bought his home about one year ago.

There was no garage, but the driveway was in up to the edge of the porch.

Mr. Lowenthal stated that he plans to extend the porch roof on to cover the carport. Actually, all this would amount to - in addition to what he already has - would be three posts and a roof.

The property slopes down very steep to the cove, Mr. Lowenthal explained, it therefore would be difficult to level the ground on the north side to accommodate the carport addition - as - if the carport were on that side the driveway would be too steep to negotiate without great difficulty. They also have considerable shrubbery and planting on the slope side.

On the other side of the house the slope is greater and the bedrooms are there. The porch - to which this carport would be attached is glassed in. There is about a 20° slope from the house to the cove - making only the one location for the carport feasible, Mr. Lowenthal concluded.

Mr. Barnes suggested buying a 6 foot strip from the adjoining neighbor.

Mr. Lowenthal said he had not approached his neighbor on that.

Mr. J. B. Smith suggested changing to a two car garage or carport - one car wide - but constructed to the length of the two cars. That, J. B. Smith noted, could be done without a variance.

Mr. T. Barnes moved to deny the case because there is an alternate location for the carport.

June 11, 1957

NEW CASES - Ctd.

Seconded, Mr. Lamond

Carried, unanimously.

This is denied, Mr. Barnes continued, because it is a gross variance from the Ordinance.

Mr. Lowenthal answered this decision by saying that it would be possible physically - but he thought impractical and expensive.

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2- FLORA McNEILL MALLORY, to permit operation of a kindergarten and first grade in present building, on west side Route #123, approximately .9 mile south of intersection of Routes #236 and #123. Providence Dist. (Rural Res.-Class 2) Mrs. Mallory and Mrs. Metcalf discussed the case with the Board.

This school will be conducted in the basement of the house now on the property, Mrs. Mallory told the Board. They will use two rooms only. A floor plan was presented with the case. They have not yet discussed this with the Health Department, but will do so after this hearing.

Mr. V. W. Smith read the report from the Fire Marshall - which suggested certain small changes, which Mrs. Mallory said could easily be arranged.

Mrs. Metcalf said they plan to have about 20 children, ranging from four to six years of age. This has been discussed with the State office, who approve the plan. They plan to make this a first class school, and believe it will be a needed facility in the area and an asset to the County.

Since they have had some trouble with the well, Mrs. Mallory continued, they will have some work done on it before calling in the Health Department.

If the well cannot be made satisfactory before opening of the school they would furnish bottled water for the children. However, they have understood that the well can be built up so it will pass Health Department inspection.

Mr. John H. Rust was present representing opposition by Ollie Atkins, who owns property (about 12 acres) to the south of this tract. It is the belief of Mr. Atkins that the establishment of a school on this property would be a nuisance to the neighborhood and that it would be depreciating to the area - in that it is out of keeping with the present development. Mr. Atkins has 1478 feet of common boundary with the Mallory tract. The Atkins have cattle and their entire property is surrounded with a barbed wire - electrified fence - he thought both the fence and the cattle might be dangerous for small children. He stated also that his artificial lake might be an attractive nuisance to the children. Mr. Atkins considered that he would have a considerable liability if the children should be injured on his property.

Also, Mr. Rust continued, there are no toilet facilities on the first floor where the school would be conducted, there is no exterior exit from the upper floor. This is an old dug well, Mr. Rust pointed out, which was dry much of the time last year, and the septic <sup>TANK</sup> leaks, Mr. Rust continued.

Mr. Rust felt that the sanitary facilities could not possibly be approved in their present state.

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NEW CASES - Ctd.

2-Ctd.

Mrs. Mallory said she had spoken with Mr. Atkins and it was her understanding that he thought this use would be all right. They realize that they cannot operate here without approval of the Health Department and conditions will be improved to meet objectionable conditions. The lake, which Mr. Rust mentioned, Mrs. Mallory continued, is at the other end of the property and the children would never be allowed to wander off - they will have a specified place in which to play. They are limiting the school to 20 pupils especially so they can give them individual attention.

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Until the Board is assured that the sanitary facilities are satisfactory and that the water supply is approved, Mr. Lamond thought approval of this case could not be given. Also, for complete protection of the children, Mr. Lamond suggested that the play area should be fenced.

Mr. Lamond moved that the applicant obtain the necessary approval from the Health Department on water and sewage system, and that the Board should also have assurance from the applicant that the play yard for the children will be adequately fenced. (Deferral until July 9th).

Seconded, J. B. Smith

For the motion: Lamond, J. B. Smith, T. Barnes

Mr. V. W. Smith voted "no" because he felt that there are other features not included in the motion which he thought had a bearing on the case.

Motion carried.

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3-

C. ARTHUR FOWLER & NATALIE J. FOWLER, to permit operation of a convalescent home in present building and to permit setback of 57.7 feet of the side property line, on north side of Blake Lane, #655, approximately 600 feet east of #123, Providence District. (Rural Residence-Class I).

They have combed the County very carefully to find a site that meets all specifications for a nursing home, Mr. Fowler told the Board, and find that this property is satisfactory from all standpoints except the one side setback which falls short of the 100 foot requirement. However, the adjoining tract is large and the house on that property sets 300 feet from the property line - which would give a considerable setback between the home and that dwelling. The garage on the property in question is located 57.7 feet from this side line.

Mr. Fowler said he had not talked with the neighbors about this proposed use but that Mr. Goode, from whom he is purchasing the property, had. He knew of no objections.

Mr. Lamond suggested trying to buy a strip of land from the adjoining property owner - to make this setback conform. Mr. Fowler answered that he had not tried to do that - the property has just changed hands and he does not know the new owner - however - there is a possibility that that could be done.

## NEW CASES - Ctd.

3-Ctd.

This is a modern one story building, solid brick and cinderblock, Mr. Fowler told the Board, they plan a total occupancy not to exceed nine. They are now checking with the Health Department who will send someone here from the State. The building meets the important requirements of the Fire Marshall - the few small additions suggested will be taken care of.

Mr. Fowler stated that he is president of the State Nursing Home Association and therefore feels a great obligation to conduct a first class home and one that meets all requirements. They hope to be permanent residents of the County, Mr. Fowler concluded, and wish to conduct this home in such a manner that it will be a credit to the County and to the State Association.

Mr. Townsend from the Chamber of Commerce stated that the Chamber has not supported any application which might be objectionable to a neighborhood. They have heard only favorable comments on this use, as well as favorable comments on Mr. Fowler. Mr. Townsend noted that Dr. Thompson of Falls Church who has recommended patients to Mr. Fowler's home (when he was conducting Briarwood) has been very well satisfied of the treatment of his patients and with Mr. Fowler's conduct of the home. Mr. Townsend felt that any such project undertaken by Mr. Fowler would be well managed.

There were no objections from the area.

The property has been posted according to law, Mr. Mooreland said.

Mr. Fowler told the Board that these nursing homes are under very strict supervision from every standpoint. They will have seven patients - with the total occupancy of nine.

The Health Department will not issue a license before the use permit is granted, Mr. Fowler continued. His discussions with the Health Department have been with the State office - before the license is issued, Mr. Fowler thought the State would contact Dr. Kennedy.

Mr. V. W. Smith recalled that Dr. Kennedy had stated that he would like to see requests of this kind before they are granted by the Board. Mr. Fowler answered that he would be in contact with both the State and the County - he was sure they worked in close cooperation.

Mr. T. Barnes thought the Board should have a report from Dr. Kennedy on the sewage situation. This property is furnished by well and septic. Nine people could make quite a difference in the performance of a septic tank, Mr. Barnes noted.

Mr. Mooreland said the State would not issue the license until all requirements are met - he suggested that the State would probably ask Dr. Kennedy to make the inspections.

Mr. V. W. Smith thought Dr. Kennedy had had considerably more experience with soil conditions in the County than the State office, and therefore he should be consulted.

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NEW CASES - Ctd.

3-Ctd. Mr. Fowler said he had 700 feet of drain field now and the septic is larger than required because it was the original intention of the owner of this property to put two houses on this property - therefore his sanitary facilities exceed requirements.

The Board still felt that a report should come from Dr. Kennedy.

Mr. Mooreland suggested granting the case subject to the approval of the Health Department, which the applicant must have before he can operate.

Mr. T. Barnes moved to grant the application subject to the approval from Dr. Kennedy and the Fire Marshall, and the approval of the State Health Department. This is granted to the applicant only because it does not appear to have an adverse affect on the use of neighboring property. This is granted in accordance with plat dated May 20, 1957, prepared by Joseph Berry.

Seconded, J. B. Smith

For the motion: Messrs. Barnes, Lamond, and J. B. Smith

Mr. V. W. Smith refrained from voting as he thought the Board should have a report from the local Health Department before granting the application. Motion carried.

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DEFERRED CASES:

3- LOUIS G. MELTZER, to permit erection of two signs on property other than the use (total area 107-1/2 square feet), northeast corner of Bevan Drive and Route #50, and north side of Route #50 adjacent to west side of Safeway Store at Kamp Washington, Providence District. (Rural Business and Suburban Residence-Class 2).

Mr. Meltzer had sent word - asking that this case be deferred until June 25th, because his attorney was unable to be present. (It was noted that the sign is already on the property).

Mr. Lamond moved to defer the case until June 25th, and that if another deferral is requested it is understood that it willnot be granted.

Seconded, J. B. Smith

Carried, unanimously.

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4- ROSE HILL FARMS COMMUNITY CENTER, INC., to permit operation of a community swimming pool with buildings accessory thereto, Lot 2, Highland Park, Lee District. (Suburban Residence).

Mr. Stanley Brown represented the applicant. Mr. Brown presented new plats to the Board with certified locations of the community building, the swimming pool and bath house.

Mr. Lamond stated that just before coming to the meeting today he had received a telephone call from a member of the Rose Hill Civic Association stating that there is opposition to this club project.

## DEFERRED CASES - Ctd.

4-Ctd. Mr. Moncure told the Board that there is opposition to this club from the Rose Hill Swimming and Tennis Club.

Since this case was deferred merely for the presentation of certified plats of building locations, it was questioned whether or not this opposition should be heard.

However, Mr. Lamond moved that the opposition be heard.

Seconded, J. B. Smith

For the Motion: Messrs. Lamond T. Barnes and J. B. Smith

Mr. V. W. Smith stated before voting that if these people had information opposed to this project, and if they had proper notice of the meeting - that opposition should have been presented at the original hearing. He thought it irregular to present such opposition at this time.

Mr. Moncure answered that there has been a campaign of attack on the Rose Hill Swimming and Tennis Club - the Club which has a permit granted by this Board and which project is 60% completed. It was after their project was started and the second club got under way with its plans that the opposition crystalized, Mr. Moncure continued, and he felt that they should have a hearing to combat their attacks. It is his belief, Mr. Moncure went on, that this club would seriously damage the club already granted and nearing completion.

Mr. V. W. Smith voted "no" on the motion to hear the opposition.

Motion carried.

Mr. Moncure continued with his opposition introducing Mr. Carn, President of the Rose Hill Swimming and Tennis Club.

They had made no effort to oppose this project, Mr. Moncure told the Board, but in recent days these people have conducted a smear campaign against the swimming club in the form of literature circulated through the subdivision, reading in part that they are "not selling a cow barn, only a swimming pool".

Mr. Moncure quoted from the "Northern Virginia Sun" which carried the headline "Enforced play site challenged" and again in the "Evening Star" it was reported that "Two Fairfax County pools are awaiting decision", which Mr. Moncure stated is not true, as the one pool is already granted.

Mr. Moncure also noted that the name used on the presently discussed project is confusing. He noted that the pools are only about six or seven blocks apart.

Mr. V. W. Smith suggested that the depreciating or confusing publicity was a matter to be straightened out with the press - and such publicity had no place before this Board.

These incidents were cited, Mr. Moncure answered, only to show the fact that they had not objected to the creation of the second pool-club until the "smear campaign" entered the picture. Now they object because of the advertising and because of the name - which they believe to be misleading.

Association

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DEFERRED CASES - Ctd.

4-Ctd.

Mr. Roland Driest objected because of the use of the Community Association's name - as it appears as though the Civic Association is backing this pool. That, Mr. Driest stated, is in violation of the Civic Association's By-laws. The fact that this is backed by the Rose Hill Farms Civic Association is not true, Mr. Driest continued, and as a matter of fact the action of the Association taken last evening disapproved this club. Approval of such a venture must be done by ballot of the entire membership, Mr. Driest continued. That has no bearing on the Board's consideration, Mr. Lamond told Mr. Driest. The Rose Hill Farms Civic Association has a membership of about 250 families, Mr. Driest told the Board. When they met to approve this project there were about 90 people present, which is a long way from full membership. In his opinion any approval given at that meeting was not legal.

Mr. Moncure attacked the financial methods of this project, saying that they have an option on the land and pledges - but no money. He questioned the adequacy and availability of sewage; the location on Telegraph Road where a traffic hazard could develop; also he attacked the adequacy of water supply. Mr. Moncure displayed an over-all map indicating the central location of the Rose Hill Swimming and Tennis Club, as opposed to the presently discussed project which is at one end of the subdivision - on Telegraph Rd. The traffic on Telegraph Road, the adequacy of sewage and water are their concern, Mr. Moncure explained.

Mr. V. W. Smith answered that the sewage and water situation both were discussed with Mr. Hale at the last meeting.

Mr. Moncure again pointed to the location of this project on Telegraph Rd., and likened the granting of this to spot zoning - with its many related problems.

Mr. Stanley Brown told the Board that he had had a large part in the drafting of the by-laws and the constitution of the Rose Hill Farms Civic Association. Any issue which is to go on record to an outside body as a representation from the Rose Hill Farms Civic Association must first be voted on by all of the membership through a mailed ballot, Mr. Brown explained. It was his understanding that the May meeting was an informal one and therefore no official stand could have been taken. At the last meeting, Mr. Pergande stated that the minutes should be corrected to say that the Civic Association was not going on record with a representation to any outside body. There was no official vote taken, Mr. Brown continued. However, since the Civic Association did not officially endorse the Morrell Club, this project was developed.

Mr. Brown stated that the entrance to the club would be from Highland Dr. which would not cause a traffic hazard. Mr. Moncure agreed - the over-all map had shown the streets inaccurately.

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## DEFERRED CASES - Ctd.

4-Ctd. The question of the community supporting two clubs was discussed - but thought not to be before the Board.

With regard to the confusion of names, to which Mr. Moncure had referred, Mrs. Oliver noted that the State Corporation Commission had approved their name.

Mr. George Leon discussed the traffic and the statements made by Mr. Moncure. Before making the motion the Board asked Mr. Brown if he would bring a written list of the uses planned on these premises, so they could be included in the motion. Mr. Brown agreed to do so. The case was therefore temporarily deferred to be reopened later in the day.

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The Board adjourned for lunch.

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4-Ctd. Upon reconvening after lunch Mr. Brown presented the letter listing the proposed uses and stated to the Board that as a member of the Board of Directors of the Rose Hill Community Center, Inc., he was authorized to sign the letter. Mr. Brown read the following letter:

"2316 Rose Hill Drive  
Alexandria, Virginia  
June 11, 1957

Board of Zoning Appeals  
Fairfax County  
Fairfax, Virginia

Mr. Verlin W. Smith, Chairman

Dear Mr. Smith:

In regard to our application for Special Exception Permit, dated 7 May 1957, and in consideration of the Board's request of this date, I wish to state that in addition to the facilities indicated on plat executed by Mr. Wesley N. Ridgeway dated 5 June 1957, the following uses and facilities may be provided for corporation members and their guests:

1. Tennis courts - not to exceed four (4) in number.
2. Snack bar to be built and operated in accordance with applicable health requirements.
3. Community building to be used for community meetings, recreational and social activities.
4. Sports lot for baseball, football, volley ball, badminton and similar sports.
5. Outdoor recreational area for family and group outings.

I trust that this additional information will meet the requirements of the Board.

ROSE HILL FARMS COMMUNITY CENTER, INC.

/s/ G. Stanley Brown  
Member - Board of Directors"

Mr. Lamond moved that the application be granted as per plat submitted with the case, plat prepared by Wesley R. Ridgeway, Certified Surveyor, for the Rose Hill Community Center, Inc., dated June 5, 1957 showing location of the Community buildings, and the swimming pool. The following uses are included

in this granting: 1. Tennis courts - not to exceed four in number.  
2. Snack bar to be built and operated in accordance with applicable Health Department requirements and to be operated by members of the project only.

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4-Ctd.

3. Community building to be used for community meetings, recreational and social activities.
4. Sports lot for baseball, football, volley ball, badminton, and similar sports - these sports to be participated in by members of the Club only.
5. Outdoor recreational area for family and group outings.

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It is also included in the motion that no buildings or use shall be located closer than 25 feet from any property line - that a 25 foot buffer strip be maintained along the boundary line of the entire project.

This is granted provided sufficient parking space for all users of the use shall be provided on the property.

This is granted subject to any Ordinance or Commission now having control over this type of project or any Ordinance or Commission - so governing - which may later be adopted by the County.

This is granted because it does not appear to adversely affect neighboring property or persons working or living in the area.

Seconded, J. B. Smith

Carried, unanimously.

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5-

WARREN C. THOMPSON, to permit extension of existing service station, approx. 250 feet west of Route #28 on south side of Routes #29-#211, at Centreville Centreville District. (Rural Residence Class 2).

This was deferred for plats showing the property tied to the centerline intersection of Routes #29-211, and the Manassas Road (Route #28). The plats were not correct.

Mr. J. B. Smith moved to defer the case until June 25th for proper plats.

Seconded, Mr. Lamond

Carried, unanimously.

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6-

DAVID S. BOGER, to permit extension of Ancient Oaks Trailer Court (50 trailer sites), on south side of Lee Highway immediately adjacent to Ancient Oaks Trailer Park, Falls Church District. (Rural Business).

Mr. William Hansbarger represented the applicant. Mr. Hansbarger presented plats to the Board as required - indicating approval of the Fire Marshall and the Health Department.

Mr. Hansbarger pointed out on the plat that in the old section of the trailer park it is Mr. Boger's intention to clean it up and bring this section to a higher standard. Some of the lots were made considerably larger and some smaller - where it was feasible - in order to get in the recreation area and to get away from nearby houses. They have complied completely with the newly proposed Ordinance requirements in the new section - for which this extension is requested. They have carried out the listing of requirements incorporated in the motion at the previous hearing, Mr. Hansbarger pointed out. A few of the lots, Mr. Hansbarger noted, do not have the 30 foot width but the over-all total lot sizes are large with good parking area.

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DEFERRED CASES - Ctd.

6-Ctd. There are 44 lots in the addition area, making a total of 70 lots. Their plans have been worked out and drawn by a certified engineer and every effort has been made to make the new section comply and to bring the old section up to a better planned standard. The parking areas and roadways will be surfaced.

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As to when they will start on the addition and the improvements, Mr. Boger, Jr. said - immediately - if this is granted, improvement of the existing Park is underway now.

Entrance and exit will be off of Stuart Drive, with no direct access to Lee Highway, which will allow control over the ingress and egress to the Park. They will have regular garbage and trash collection.

Asked if they had checked with the Department of Public Works, Mr. Hansbarger said he had spoken to Mr. Kipp who said to wait until the lay-out was ready then he would go over it. The lay-out has just been completed. Therefore, it has not been checked by Mr. Kipp. Mr. Hansbarger suggested that this could be granted subject to the approval of the Department of Public Works, as it would necessarily have to comply with their requirement before they could operate.

Mr. Mooreland noted several lots which did not conform to the Ordinance requirements - Lots 60, 47, 61, 1, and that Lots 2 and 3 would have to take small trailers.

Those lots are in the old section, Mr. Hansbarger noted, which section necessarily has certain variations from the Ordinance. Several were present in opposition, and asked to be heard. The following letter was read from Mrs. Edith Cannon - regarding loans:

108 Stuart Drive  
Falls Church, Va.  
May 16, 1957

Mr. James Keith, Chairman  
Board of Supervisors  
Fairfax County  
Fairfax, Virginia

Dear Sir:

During the hearing on May 14, 1957, about the extension of Ancient Oaks Trailer Park to include 50 additional trailers, you remarked that you would like to have factual evidence about the effect the trailer camp is having on property nearby. Following is a history of one case.

We purchased our home at 108 Stuart Drive, which is directly across the street from the trailer court, in 1948 as original owners at a purchase price of \$12,425. Major improvements have been made on the house including two additional bedrooms and bath with dormer, fencing, and aluminum storm sash.

In March of this year we asked for an F.H.A. appraisal on our property as we have given thought to moving. F.H.A. refused to give an appraisal stating as follows:

'Subject property is ineligible as security for an insured FHA mortgage loan because the location of the property is not sufficiently protected against imminent value destroying influences such as the use of the land across the street as a trailer court and the land adjoining is zoned commercial.'

DEFERRED CASES - Ctd.

6-Ctd.

Letter from Mrs. Edith Cannon - Ctd.

Attached is a photostatic copy of the F.H.A. Statement.

I believe this amply indicates the effect of the trailer camp on adjacent property.

Yours very truly,

/s/ Mrs. Edith Cannon

Also the following letter was read regarding the purchase of Capt. Ferguson's property:

"May 27, 1957

To Whom It May Concern:

While working at the Sidney K. Mensh Real Estate Office in Falls Church, as a salesman, I sold the property at 227 Oak Drive, Falls Church, to Capt. and Mrs. Merton Ferguson. As Captain Ferguson was in the Air Force and would be stationed here only a few years, he wanted to take every precaution to assure themselves they were not making a bad investment and thereby take a chance on losing a substantial part of their equity when it became necessary for them to sell.

Capt. and Mrs. Ferguson were concerned about the property adjoining 227 Oak Drive, and extending to Lee Highway. I checked with Mr. Mattson at Arlington Realty, who was handling the property for Boger, Inc., and was told by him that said property was zoned residential and could not be changed due to certain regulations.

The Ferguson's told me that since that was the case they felt they would be safe in buying.

/s/ Velta S. Benn"

Mr. V. W. Smith recalled to the Board and to those present that the only question to be discussed is the extension of the trailer park. However, Mr. V. W. Smith voted that the new plats presented did not show a buffer strip between the Park and residential lots. He thought objections of people in the area still valid. With the trailer park coming so close to the homes, Mr. V. W. Smith questioned if it would be in the best interests of the County to grant this.

Mr. Hansbarger questioned one of the objectors as to when he bought his home, and what kind of loan he has. The answer was that he had bought in 1951 and he has a V.A. loan. That would appear, Mr. Hansbarger argued, that the presence of the trailer park did not deter the gentleman from purchasing the property - nor did it affect his getting the V. A. loan. The history of this area shows, Mr. Hansbarger continued that people bought and got loans irrespective of the existance of the trailer park.

Mr. McLaughlin objected to the ingress and egress from Stuart Drive, saying that it could cause a traffic hazard.

Mrs. Stuart, who lives in Oak Knoll Subdivision, objected saying that Stuart Drive would not bear the traffic, and ingress and egress by way of that street would be hazardous to children. She objected also to the extra load imposed upon the school and other County facilities by this trailer park - from which a small amount of County revenue would be derived.

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## DEFERRED CASES - Ctd.

6-Ctd.

Mrs. Fromme, who lives across Lee Highway from the proposed extended area, with about 200 feet frontage immediately facing this area, objected saying that they had been offered \$50,000 for their place. If they wished to sell now - she did not think that people who could pay that kind of money would care to be across from a trailer park.

It was noted that the main trailer park has been across from Mrs. Fromme's property for many years and a nursery adjoins her on one side - apparently neither have affected the value of her property.

One of the purchasers of Mr. Boger's homes objected because his house is 14.5 feet from the property - he thought entirely too close to the trailers.

It was noted, however, that the house meets all setback requirements, and the purchaser was well aware of the existence of the trailer park when he bought the property.

The adjoining property owner to the east summarized his objections stating that the extension of the trailer park would depreciate his property, it would overload County facilities, and it would tear down a tightly knit community which is fast becoming conscious of the need to better conditions in the area.

Mr. Tappa said V. A. had told him if he wished to sell his house they would make a new appraisal and that it probably would be less if the trailer park is extended.

Mr. Hansbarger offered testimony of Mr. Millsap who handled many of the settlements on the houses around the trailer park - but the Chairman ruled that such material had no bearing on the case.

This is rural business property, Mr. Hansbarger recalled to the Board, and his client must have some reasonable use of his property. There are other uses which could go in here without a special permit, Mr. Hansbarger continued, uses to which the neighbors would probably object but they could do nothing about them. As a matter of fact, Mr. Hansbarger went on, the people would probably object to anything proposed. The trailer park is here, it can remain and the extended portion will conform to the best trailer park standards. Mr. Boger has agreed to make a conscientious effort to better the old portion of the Park. It will be remodeled, the lots and roads widened and black-topped. What more reasonable use could this man make of his property, Mr. Hansbarger argued, there is always a certain amount of penalty in living near business property.

They will use Tripps Run sewer.

It was suggested that a "nice grocery store" would be an unobjectionable use for this property.

Mr. Mooreland stated that he did not wish to make a statement for nor against this use - but he recalled his statement at the original hearing that he is obliged to notify many people in the County that they cannot park and live in trailers in residential areas. These people have no trailer parks to

DEFERRED CASES - Ctd.

6 -ctd.

locate in, Mr. Mooreland continued, if he has to take these people to Court to get them off the residential lots. In his opinion, the Courts would not uphold an order for them to vacate these lots if there is no place for the people to go. Another trailer park would help, Mr. Mooreland added.

Mr. V. W. Smith asked about bath and laundry facilities and the distance to the trailers. That was discussed with Dr. Kennedy, Mr. Hansbarger answered.

Mr. V. W. Smith said he would like to arrange a conference between the Board, Mr. Kipp and Dr. Kennedy to discuss all angles of this including ingress and egress and setbacks from residential lots adjoining this use, drainage and buffers.

They have met all required setbacks, Mr. Hansbarger noted.

Mr. V. W. Smith read from the Ordinance regarding any use that would "adversely affect people working or residing in the area, etc.". The Board would have to find that this did not adversely affect the area, Mr. V. W. Smith continued, in order to grant this use.

The fact that loans were made (most of the settlements were made in his office) and guaranteed by FHA or VA, Mr. Hansbarger stated, would indicate that the setbacks nor the trailer park, nor the nearness to commercial zoning precluded the owners from getting loans. However, Mr. Hansbarger agreed to a delay to discuss these matters with Mr. Kipp or whomever the Board wished.

Mr. V. W. Smith thought the trailers were too close to the residential lots that area should be left for landscaping.

Mr. Lamond stated that while there is a crying need in the County for trailer parks and he had a certain sympathy toward the applicant in this case, he felt it unfair to create an injustice to people in the area. He questioned if granting this extension would be in the best interests of the County, therefore, he moved to deny the case - this is denied under Section 6-16 of the Code, as it would appear to adversely affect the health and safety of people living and working in the neighborhood. No second.

Mr. Barnes said he favored a conference with Mr. Kipp and Dr. Kennedy, because he felt that the trailer park situation in the County as shown in Mr. Mooreland's statement shows that a serious situation exists and complete consideration should be given this case. The County must have some place for these people to go who are being put off residential lots, Mr. Barnes concluded.

Therefore, Mr. Barnes moved that the case be deferred until the Board can arrange a conference with Mr. Kipp on drainage, ingress and egress and any other matters the Board might find necessary and to meet with Dr. Kennedy. Also that an attempt should be made to work out something on the setback restriction line.

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## DEFERRED CASES - Ctd.

6-Ctd. Mr. V. W. Smith thought there should be a complete agreement that the old unsightly trailer park will be brought up to better standards, that proper buffer strips should be provided between the trailers and the residences, and that the drainage situation should be discussed. Also screening, proper setbacks should be provided and the Board should talk with the schools regarding the impact of trailer parks.

Mr. Lamond moved to defer the case, pending further study as outlined by Mr. V.W. Smith - defer to July 9th.

Seconded, J. B. Smith

Carried, unanimously.

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Mr. Mooreland read a letter from the Springfield Swimming Club, Inc. regarding the establishment of a refreshment stand in the existing building on the club grounds. They asked to sell various small typical snack bar items such as ice cream, popcorn, candy bars, peanuts, etc....

These people came in for an occupancy permit, Mr. Mooreland said, which he could not give because the snack bar was not granted at the time of the granting of this use. Mr. Mooreland suggested an addition to the original motion granting this as per the letter, since this is a normal adjunct to a swimming club. The fact that this was not requested in the original case was probably an oversight. However, if this granting is tied to the letter, Mr. Mooreland thought it reasonable.

Mr. Lamond moved that a "refreshment stand" be included in the uses granted for the Springfield Swimming Club, Inc. the articles to be sold shall be as listed in the letter from the Club dated May 18, 1957: ice cream (sandwiches, fruitsticks, cones, popsicles, rockets), popcorn, peanuts, potato chips, cheese crackers, sweet crackers, cheese twists, drinks, candy bars. This refreshment stand shall be operated by members of the Association only.

Seconded, T. Barnes

Carried, unanimously

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Mr. Mooreland reported that he had been unable to find a definition of a "Tea Room" although he had searched through legal dictionaries, law books, and law cases. The nearest thing to a definition was from a case cited in an ASPO News Letter: "A place where refreshments and meals are served and to be consumed on the premises." This, Mr. Mooreland and the Board agreed was little help.

Mr. Mooreland told the Board of an application on the Crewe property which will be before the Board before long. An antique shop and tea room were granted on this property nine years ago. The antique shop has operated continuously since that granting but the tea room part of the permit has never been used. They now wish to revive the tea room part of the requested use. There is a question in his mind, Mr. Mooreland continued, if the use they wish to make of the property is actually a tea room in the generally accepted

June 11, 1957

sense or if it is a restaurant, which would not be allowed by the Ordinance. Mr. Mooreland felt that both the Board and he should be in a position to clearly distinguish between a tea room and a restaurant - in order that such distinction would have standing in Court, if necessary.

At the time the Board of Supervisors deleted 'restaurant' from the Ordinance leaving a tea room, Mr. Mooreland went on, the idea of making a definite distinction between the two was discussed in his office. He asked Mrs. Wilkins if she would give him her thought of what the Board had in mind when they made this change. Mrs. Wilkins answered that interpretation of the Ordinance was the function of this Board. Mr. Mooreland said he had searched every place he knew of for a definition which would give the Board something concrete to go on. He felt he had nothing to offer.

Mr. Lamond moved that a letter be sent to the Commonwealth's Attorney saying that the Board of Zoning Appeals has exhausted all means at their disposal and that they cannot find a satisfactory answer to the definition of a tea room and therefore the Board requests a definition from the Commonwealth's Attorney.

Seconded, J. B. Smith

Carried, unanimously.

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Mr. Mooreland told the Board of the case of WILLIAM GUILICKSON (the Alestock property) who wishes to import pipe from Italy, which pipe will be sold for use in sewer and water installations in the County. He had refused an occupancy permit on this, Mr. Mooreland continued, because in his opinion this use was bordering on an industrial use. The property in question is zoned rural business. Mr. Mooreland noted that many businesses have started innocently as rural business operations but had grown into uses which are not actually rural business in character - but industrial. This has happened at Merrifield, Mr. Mooreland pointed out. The semi-industrial uses started under the phrase "any trade or service". It is difficult to rescue a neighborhood from a continuation of more or less obnoxious uses once these uses are started. He had talked with Mr. Eytton Gibson on this and Mr. Gibson had said that he agreed with Mr. Mooreland in principle but was not sure of the law.

Mr. Pomeroy will (it is hoped) come up with types of zoning which, Mr. Mooreland said, will specify various types of business for specific zones. In that case this would definitely be tied down. The phrase "general welfare", Mr. Mooreland continued, had been stretched beyond recognition.

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The following letter from the Commonwealth's Attorney, regarding rehearings, was read:

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"Office of the Commonwealth's  
Attorney - Fairfax County  
Fairfax, Va.

June 10, 1957

Mr. Herbert F. Schumann, Jr.  
Director of Planning  
Office of Planning Commission  
County of Fairfax  
Fairfax, Virginia

Dear Mr. Schumann:

It is my opinion that if the purpose of the rehearing on any case is to hear additional facts or information concerned within a case then the matter should be advertised and posted.

An exception to this would be where the Court in an appeal has ordered the Board of Zoning Appeals to reconsider the matter.

Very truly yours,

/s/ Robert C. Fitzgerald  
Commonwealth's Attorney"

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The meeting adjourned

*Verlin W. Smith*  
Verlin W. Smith, Chairman

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The regular meeting of the Fairfax County Board of Zoning Appeals was held Tuesday, June 25th, 1957 at 10 o'clock a.m. in the Board Room of the Fairfax Courthouse, with all members present - V. W. Smith, J.B. Smith, A. Slater Lamond, George T. Barnes and Mrs. I. W. Henderson, Jr.

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The meeting was opened with a prayer by Mr. J. B. Smith

DEFERRED CASES:

- 1- MRS. PHYLLIS D. EASTMAN, to permit enclosure of existing carport as a recreation room within 31 feet of the street property line, Lot 7, Block 8, Section 7, Holmes Run Acres (2413 Cypress Drive), Falls Church District. (Suburban Residence).

This case was deferred to view the property. Mrs. Henderson had investigated the case and reported as follows: That this is not a situation peculiar to Cypress Drive and the Eastman house - as there are many other homes in the area with the same conditons. She did not think this conformed to the provisions under which the Board could grant such a variance. Therefore, Mrs. Henderson moved to deny the case. However, Mrs. Henderson commended Mrs. Eastman for coming to the Board for a permit before this work was done....Mr. Lamond seconded the motion.

These carports were permitted on the front of the houses some time ago, Mr. Mooreland told the Board. This subdivision had started building the carports in this location and they were permitted to continue in this area. Mrs. Henderson said she had seen only one carport in a similar location, which was enclosed. She thought if this was granted a rash of applications for such enclosures would result - a granting which in her opinion the Board is not empowered to grant.

It was suggested that the recreation room could be built on by making a split level which would conform to setback requirements.

The motion carried unanimously.

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NEW CASES:

- 1- MRS. OMAR I. NIGH, to permit erection of a sign 4 feet by 6 feet on property other than the use, at N. E. corner of #7 and Haycock Road, #703, Dranesville District. (Rural Business).

No one was present to discuss the case. The Board deferred this until later in the day - when and if the applicant should arrive.

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- 2- MICHAEL DEVELOPMENT CORPORATION, to permit erection and operation of a service station and permit pump islands within 25 feet of street property line, on south side of Columbia Pike, 200 feet west of Evergreen Lane, Mason District. (General Business).

Mr. Michael and Mr. Hanawalt were present to discuss the case.

Mr. Michael presented the return letters showing his notification of property owners in the immediate area.

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## NEW CASES - Ctd.

2-Ctd.

This filling station will be located at the intersection of Columbia Pike and the service road leading in to the shopping center - the filling station will be facing toward the business property service road. It will be built of brick - conforming to the type of architecture of the planned shopping center. They are eager to start on this development as soon as possible, Mr. Michael continued, in order to assure their financing. They have been held up because conditions of financing have changed and because of the availability of sewage in this area.

There were no objections from the area.

Mr. Schumann said he disliked to make any kind of statement which might jeopardize Mr. Michael's plans - as Mr. Michael had been most cooperative in working out his plans, but he felt obliged to show the location of the proposed Annandale by-pass with relation to the proposed filling station.

(The by-pass leads from Route #236 east of Annandale, to Columbia Pike, then crossing the Falls Church-Annandale Road and on to Route #236 - west of Annandale). Mr. Schumann showed a map of the by-pass intersection with Columbia Pike. This property on which the filling station is located would be about 50% swallowed up in the ramps. The by-pass was discussed with the Planning Commission who asked that the Commission Staff take it to the State Highway Commission - which they did. The Highway Department thought the by-pass to be very feasible, but said they have no plans for construction at this time because of lack of funds. They could make no statement as to when it might be built.

Mr. Lamond recalled the discussion of depressing Route #236 which would eliminate the necessity of the by-pass. Either manner of handling the traffic through Annandale would be costly - therefore neither plan is in the final.

Mr. Michael said they knew of the by-pass and they have tried to do all they could to work out plans which would be most beneficial to all concerned, but they are in the position now where they must get started on their project in order to get financing and the filling station is the first step. However, they are very desirous of doing anything necessary to cooperate.

Mr. V. W. Smith asked about the widening of Columbia Pike and the plans for decelerating lanes or service drive.

Mr. Schumann said the present right of way is 57 feet - the ultimate maximum width would probably be 160 feet, Mr. Schumann said - stating that he has drawings of studies which he could produce if the Board wished.

If this station would be in the way of the over-all planned picture, Mr. V. W. Smith thought it would be a mistake to grant the pump islands so close to the right of way as it could easily create a traffic hazard.

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NEW CASES - Ctd.

2-Ctd.

Only the one pump island is near the right of way, Mr. Schumann noted, and the building itself is well back. The pump island could be easily moved. The plan on his development, Mr. Michael pointed out, is for the building to run down the middle of the property - facing toward the inlet road.

All buildings will be well back from any right of way.

Mr. V. W. Smith thought a decelerating lane was necessary here.

These road improvements are all in the future, Mr. Hanawalt said - it could be four or five years before the by-pass is started. If the road is put in they must move the pump island - which they are perfectly willing to do. However, Mr. V. W. Smith noted that he had noticed in other places that pump islands have a way of remaining too close to the right of way. Since the building is about 120 feet from the right of way, Mr. Hanawalt noted that there would be no question of their not having room to move them back. It was noted that the plats, with red markings, did not agree on the pump island setback - one plat indicated 34 feet + the other 25 feet.

It was noted that there are no service drives along Columbia Pike in this area - the nearest being at Belvedere - it was questioned if the service drive would really have value - if it goes no place and appears to serve no particular purpose beyond this one piece of property.

Mr. J. B. Smith moved to defer the case for plats to be corrected and also for the purpose of referring this to the Planning Commission for report on the over-all plan of this area and for the Commission's recommendation on a service road along Columbia Pike. (Deferred to July 9th).

Seconded, T. Barnes  
Carried, unanimously.

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3-

TREMARCO CORPORATION, to permit erection and operation of a service station with pump islands within 25 feet of the street property, on north side of #644, 240 feet east of Brookland Road, Lee District. (General Business). Mr. Sherman Johnson represented the applicant. Mr. Johnson presented the proof of notification of five property owners in the immediate area, indicating the relationship of their property to the property in question.

This is the same lay-out as the Esso station on the property adjoining this. Mr. Johnson told the Board.

Mr. Lamond asked about the widening of Franconia Road - Mr. Johnson answered that he had discussed this with the State Highway Department, and was told that they have no plans for widening at this time. The sewers are not in yet and the contract will not be let for sewer construction until the right of way all along Franconia Road is acquired. However, they do not intend to build this station until the sewers are in, but they do wish to get approval on this, which is one of 500 stations they will build in the Metropolitan area - and this granting will enable them to get financing for all the stations at one time.

NEW CASES - Ctd.

3-Ctd. There were no objections from the area.

Mr. Schumann informed the Board that Franconia Road has a 50 foot right of way at present, and they are planning a 100 foot right of way, which would require an extra 25 feet from this property for ultimate highway construction.

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Mrs. Henderson questioned the reason for granting this at this time - when there is no plan to go ahead with it until the sewer is in - and by that time there may be some plan for widening the right of way.

Mrs. Henderson moved to deny the case, as there are too many contingencies when the sewer is in and something more is known about the widening of the road - Mrs. Henderson thought this case would logically be considered.

Mr. Johnson asked if the Board would consider this if they used a septic field. Percolation tests in this area is generally good, Mr. Johnson stated.

Mrs. Henderson changed her motion to defer the case for six months - and in that time the Board will study the sewer situation and the possibility of road widening will probably be settled.

Since the State Highway Department has no plans for widening at this point,

Mr. Johnson continued - he asked the Board if they would consider the case favorably if he set the pump islands back the required 35 feet.

Mr. Lamond amended the motion to state that the case be deferred until such time as the Board can get a report on the sewer situation and on the widening of Franconia Road - also it should be determined if the Health Department will give a permit for septic field on this property.

Seconded, J. B. Smith

Carried, unanimously.

It was agreed that a letter be sent to Richmond regarding road widening.

No date was set for the hearing.

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DEFERRED CASES:

2- CHANDLER B. ESTES, to permit tool shed as erected to remain within 12.5 ft. of the side property line, Lot 11, Block 35, Section 9, Springfield (6301 Julian Street), Mason District. (Suburban Residence).

Mr. Lamond stated that he had seen the property and felt the applicant had made a mistake in the kind of shed he has put on to his dwelling. The shed roof is not made of the same kind of shingles as the building, it is not in harmony with the original structure - and the setback is too much of a variance.

It was also noted that there is an alternate location on the property for this shed \* which would conform to required setbacks.

Mr. T. Barnes moved to deny the case because there is an alternate location and if this were granted it would set a precedent and encourage many others in the area to ask the same thing. This is a gross variance from the Ordinance.

Seconded, Mrs. Henderson.

Carried, unanimously.

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DEFERRED CASES - Ctd.

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3- LOUIS G. MELTZER, to permit erection of two signs on property other than the use (Total area 107-1/2 square feet) N. E. corner of Bevan Drive and Route #50 and north side Route #50 adjacent to west side of Safeway Store at Kamp Washington, Providence District. (Rural Business and Suburban Res.-Class II).

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Mr. Hiss represented the applicant - who was present also.

Mr. Hiss explained the locations of the two signs. When they put up the first sign, Mr. Hiss stated, they thought it was within the limits of the Town of Fairfax - which has no regulations against such signs. The owner of the property on which the sign is located gave his approval - they thought that was all that is necessary, and therefore did not apply for a permit. The signs are not obnoxious, Mr. Hiss continued, they would not be permanent as they have a subdivision of only about 60 houses, 25 of which are already sold.

Mr. Hiss explained that the property does not face on the main highway - it is located over the hill in such a way that any sign on the property would not be visible from the highway. This is a high speed highway and they feel it necessary to have a sign larger than the permitted two square directional sign to point the way to the subdivision.

Mrs. Henderson thought the permitted directional sign would be sufficient. She noted that there are many subdivisions in the County which are off the main highways - and if this were granted 'off the use' it would be difficult to refuse others. Therefore, Mrs. Henderson moved to deny the case because the signs requested are not on the use being advertised and this is a gross violation of the Ordinance. The signs in question are to be removed by 8 a.m. Friday, June 28, 1957.

Since there are no objections, Mr. Hiss asked the Board to give his client a 60 day permit. Mrs. Henderson noted that the case had been deferred for a month at the applicant's request, and the signs had been up during that time.

Motion seconded, Mr. T. Barnes

Carried, unanimously.

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4- WARREN C. THOMPSON, to permit extension of existing service station, approx. 250 feet west of Route #28, on south side of Routes #29 and #211, at Centreville, Centreville District. (Rural Residence-Class II).

The plats which Mr. Thompson presented were the same as those he had brought to the Board at the last meeting. They did not compute the distance on Routes #29-211 from the centerline intersection of Routes #29-211 and Rt. #28. Mr. Thompson thought this was a great deal of delay and fuss over something that should have been settled a long time ago. He had been told so many different things about the extent of the zoning line from the intersection. He had understood Mr. Schumann to say that the property along the south side of #29-211 was zoned for business up to the DeBell Farm. (That, Mr. Schumann said was misunderstood by Mr. Thompson - he had said the business zoning across

JUNE 27, 1957

## DEFERRED CASES - Ctd.

4-Ctd. the street was extended beyond the 500 foot mark): Mr. Thompson said he had owned this property for nine years and had always thought it was included in business zoning. When he discovered there was a question he tried to get a definite determination of just how far the business zone came - but has had no satisfactory answer.

He understood what he had been required to have on his plats, Mr. Thompson said, and had told Mr. Berry's office.

Mr. Schumann said he could compute this distance from the intersection of Route #28 and 29-211 if the Board wished.

It was evident from the plats that at least part of Mr. Thompson's land is not in business zoned. It was, therefore, suggested that he go before the Board of Supervisors for a rezoning on the balance of his property.

Mr. Lamond moved to defer the case until plats are furnished establishing zoning line measured from the centerline intersection of Route #28 and 29-211.

Seconded, Mr. T. Barnes

Carried, unanimously.

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Mr. Mooreland read the following letter from Wood, Brault & Testerman, asking for a re-hearing on the SUNSET DRIVE IN SIGN CASE. Mr. Jack Wood is present, Mr. Mooreland told the Board, and would like to come before the Board to explain the new evidence which he believes would justify a re-hearing on the case.

Mr. Wood's letter:

"June 13, 1957

Board of Zoning Appeals  
Fairfax County  
Fairfax, Virginia

Attention: Mr. William Mooreland

Gentlemen:

This is an application on behalf of the Service Neon Sign Company of Alexandria for a rehearing on its application for a sign permit.

The original hearing was had on May 14, 1957. I understand that the next meeting of the Board will be June 25, 1957, which will be well within the forty-five day period permitted under the rules for this application. We would like an opportunity to be heard on that day.

We have new evidence which was not heard by the Board at its previous hearing.

I would appreciate very much your putting me on the agenda and notifying me of a time.

Very truly yours,

WOOD, BRAULT & TESTERMAN

/s/ John C. Wood"

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DEFERRED CASES - Ctd.

Sunset Drive-In Case - Ctd.

Mr. Lamond moved that the Board hear Mr. Wood.

Seconded, J. B. Smith

Carried, unanimously.

Mr. Wood stated that at the original hearings on this case the Board asked for evidence which Mr. Gallo did not have and was not prepared to discuss since the evidence required was out of the scope of signs.

After the hearing, Mr. Wood continued, Mr. Gallo contacted the State Highway Commission, who inspected the sign with relation to its being a traffic hazard, and as to visibility on Route #7. After the inspection, Mr. Gallo received the following letter from the Highway Department:

"June 21, 1957

Mr. Anthony D. Gallo  
1916 Diagonal Road  
Alexandria, Virginia

Dear Mr. Gallo:

As requested in your recent telephone conversation, I have made a study of the sight distance restrictions at the exit from the Sunset Drive In Theatre.

The sight distance to the west along Route #7 was almost completely unrestricted. To the east, it was found that if a car was stopped with its front bumper fifteen feet from the edge of Route #7, the full extent of sight distance could be utilized. If a vehicle is stopped more than fifteen feet from the edge of Route #7, the sight distance to the driver is somewhat restricted by the announcement board to his left. A vehicle stopping from five to fifteen feet from the edge of Route #7 would have an excess of one quarter mile sight distance in both directions, which is considered adequate for safe entry into the highway. If I can be of further service, please advise.

Sincerely yours,

/s/ Karl Noerr  
District Traffic Engineer"

Since the total sign area requested for this business is considerably less than sign area granted to other drive-in theatres in the County, Mr. Wood suggested that it was discriminatory to refuse this application. Adequate sign is the life of this business, Mr. Wood continued, and is a part of the theatre. These people have 400 foot frontage on Route #7 and the one sign they have is practically lost on this piece of property. Mr. Wilson, the owner of Sunset Drive-In is the only drive-in operator in the County who is a resident of the County. It would appear, Mr. Wood continued, that he should have the same consideration as the big chain operators.

Mr. V. W. Smith noted that the other drive-in theatres did not have their signs four feet from the right of way, and most of them had the signs mounted on poles - rather than on a solid foundation - which Mr. V. W. Smith thought was an obstruction to visibility.

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Sunset Drive In Theatre - Ctd.

The sign is already there, Mr. Wood continued, and the addition they were asking for would in no way affect traffic. It is true, Mr. V. W. Smith answered that the Board has no control over the existing sign, but the Board most certainly could control any additions.

Mr. Wood contended that if the Highway Department says this sign is not a traffic hazard, it was hardly reasonable that the Board should deny the case on the grounds of it being a hazard.

The distance from the black topped area of the highway and the actual right of way was discussed. It was asked - did the State refer to the black topped area of the highway or from the right of way. Mr. Wood did not know. Mr. Lamond moved that the Board agree to a re-opening of the case - hearing to be set for July 9, 1957.

Seconded, J. B. Smith

For the motion: Lamond, J. B. Smith, T. Barnes.

Mrs. Henderson voted "no" because in the original voting she had voted "no" not because of the traffic hazard, but because of the excessive sign area - which she did not think necessary.

Mr. V. W. Smith voted "no" because the letter from the State Highway Dept. read earlier in the hearing apparently figures the visibility on the basis of distance from the paved portion of the highway rather than from the actual right of way of Route #7.

Motion carried - for a rehearing on July 9th.

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With regard to the Board's request for a definition of a Tea Room from the Commonwealth's Attorney, Mr. Mooreland said the new assistant to Mr. Fitzgerald (Mr. Plummer) had searched for three days trying to find a satisfactory definition for the Board - going through many cases granting a tea room - but no where has anyone said what a tea room actually is. The Commonwealth's Attorney has made the statement that the Board may make an arbitrary definition of a tea room - or turn this back to the Board of Supervisors and ask them to give a definition. But in any case, in his opinion, whatever definition is arrived at would be arbitrary.

The Chairman asked that that opinion of the Commonwealth's Attorney be put in writing.

It was suggested that one of the members of the Board of Appeals go before the Board of Supervisors at the earliest possible date and ask for this definition and explanation of what the Board has in mind with regard to this portion of the Ordinance.

Mr. T. Barnes moved that the answer to the Commonwealth's Attorney's opinion on tea rooms be taken to the Board of Supervisors with the request that the Board give the Board of Zoning Appeals a definition of a tea room.

Seconded, J. B. Smith

Carried.

It was agreed that Mrs. Henderson ask for place on the Board's Agenda on July 26th. or the soonest date possible thereafter.

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June 25, 1957

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Reconvening after lunch, the Board again took up the THOMPSON CASE - for determining of the zoning line from the intersection of Route #29-211 and Rt. #28. Mr. Schumann had extended the centerlines of both roads and measured the zoning back 500 feet on Routes #29-211. This would take the business zoning to the east line of Mr. Thompson's present filling station building. The addition requested is in business zoning - while the balance of the property, on which is located the filling station, is in rural residence-class II zoning. Since this addition is in the business area, Mr. Mooreland said the Board could grant that - but he would suggest that Mr. Thompson request business zoning on the balance of his property. Widening of Route #29-211 was discussed.

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Mr. Lamond moved to grant the application because it will not adversely affect the health and welfare of the community nor would it adversely affect people traveling on the highway.

Seconded, T. Barnes

Carried, unanimously.

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MRS. OMAR NIGH - no one was present to discuss this case, and no plats had been presented with the case.

The Board took no action.

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The meeting adjourned

*V. W. Smith*  
V. W. Smith, Chairman

July 9, 1957

The regular meeting of the Fairfax County Board of Zoning Appeals was held Tuesday, July 9, 1957 at 10 o'clock am, in the Board Room of the Fairfax Courthouse with all members present: Mr. Verlin W. Smith, Chairman, J. B. Smith, A. Slater Lamond, George T. Barnes and Mrs. L. J. Henderson, Jr.

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The meeting was opened with a prayer by Mr. J. B. Smith

## DEFERRED CASES:

1- FLORA McNEIL MALLORY, to permit operation of a Kindergarten and first grade in present building, on west side Route #123, approximately .9 mile south of intersection of Route #123 and Route #236. Providence District. (Rural Residence Class II).

Mr. Harry Sizemore represented the applicant. Mr. Sizemore explained that the school would be held in two rooms on the first floor of the frame dwelling on the property plus an enclosed outside area for play facilities. The Sanitary Engineer's Office had inspected the property, Mr. Sizemore stated, and had advised Mrs. Mallory that the present sanitary facilities are satisfactory but that in case of an increase certain adjustments would have to be made. They will make these necessary changes when the increase in use takes place, Mr. Sizemore continued.

The Fire Marshall also inspected the property and stated that the building was satisfactory with two minor exceptions - a class A-B fire extinguisher and doors at the head of the basement. Both of these changes Mrs. Mallory is ready and willing to make, Mr. Sizemore stated.

Mrs. Mallory has completed work on the well, making the changes suggested by the Health Department. Mrs. Mallory filed a statement from Mr. R. R. Runyon (well driller) showing that she had had work done on the well in the amount of \$275.00. The water was tested and it was found that it will meet standards required by the County and State Health Department.

Mrs. Mallory also has arranged for public liability insurance to cover her pupils.

This school will be operated from 9 a.m. to 12 noon - in the morning only. They will teach music, hobbies, some arithmetic, kindergarten and first grade school activities. Most of the work and play will be carried on inside but they will have an outside enclosed area for play activities. The neighbor nearest to this play yard, Mr. and Mrs. Philipoom had made a statement (which was filed with the case) that they did not object to the school. The property of Mr. Atkins, who had objected at the last hearing, is separated from the play area by a house and a grove of trees, Mr. Sizemore continued. During such of the year, Mr. Atkins could not even see the Mallory yard, Mr. Sizemore noted.

July 9, 1977

DEFERRED CASES - Ctd.

1-Ctd.

Mr. Verlin W. Smith recalled that the continuance of this case is concerned only with sanitary facilities. While the septic appears to be satisfactory for present use, Mr. Verlin W. Smith continued, the Health Department evidently thinks that any increase would necessitate extension of the septic field. Mr. Verlin W. Smith asked if percolation tests had been made to know if the ground will take additional septic field. Mrs. Mallory said she had not had a percolation test - but was willing to do so when the need arises. Mr. V. W. Smith thought the percolation test should be made before granting the application.

Mrs. Mallory suggested that it was hardly fair for her to go to the expense of conforming to all the requirements - then to be told she would again be held up because of a percolation test for the increased field. This she would do as soon as that becomes necessary.

They may have only 10 children, Mr. Sixmore stated, and that impact may not even make it necessary to have additional septic field. It would, therefore seem logical to wait until the need is here before requiring Mrs. Mallory to go to more expense.

Mr. V. W. Smith thought it very necessary for the Board to know if the field could be expanded - as, if this is granted and it is found that the ground will not take more septic the responsibility would be on the Board for granting this use without completely satisfactory septic facilities.

Mrs. Henderson moved to defer the case until July 23rd - for Mrs. Mallory to make the percolation test on this property and also to present a report from the Health Department at Richmond on the water test.

Seconded, Mr. Lamond

Carried, unanimously.

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2-

DAVID S. BOGER, to permit extension of Ancient Oaks Trailer Court (50 Trailer Sites) on south side of Lee Highway, immediately adjacent to Ancient Oaks Trailer Park. Falls Church District. (Rural Business).

Neither the applicant nor his attorney were present. Mrs. Henderson gave a resume of the meeting between the Board and the County agencies regarding the impact of this trailer park upon County facilities. Mr. Bell, from the Sanitary Engineer's office, had stated that sewer connection could be made in two ways - either into Holmes Run or Tripps Run. Connections to Holmes Run have been banned for 6 to 8 months - awaiting the new pumping station - therefore connection there would be in the future. To connect with Tripps Run it would be necessary for Mr. Boger to get an easement through neighboring property - which easement it was suggested might be difficult to obtain. Mr. Clayton, from the Health Department had stated that the trailer park would require a minimum of two trash collections a week.

Mr. Rasmussen, from Public Works, stated that the drainage ways shown on the plat were not in the correct location. It appeared as though the storm drain was running down the road and that it ponded on one of the lots. There is

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July 9, 1957

## DEFERRED CASES - Ctd.

2-Ctd.

presently a serious drainage problem on this property, Mr. Rasmussen had said, which he thought would be difficult to correct. The fact that trailer park use causes considerable more run-off (approximately 75% imperviousness would appear to create a situation which should be taken care of in order not to damage neighboring property. There is no control over this property through the Public Works Department, Mr. Rasmussen stated, because there is no subdivision - in which case drainage can be fully supervised and controlled.

Mr. Pope, from the School Board, stated that there are about <sup>school</sup>.28/children per trailer unit in the County. This trailer park has 7 school children. There is a total of 262 school children from Fairfax County Trailer Parks. Mr. Bell stated that 50 more trailers on this ground would not affect the sewerage capacity after the new force main is put in.

Since the sewer connection is of prime importance, Mrs. Henderson suggested that this case be further deferred until Mr. Boger decides whether or not he can get the easement which would allow connection with Tripps Run or if he will wait for connection into Holmes Run.

Mr. V. W. Smith thought the storm sewers of great importance. He also thought the trailers are located, on the plat, too close to residential property.

Mrs. Henderson moved to defer the case for one month for Mr. Boger to negotiate for the easement into Tripps Run or for Mr. Boger to decide what he will do about either getting the easement or wait for connection to Holmes Run and also for Mr. Boger to present more detailed plans of what he will do about the drainage situation.

Mr. V. W. Smith stated that Mr. Rasmussen felt that there is no way the drainage from this project could be handled without substantial damage to persons down stream, that any increase in run-off from this property would cause a serious situation.

Mr. Smith quoted from the Ordinance, Section 6-16, whereby the Board must find that this granting would not adversely affect the health or safety of persons residing or working in the neighborhood. In view of Mr. Rasmussen's statement, Mr. Smith said he could not vote for this application as it stands.

However, it was brought out that the remodeling of the old trailer park would be a considerable improvement to the neighborhood.

Mr. V. W. Smith brought out that the Grow Committee is now studying the stream damage and drainage problem which will cover trailer parks. This is a serious problem in the County, Mr. V. W. Smith told the Board, which in his opinion should be handled with greatest care and study.

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DEFERRED CASES - Ctd.

2-Ctd.

Mrs. Henderson re-stated her motion - that the Boger case be deferred indefinitely - until the information the Board is asking is furnished - that the applicant shall present definite plans for on and off-site storm drainage.

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Seconded, Mr. Lamond

Carried, unanimously.

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NEW CASES:

1-

JAMES S. KEITH, for appeal from decision of Administrative Officer under 6-12 (e), Zoning Ordinance, in re River Towers Apartments. Adjacent to south side Section 3, Belle View Apartments. Mt. Vernon District. (Urban Class I).

Mr. Mooreland asked to make a statement at the opening of this case - saying that his office had no alternative but to issue the building permit in the River Towers case. The Commonwealth's Attorney had ruled that the Zoning Office had no authority to withhold a permit. The County Board of Supervisors had given him the same instructions. Therefore, when River Towers applied for a permit for structures, which would meet the requirements under 6-14 of the Ordinance, there was no reason to refuse it. Actually, there was no decision on the part of his office, Mr. Mooreland continued, the decision was that of the Commonwealth's Attorney and the Board of Supervisors, and in his opinion this case is not properly before the Board. Mr. Mooreland considered that if the Board heard this case they would in effect overrule the Commonwealth's Attorney and the Board of Supervisors.

Mr. V. W. Smith disagreed with Mr. Mooreland, quoting Paragraph c, Section 6-12 of the Ordinance whereby "Appeals to the Board may be taken by any person aggrieved, or their agents or by any officer or agency of the County affected by any decision of the Zoning Administrator."

Mr. Mooreland again contended that he made no decision - that he could have been forced to issue the permit. These people are appealing from a decision when there is no decision, Mr. Mooreland continued. Mr. Mooreland noted that Mr. Prichard had written his own application, something that would not normally have been done.

Mr. V. W. Smith answered that in his opinion any act of his office was a decision. He felt the application should have full hearing.

Mrs. Henderson asked that evidence be heard on both sides - then the Board decide whether or not the case should be heard.

Mr. Ed Prichard, representing the applicant, stated that this Board is a Quasi-Judicial body with their duties and powers definitely spelled out in the Ordinance and with the powers and duties of the Zoning Administrator also definitely outlined in the Ordinance. Mr. Prichard pointed out that nowhere in the Ordinance does it say that the Commonwealth's Attorney or the Board of Supervisors can decide whether or not any application shall be made. That decision is made by this body under Section 6-12-c and Mr. Keith has appeared in appeal here as an "aggrieved person". Mr. Keith is a neighbor to this proposed project.

July 9, 1957

## NEW CASES - Ctd.

1-ctd. Mr. Prichard quoted 6-12-8 relative to the powers of the Board to hear appeals where it is alleged by the appellant that there is error in any order...In the opinion of the applicant there is an error in the decision of the Zoning Administrator and therefore, Mr. Prichard contended, the applicant has an unquestioned right to come before this Board and it is the duty of this Board to hear the appellant - this is a duty which cannot be delegated to anyone else. Mr. Prichard also referred to Section 6-12-d-4, again emphasizing the duty of this body and this body only to interpret the Ordinance. No individual can tell this Board what their powers are nor can anyone tell this Board they have no right to hear this case, Mr. Prichard continued. The jurisdiction of this Board is plainly set forth in the Ordinance. The powers and authority of the Board stem from the law and not from the Commonwealth's Attorney nor from the Board of Supervisors. While there is no place in the Ordinance stating that the Board of Zoning Appeals shall follow the advice of the Commonwealth's Attorney, it is within the duties of the Commonwealth's Attorney to advise the Board of Zoning Appeals when called upon. This body sits as a quasi judicial body - akin to a Court, Mr. Prichard contended. It is the representative of the people and it is obliged to listen to both sides of all cases - to weigh the evidence and to make the final decision either with or without advice of the Commonwealth's Attorney. It is therefore incumbent upon this Board to determine if this applicant has the right to come before this Board, Mr. Prichard concluded.

Mr. Richard recalled the steps in this case: The hearing on River Towers in March of 1957 for variance to allow increased density, which was denied by this Board; subsequently, the applicant re-designed the project to bring the density within that allowed by the Ordinance and applied for a building permit. The Board of Supervisors placed a 'stop order' on the issuance of that building permit in order that they might further investigate the case. The Board of Supervisors asked for the opinion of the Commonwealth's Attorney and made a thorough study of the case themselves. Satisfied that there was no reason to withhold the building permit - they lifted the ban and the permit was issued. The Commonwealth's Attorney and a majority of the Board of Supervisors members (four of whom are Attorneys) have ruled that the permit should be issued, Mr. Richard continued, and in his own opinion it would appear a little ridiculous not to take their advice.

In his opinion, Mr. Richard continued, the Board has the jurisdiction to hear this appeal, but if the Board hears all the statements and complete evidence it will be making a legal decision. If the decision of this Board is adverse to River Towers, the Board would be setting up an opinion on an administrative matter which would be over-riding the opinion of the Commonwealth's

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July 9, 1957

NEW CASES - Ctd.

1-Ctd.

Attorney and the Board of Supervisors. The fact remains, Mr. Richard continued, that under any circumstances this matter will doubtless end in the Court - so what is to be gained, he asked, by this body listening to hours of lengthy evidence and passing a legal opinion which<sup>is</sup>/out of the Board's jurisdiction.

Everything required by the Ordinance has been met in this case, Mr. Richard went on, the only background question is, if the exception which was granted on this tract in 1947 is still in affect. The Board has already admitted that the land was zoned for multiple housing, the earlier application requested only increased density. That density was reduced to conform to the Ordinance - all conditions and requirements have been met, Mr. Richard continued, there is nothing to be gained by taking the time of the Board for a lengthy hearing. Irrespective of what the Board does here today, whichever side loses - this case will undoubtedly be appealed to the Circuit Court, Mr. Richard concluded.

Mr. V. W. Smith asked Mr. Richard if he thought there was any way the Board could avoid hearing this case.

Mr. Richard answered that the Board could take the position that - in view of the action of the Board of Supervisors and in view of the opinion of the Commonwealth 's Attorney that the Board does not wish to substitute its opinion for the opinion of legal authorities of the County and therefore - turn down the appeal. The case would then be heard in open Court.

Mr. V. W. Smith said he felt strongly that under the Ordinance the Board is compelled to hear this case - he therefore ruled that the case proceed as scheduled.

Mr. Prichard, representing the applicant, introduced Mr. Ballard, who was associate with him. They also represented the following Citizen 's Assns.: Belle Haven, Marlin Forest, Mt. Vernon, Westgrove, and other individuals.

Mr. Prichard stated the applicant 's two reasons for this appeal: First because the exception and use permit issued in 1947 had a condition attached which was violated by the issuing of this permit for the 17 story apartments. Second: Under the terms of 6-12-d-2 a use permit dies within six months after the issuance of the permit unless a building permit is taken out and such building is started and proceeds to completion. No building permit was taken out on this project in 1947, Mr. Prichard pointed out.

Mr. Prichard read the motion passed by the Board of Zoning Appeals when it granted Belleview Apartments in 1947 - which reads in part as follows:

"The Planning Commission recommends that the application of G. C. Landrith and Eugene Olmi to permit the erection of a multiple housing project..... be granted.... The Planning Commission also recommends that the exception be granted subject to the construction of the project in conformance with the type of architectural design indicated by the perspective rendering submitted with the application."

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1-Ctd. Mr. Prichard asked first: what did Mr. Landrith and Mr. Olmi apply for in 1947? and secondly - what did the Planning Commission Recommend?

The Planning Commission recommended granting Belleview subject to construction of the project in conformance with the architectural design... submitted with the application. However, there is now a question as to just what design the project was to follow, as whatever drawings presented with the case have been lost. However, it can be assumed, Mr. Prichard contended, that the administrative offices at that time did their duty and assured themselves that the buildings were constructed in accordance with the architectural design as presented and agreed to at the hearing. The case was granted with a condition which apparently was carried out. Mr. Stockton (Planning Director at that time) and Mr. Schumann, his assistant at that time, were charged with the policing of proper compliance with the granting of the application. It would appear to be established beyond any reasonable doubt, therefore, that the buildings as built are substantially the same as the original renderings.

Mr. Prichard referred to Mr. Fitzgerald's letter of March 29, 1957 in answer to questions put to him from the Board of Zoning Appeals - where Mr. Fitzgerald said he thought "architectural design has nothing to do with the number of units, size of the buildings, height of the buildings, nor density.....The words architectural design would mean.....one of the general classes of architectural design rather than a specific plan or design."

Mr. Prichard disagreed with this, saying one could hardly visualize a colonial sky-scraper. He thought architectural design did mean something definite to most people - including ideas of how high, how long, how many rooms - it means what does the place look like - what is its character. The dictionary says "type, form, plan or style, arrangement, etc...." Architectural design meant something to the Planning Commission and the Board of Appeals members at that time, Mr. Prichard contended - just as it means something now. Certainly the buildings on the property conform to the original plans which no doubt indicated something of the type, style, height and size of the buildings. These buildings conform to one type of design - Garden Apartments.

Mr. Prichard showed photographs of Belleview Apartments and Fairlington. The minutes show, Mr. Prichard continued, that the applicants applied for apartments which were very like Fairlington. Mr. Prichard quoted in part from the minutes of the 1947 Board of Zoning Appeals meeting. "Mr. Mills, the architect on this project and also the architect on Fairlington, explained that the type of building planned was substantially semi-fireproof and will be better than Fairlington.... they will have approximately 1208 units.....".

Fairlington was the only large apartment development in this area at the time Belleview was granted, Mr. Prichard continued. The drawings presented with this case may not have been too complete, but when the builder said -

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1-Ctd.

what he had in mind was something "better than Fairlington" the people knew immediately what to expect. These were the things the Board had in mind in 1947 - a good apartment development - like - but better than Fairlington. Mr. Prichard quoted Section 6-12-d-2-a-b: "No order of the Board approving the erection, alteration or use of a building shall be valid for a period longer than six months, unless: a. A building permit for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with such permit, or b. Such use is established within such period; provided, however, that where the use permitted is dependent upon the erection or alteration of a building, such order shall continue in force if a building permit for such erection or alteration is obtained and such erection or alteration is started and proceeds to completion as provided above."

It could be said, Mr. Prichard continued, that the word "building" is singular in two places - if one gets a permit for one building that the permit stays alive for the whole tract and the applicant could come in any time and get an additional permit for other buildings. That is not logical, Mr. Prichard argued.

Mr. Prichard showed what he determined the illogical results of allowing permits to remain alive indefinitely as in this case. If the six months clause is effective, the decisions of the Board can be policed and the development of areas controlled. However, if the permit is good indefinitely the character of an area may change entirely and an old out-moded use may not be compatible with the trend of development after a lapse of years.

It is the duty of this Board to interpret the words of this Ordinance, Mr. Prichard continued, and the Board has no right to delegate to the Commonwealth's Attorney the authority to answer questions which are the responsibility of this Board.

Mr. Richard suggested, Mr. Prichard went on, that this Board should make no decision but should allow the case to go to Court. The law sets out very plainly what must be done - this is a necessary step - the decision on this case is a duty which this Board cannot side-step, and cannot delegate.

The two points on which they rest their opposition, Mr. Prichard continued, are the conditions attached to the special exception granted in 1947, which specified that garden type apartments would be built - the type of structure submitted at the time of hearing. We can now look at the buildings which no doubt followed the conditions of the granting motion.

As far as this property is concerned, Mr. Prichard continued, this 1947 permit is as dead as a door nail.

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1-Ctd. It would appear a little strange, Mr. Prichard continued, that the applicant came to the Board of Zoning Appeals for this permit instead of going to the Board of Supervisors - as the Ordinance has been changed since 1947 to require apartment projects to be granted by the Board of Supervisors instead of the Board of Zoning Appeals. They are reasonably sure, Mr. Prichard suggested, that the Board of Supervisors would not grant the apartment use, therefore, they took the back door method of using this old permit as their only way out.

Mr. Prichard introduced various witnesses who made statements.

Mr. Jones, President of the Hollin Hills Citizens Association stated that he represented 265 families. Mr. Jones thought this project would make a tremendous impact upon the County, and would present grave problems such as traffic, and overloading the Belleview shopping center. Mr. Jones objected to the violation of the "six months" clause and the fact that this project would not follow the conditions placed upon the granting of this use in 1947. The architectural design is nothing like the existing Belle View Apartments. Mr. Jones concluded.

Mr. Richard asked Mr. Jones if he was authorized to appear before this Board, and by whom. Mr. Jones answered that the Executive Board ( of 12 members) had unanimously voted that he represent the Citizens Association. Mr. Cecil Wall from Mt. Vernon objected to the present plans but he also thought the granting of Belle View a mistake. He asked, why compound that mistake now? Mr. Wall recalled that the Memorial Highway was put in as the highway leading to a National Shrine, and that the master plan of the County roads should give priority protection to roads leading to that Shrine. This highway was not built for the impact which is already placed upon it, Mr. Wall continued. He considered the 17 story structure out of keeping with the area, it would be difficult to service with the naturally limited volunteer fire equipment. Such a project, Mr. Wall concluded, should be placed only in a metropolitan area where facilities are available.

Mr. Brown, Vice-President of Belle Haven Citizens Association, objected, stating that he had been authorized to appear here in opposition by ten member Executive Committee of his Association. Had this structure been proposed in 1947, it most certainly would have not been granted, Mr. Brown stated.

The Chairman asked Mr. Schumann if he wished to make a statement. Mr. Schumann recalled that Mr. Prichard had stated that the permit was issued in error for two reasons - violation of the conditions placed upon the original permit and the lapse of time in completion of construction. These two conditions were submitted to the Commonwealth's Attorney, Mr. Schumann continued, and were replied to by him that the permit would be valid. These conditions were also discussed by the Board of Supervisors, who did not say that the permit should be withheld. In view of the fact that both the Commonwealth's Attorney and the Board of Supervisors thought there was nothing improper in the issuance of the permit - the permit was granted.

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Mr. Schumann recalled that the Board of Supervisors had held an open hearing on these facts and had first held up the permit. That ban was lifted after the Board had given the matter further study.

Mr. V. W. Smith asked if the Board of Supervisors felt that the architectural design of the proposed buildings was in keeping with the original permit... They must not have felt that there was anything improper in issuing the permit, Mr. Schumann answered.

Mr. Pritchard suggested that the Board of Supervisors decided that they had no jurisdiction in the matter - they felt that they could not hold up the permit - therefore, they notified the zoning office that the ban would be removed on the permit.

Mr. V. W. Smith asked - did the Board of Supervisors approve the permit or did they just release the ban? When the Board of Supervisors took action on this - he was not present, Mr. Schumann answered.

Mr. V. W. Smith asked Mr. Schumann if the type of structure was taken into consideration when it was decided that the 1947 permit was still in effect. Mr. Schumann answered that he was asked if an apartment project could be built on this land and the answer was "yes". He was not considering the similarity of the buildings constructed in 1947 and the proposed project.

Mr. V. W. Smith asked Mr. Schumann if he would have issued a permit on these buildings (as presently proposed) in 1947, and if he felt now that this application conforms to the original project as granted.

Mr. Schumann said the drawings submitted in 1947 did not contain renderings which showed a 17 story building, according to his memory. That is my memory only, Mr. Schumann stated - a recollection and an assumption, not a fact.

Mr. V.W. Smith asked Mr. Schumann what he thought about the comparison of the type of building originally designed and the presently planned buildings. Did he feel that the project planned was in conformity with the original plans and that a permit should be issued on the present plans.

The Board of Zoning Appeals in 1947 said that the application was granted in conformance with the rendering submitted, Mr. Schumann answered, and if the 17 story buildings are not in conformity with those renderings the permit probably should not have been issued, but he did not have a definite recollection of the original renderings and when this project was discussed the type of buildings was not discussed nor considered.

Mr. Keith Price came before the Board, unsolicited by anyone concerned with this case, stating that he was on the Planning Commission at the time this project was considered. He disagreed with Mr. Wall that Belle View should never have been granted. The land was 20% swamp, Mr. Price explained and the Commission was happy at that time to have anyone reclaim the land and use it. The Commission was conscious of the fact that something could be put on that land which would be good for the County - therefore, they favored this project.

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1-Ctd. They wanted to get something as good or better than Fairlington. If the applicant had come in for a ten story building the Commission would have granted it, Mr. Price added - the land was low and marshy and was a breeding place for mosquitos.

Mr. Lamond asked about the architectural features of the buildings - what the Commission had in mind.

They wanted something good, Mr. Price answered. Fairlington was the only apartment in the area at that time, the talk was not of special architectural design - it was just to get something not less than Fairlington. The plan shown them was like Fairlington - probably two or three stores - not 17 stories, however.

The fact that Mr. Price had stated that the renderings were based on two or three story buildings, Mr. Lamond thought very important.

Mr. V. W. Smith read the Commission's recommendation in 1947, calling attention to the fact that the application was granted "subject to construction of the project in conformance with the type of architectural design indicated by the perspective renderings submitted with the application."

This was meant only to require something as good or better than Fairlington - Mr. Price continued - the renderings were similar to the apartments now built on the property. That is the answer, Mr. V. W. Smith noted.

Mr. Glenn Richard introduced Mr. John Gilmore who was associated with him in this case.

Mr. Richard asked that the following letter to the Board of Zoning Appeals from the Commonwealth's Attorney dated March 29, 1957 be read into the record:

March 29, 1957

MEMORANDUM

TO: Board of Zoning Appeals  
of Fairfax County, Virginia

FROM: Robert C. Fitzgerald  
Commonwealth's Attorney

River Towers, Inc.  
Application for Variance

In response to the questions set forth in your letter of March 28, 1957, I advise as follows:

1) The use permit granted by the Board of Zoning Appeals as set forth in the minutes of February 25, 1947, Item #11, in my opinion is still in effect on all the land embraced in said application.

2) The use permit was granted by the Board at that time with the only proviso being that "the builders conform to the recommendation of the Planning Commission". The only recommendation of the Planning Commission, other than that the application be granted, was "that the exception be granted subject to the construction of the project in conformance with the 'type of architectural design' indicated by the perspective rendering submitted with the application". I do not believe that "type of architectural design" has anything to do with the number of units, size of buildings, height of buildings nor density. It would be very difficult to ascertain and even more difficult to prove what was meant by "type of architectural design" by the Planning Commission in 1947. The words, "type of architectural design", would mean to me one of the general classes of architectural design rather than any specific plan or design. I do not believe that the minutes show that the use permit was granted for 1208 units or any other specific number of units. The maximum number of units would be controlled only by the provisions of the Ordinance.

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3) There is certainly no set percentage in variation from the strict application of the Ordinance that the Board is empowered to grant. The powers of the Board relative to variances are set forth in paragraph (g) of 6-12, Section 7. Each application must of necessity be decided on its own merits and should be decided within the provisions of said paragraph (g).

4) Sections #6-14-b and 6-11-2 of course appear to be in conflict, Section #6-14 having been adopted subsequent to Section 6-11-2 and having specific reference to apartment buildings is the applicable Section relative to apartments and is an exception to the general rules set forth in Section 6-11-2.

5) The use permit granted runs with the land and a change in ownership would have no affect whatsoever. I do not believe the original permit was granted for any certain density.

6) It would be very difficult, if not impossible, to prove "the type of architectural design indicated by the prospective rendering submitted with the application" if the prospective rendering is not available.

/s/ Robert C. Fitzgerald  
Commonwealth's Attorney"

As to the architectural design of the buildings, Mr. Richard said he considered that unnecessary emphasis had been placed on that. It could have well been that no renderings were presented, Mr. Richard went on. The Apartments were built under FHA and the cost of getting renderings for such a project would have been excessive. They may not have had any plans until the use was granted. It is even possible that the only renderings presented were take-offs from Fairlington.

Mr. Richard quoted Section 6-14-2-b from the Ordinance which states that "the height of any structure shall not be limited...." Certainly neither the Board of Zoning Appeals of 1947 nor the Planning Commission would have attempted to fly in the face of mandatory provisions of the Ordinance, Mr. Richard continued. Since the Ordinance is clear on height regulations, the discussion of the height of these buildings is entirely out of order - the Ordinance must be upheld. Any condition placed on the granting of this application in 1947 by either the Board of Zoning Appeals or the Planning Commission was outside the scope of the Section in the Ordinance covering multiple housing use, and is therefore illegal. The decision is made on the basis of the use only, and that decision has been made, Mr. Richard continued. Section 6-14 covers height, and area regulations of multiple housing and those standards must be followed.

Section 6-12-5 states that the Board of Zoning Appeals is empowered to grant multiple housing under the conditions of Section 6-14:

Section 6-12-5 "The Board of Zoning Appeals is hereby empowered to grant special exceptions and authorize the Zoning Administrator to issue use permits for the erection of multiple housing projects in the Urban Residential District, but any such exception shall not be granted unless the application shall have first been submitted to the County Planning Commission for its recommendation." "Provided the appeal is granted the layout of the project shall be approved by the Planning Commission as being in conformance with the regulations set forth in Section 6-14....". The decision to grant this use in 1947 was made and the Zoning Administrator instructed to issue the permit

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subject only to the one condition - that the project comply with Section 6-14. Once that decision is made, Mr. Richard continued, the land is granted the multiple housing use and the Board is through. The Zoning Administrator must see that the requirements are met.

The Planning Commission recommendation, which Mr. Richard stated, was in general language, suggesting compliance with the renderings, but all they could do legally was to approve or disapprove the use. They chose to approve it.

Mr. Richard cited the case of Winchester vs Glover, 97 SE (2nd) 661 wherein the Ordinance was thrown out because there were no definite standards. However, this County does have standards, Mr. Richard continued, and the decision was made in 1947 that this tract is desirable for multiple housing - to be constructed according to standards set up under Section 6-12.

If under a special exception, Mr. Richard continued, developing starts - and because of economic conditions or perhaps no additional need for the continued development is present and if one waits for a period for the opportune time to continue development - to say there is no established use for that land is not logical. This permit has merely continued the use established in 1947.

Mr. Richard read from the Virginia Code - 1938 Enabling Act:

The Code means, Mr. Richard continued, that if you have business land and the Board of Supervisor's zones that land back to residential use then you cannot get an additional building permit. That has been decided. But that is not the case here. The land has not changed. To assume that it has is directly contrary to the Virginia Code and contrary to the Zoning Ordinance. Once a use is established you cannot take that use away when the applicant has a vested right in it. That too has been established, Mr. Richard continued.

It is a fact, Mr. Richard stated, that people become greatly emotional over "general welfare". His own home is near this site, Mr. Richard told the Board, and he feels personally that this project would in no way adversely affect the area, but would be an improvement. Belleview has re-claimed part of this land and this development would continue that reclaiming on the residue of this land.

Mr. V. W. Smith asked that the discussion keep to the case, that the fact of a swamp or topography or re-claiming land is not before the Board.

Mr. Richard continued - under River Towers' new proposal the density will meet the requirements under Section 6-14 of the Ordinance - the density will be no greater than had Belleview continued the development of their apartments. Therefore, Mr. Richard went on, this development will not cause more traffic than the original proposal.

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Mr. Richard asked the Board to visualize the location of this property - bounded by Belleview apartments, <sup>a</sup> the County sewer <sup>plant</sup> system and 48 acres of Government swamp land. If this were a new application for an apartment project, Mr. Richard thought it would be arbitrary and capricious to say that apartments should not be located here.

With regard to the conditions placed on the original granting of this case, Mr. Richard asked, were those conditions violated? The answer is, Mr. Richard continued, the Board had no legal right to place those conditions on the granting of the application. The type of buildings discussed was voluntary information by the applicant. If they had not put up the type of apartments discussed - nothing could have been done about it.

When a use has been established, Mr. Richard continued, that takes it out of the six months period. If this six months clause applied to multiple housing then about half the existing Belleview apartments are in violation. In the processing and financing necessary for large multiple housing such as Belleview, far more than six months elapsed between the building of all of the Belleview apartments. It is clear that once the use is established it can continue. The six months clause applies to variances which come under the hardship clause or uses which might be detrimental to health and safety, etc. This is not in that class, Mr. Richard added. The use goes with the land.

Mr. Richard called attention to Section 6-12-5 showing that the Board of Zoning Appeals does not grant a building permit - the Board authorizes the Zoning Administrator to issue that permit. The issuance of the permit is not the action of the Board.

Mr. Richard said he had not talked with anyone who does not think this would be a good thing for Fairfax County. He had asked Mr. Landrith to contact people in the area as to how they felt about this. Mr. Landrith was present and came before the Board.

Mr. Landrith said he had canvassed the area and found that there are no more than 15 or 20 people who are actually in opposition. He had talked with a great many people and not one had said he was not in favor of this going in. However, it is to be noted, Mr. Landrith continued, that there is violent opposition from a very few. In a short time, Mr. Landrith said, he got 66 signatures to a petition favoring this project. He was sure he could get many more. He presented the petition to the Board.

Mr. Hugh Mc Kee appeared before the Board representing citizens from Bucknell Manor Citizens Association. In 1947 the Board permitted the development of this swamp into a multiple housing project, all of the land - Mr. McKee contended, not just a part of it. The people in his area are not particularly concerned with the type of architectural design of the buildings, they believe the project will benefit the area and therefore the County.

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As to this project crowding Belleview shopping center - perhaps it will. Mr. McKee continued, but it would also bring more facilities to their area. It is admitted that the schools will not be affected by this development, and it is very likely that the Federal Government may improve the highway to take care of any additional traffic, if it becomes necessary. This is not a new and startling thing for people in the area, Mr. McKee contended, people bought into this area knowing that this land was approved for multiple housing.

It is true, Mrs. Henderson agreed, that the requirements of the original permit were carried out, but if that permit is continued it does not necessarily follow that any certain type of development will follow. It could be a quonsett hut type building - we are lead to believe that no restriction can be placed on this permit to govern what would go in.

The only thing the Board is considering, Mr. V. W. Smith said, is - if the permit issued at this time conforms to the original permit granted in 1947. Mrs. Henderson asked - who owns the 26 acres in question?

Mr. Richard answered that the land is now owned by Belleview Apartments.

In September 1956, after a thorough study and a legal opinion on the use of the land, Mr. Rocks entered into a purchase contract for this land. Settlement has been delayed because of the County.

Mrs. Henderson questioned compliance with Section 6-14-a-1 - particularly the reference to "one ownership".

Mr. Richard answered, explaining that large apartment projects are usually broken up into small group ownerships for financing purposes - however, it was his contention that the permit runs with the land.

Mr. Richard asked any member of the Board of Zoning Appeals to point out in the Ordinance where the Board has a legal right to attach conditions to the granting of a permit for multiple housing. The six months restriction does not apply to variances - only to exceptions, Mr. Richard continued. Again, Mr. Richard recalled to the Board that they have the decision of the Commonwealth's Attorney and the opinion of four attorneys on the Board of Supervisors that it is proper to issue this permit - therefore, he petitioned for a fair interpretation of the Ordinance which would allow them to proceed without unnecessary arbitrary obstructions.

Mr. V. W. Smith again questioned Mr. Richard's statement that the Board has no right to place conditions upon the granting of multiple housing.

Mr. Richard answered that according to the Ordinance, in connection with the granting of a permit for erection of multiple housing the only thing the Board can determine is if the land is desirable for multiple housing use.

If the Board agreed that it is - it is up to the Zoning Administrator to see that the requirements of Section 6-14 of the Zoning Ordinance are met. To require more than that, Mr. Richard continued, the Board is exceeding its authority.

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If at the time of the granting in 1947 the applicant had presented two alternate plans of development, Mr. V. W. Smith asked, one obviously a good plan to say that the permit should follow the better plan - and exclude the inferior one? <sup>and the other inferior</sup>

Once the Board has granted the exception, Mr. Richard answered, the applicant could build any type of multiple housing project he wants - so long as he meets the requirements of Section 6-14. The Courts have consistently held that to be true, Mr. Richard continued.

The standards for multiple housing are clearly set forth in the Zoning Ordinance, Mr. Richard went on, it should first be established by the Board that the granting of the multiple housing use will not adversely affect the use of surrounding property nor will it adversely affect the health, safety and welfare of the area, as stated in the preamble. But once an application is presented to the Board and the Board makes a decision to grant the exception it is up to the Zoning Administrator from then on to see that the standards or mechanical requirements of the Zoning Ordinance are carried out. This, irrespective of what plans have been presented, Mr. V. W. Smith asked? That is a broad statement, Mr. Richard continued, without relation to Par. 5 (page 94 of the Zoning Ordinance) which states in part... "The Board is empowered to grant.... the erection of multiple housing projects.... the layout of the project shall be approved by the Planning Commission as being in conformance with the regulations as set forth in Section 6-12<sup>3</sup>..."

The recommendation of the Planning Commission in this case placed definite conditions upon the granting, Mr. V. W. Smith answered. Mr. V. W. Smith again quoted the conditions.

The only conditions allowable under the Ordinance, Mr. Richard continued, are those outlined under Section 6-14 and no restrictions can be legally be placed upon multiple housing contrary to the Ordinance.

Mr. Prichard noted that the Ordinance, in 1947 was not the same as the Ordinance we are using today, noting the change in Section 6-12-f-5 where the wording under which the Board acted in 1947 is not the same as the Ordinance today.

Mr. Prichard called attention to the case of Wood vs the City of Richmond in which application was made for a filling station. It was granted upon condition that the applicant would be given ingress and egress to the street but when the street was widened the ingress and egress would be closed. The street was widened and the City of Richmond required the filling station owner to move the ingress and egress. The condition was valid. Mr. Prichard also cited the case of the City of Alexandria vs the Texas Company establishing the fact that conditions may be attached to a permit by the Board of Zoning Appeals. (This case, Mr. Richard contended did not apply.)

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Another case came out in Falls Church, Ours vs Ley, regarding a special exception for industrial use, Mr. Prichard continued. The granting of the application was conditioned upon there being no objectionable noises nor odors. The Board has been given the authority to improve conditions, Mr. Prichard contended, and if the applicant wants the benefits of the use permit he must live up to the conditions. That has been clearly established in the Court cases cited, Mr. Prichard contended.

If the applicant feels so secure in the opinion of the Commonwealth's Attorney and the Board of Supervisors why did he not go directly to the Board of Supervisors under the present Ordinance, Mr. Prichard asked. The Board of Supervisors have said they have no authority to interfere in this matter that it is up to this Board, ~~the Board~~. They have not brought a large group of people here today, Mr. Prichard explained, objecting to this permit, because it was his belief that the Board would not go into the merits of the case but simply that a factual decision on the appeal would be made. However, they could easily have brought a room full, Mr. Prichard noted.

The Board adjourned for lunch.

Upon reconvening the minutes of the Board of Supervisors were read regarding the ban on the issuance of this permit for River Towers and the subsequent lifting of that ban.

The permit was held up for further study by the Board. The opinion of the Commonwealth's Attorney that the 10 year old permit was still in effect was challenged by Mr. Leigh.

Mrs. Henderson said she had looked at an old ordinance during the noon break, and recognized that there is a difference between what was in effect in 1947 and now. She would like the opportunity of going into this difference more carefully. Also, Mrs. Henderson continued, she would like a further legal opinion in this matter, therefore, Mrs. Henderson moved to defer this case for study of the ordinance as it was at the time of the original granting and for further legal advice. To be deferred until July 23rd.

Mr. Schumann said he was of the opinion that Section 6-14 had been amended only once - in 1946. Since that time the restriction was added that multiple housing shall be located in an Urban Residence District - otherwise, Mr. Schumann continued, the Section is the same.

Mr. Richard urged the Board to make a decision on this case at this time. If the decision is adverse, they will go to Court. It is unfair, Mr. Richard continued, to defer this case again, they have waited many weeks already. This has been discussed with the Commonwealth's Attorney and other attorneys in the County - the Board has already had expert legal advice. They have contracts pending before FHA and delay would cost them a considerable sum. Delay would give the Board no information which they have not already had access to and would only serve to penalize the applicant for this use.

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Mr. Lamond said - in his opinion the architectural design originally proposed is the important thing. He believed that a thorough search had not been made for the original renderings. He considered it absolutely necessary to have those pictures and plans before the Board could act.

Mr. Prichard has said, Mr. V. W. Smith explained, that we can assume that the requirements of the original permit were carried out - since the buildings are on the property.

Mr. Lamond still contended that the Board must have the plans.

Mr. Richard stated that he never has seen those original plans, if there were any. A project of this kind is so big and involves so much money, he thought it very likely that no plans were drawn before the granting of the use. It is very possible, Mr. Richard continued, that they brought in drawings on a general plan or that there was nothing more than a verbal description of what was planned. He was not the attorney for this project during the 1947 granting, therefore, had no recollection of what transpired when Mr. Lamond insisted that the renderings could be among those hanging on the walls at Belleview, Mr. Landrith answered that the only plans they have at Belleview are those approved by FHA, which naturally were drawn up after the granting of the use. They have no copies of any sketches which were supposed to have been left with the Board or the Planning Commission, Mr. Landrith said - he had looked thoroughly many times for them.

Mr. Richard made the statement that they would concede that at the time application was made in 1947 that they contemplated a garden type apartment similar to the apartments which have been built on the property - but that has nothing to do with the matter before this Board, Mr. Richard continued, as he does not believe that the Board has the authority to place a condition as to the type of structure to be erected. Mr. Richard recalled that he has asked to have pointed out in the Ordinance - authority to place a condition on multiple housing projects - no one had done so.....

It was again suggested that the Ordinance under which the Board acts now is not the same in certain sections as that used in 1947. Mr. V. W. Smith questioned if the 1947 ordinance might have given authority to the Board to grant a use permit and stipulate conditions when the thinking of the Board was that the permit be granted in accordance with the Planning Commission's recommendations.

You are trying to substitute yourselves for a point of law when you try to pass on these things, Mr. Richard contended. At this point, Mr. Richard continued, the Board should make a decision and let the case go to Court to be ruled on by a Judge.

Mr. Richard noted that there has been no change in the ordinance as it relates to this matter since this case was granted in 1947.

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1-Ctd. Mr. V. W. Smith said he would not vote on the case until every source of information is at hand, including an Ordinance which was in affect at the time of the original granting, and until the Board has had further discussion and legal advise.

You want a legal opinion outside the County, Mr. Richard asked? What kind of a basis is that for a Board of Zoning Appeals to make decisions upon? You have had the advice of your Commonwealth's Attorney and four attorneys on the Board of Supervisors.

The Board would like to get additional views on the architectural question, Mr. V. W. Smith explained, whether or not a project can be changed from a garden type apartment to a sky-scraper.

The Ordinance says there shall be no height limitations, Mr. Richard answered, that is written into your Ordinance - you cannot go against that.

Mr. V. W. Smith still questioned whether or not it is reasonable to make this extreme change and come within the bounds of the old permit.

It would be more reasonable to go before a Court of law, Mr. Richard suggested, and get a fair legal decision.

Mr. Fitzgerald has said, Mr. Lamond noted, that the application was granted with the condition that it comply with the recommendation of the Planning Commission, which was that it comply with the architectural design indicated. If the plans presented with this application are in accordance with the plans at that time - then the permit is all right - but if they do not conform, then the permit should be rejected.

Mr. Prichard pointed out that Mr. Fitzgerald recognizes in his letter to the Board of Zoning Appeals - the right of the Board to attach conditions; Mr. Richard has stated that they were thinking of and planning a garden type apartment at that time - therefore, Mr. Prichard argued, they have proved their point and the 17 story buildings violate that permit.

Mr. Fitzgerald says in his letter, Mr. Richard pointed out, that architectural design has nothing to do with the granting.

Mr. V. W. Smith noted that Mr. Fitzgerald does not stipulate if the Board of Zoning Appeals has authority to attach conditions in this case.

Mr. J. B. Smith suggested that this was a matter of the use of the land and not of the height of the building.

But, Mr. V. W. Smith contended, the Board of Zoning Appeals said there are certain conditions to which the applicant must conform.

Mr. Lamond seconded Mrs. Henderson's motion.

It was carried unanimously.

Mr. Prichard volunteered to present a brief of his case to the Board - with a copy to Mr. Richard.

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2-

GILBERT L. PARKS, to permit dwelling as erected to remain with less lot area than allowed by the Ordinance and permit a shed to remain within 1.85 ' of the side property line. 5100' east of 603 on west side of Rt. #682. Dranesville District. (Agriculture).

Mr. Culver Chamberlain represented the applicant. Mr. Chamberlain gave the background of Mr. Parks' purchase of this ground and his subsequent buildings. He bought the property in 1954 when it was zoned for 1/2 acre lots. He filed for a permit for septic system which was approved then applied for a dwelling permit. He had planned to put up two houses - allowing 1/2 acre for each, but did not file for a subdivision.

There are about two acres in the tract. The deed to this property was not recorded until August, 1955.

In March of 1955 the original dwelling was up. He had bought a considerable amount of material from the Federal Government with the plan to use it in these buildings. He had been delayed on the first dwelling for a series of reasons - beyond his control - therefore before he had finished the first house he started another. He did not get a building permit. Since he had so much material for this construction he found it necessary to build some kind of shelter, therefore he got a permit for a shed - in May of 1956 - to house his materials. That shed is in violation. Mr. Parks had no particular excuse for this violation, but called attention to the shape of the lot the side line of which is not straight from the front to the rear lines. The line veers in toward the buildings which probably threw him off in measuring his setback. He could not find the stakes on the back of his property. A later survey showed the property lines.

He now has valuable materials stored in this shed and it would be a great hardship for him to move the shed. When he found the shed was in violation he cut off one corner of it, but it still violates a small amount on one corner. This is the only place he could locate the shed, Mr. Parks said, as the land is rough and covered with trees. This is actually about the only level spot on the property, except where he has built the other house. The shed is made of wood panels and fibre glass - prefabricated. It could be moved easily Mr. Lamond suggested - but, Mr. Parks answered, there is no place to put it.

It was brought out that the building permit shows the proper setback - Mr. Parks thought he had 15 or 20 feet leeway.

Since this property was bought before the Freehill Amendment - although the property was not plotted for a 1/2 acre subdivision, Mr. Chamberlain thought the applicant should still be allowed to divide his property in accordance with the old zoning. Even if the old zoning were allowed Mr. J. B. Smith noted, that the setbacks did not change - he would still have to comply with the same setbacks.

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2-Ctd. The 30 foot outlet road was discussed. This was put in to serve the houses on this property, and the house to the north, Mr. Parks said. It is a private road.

Mr. Chamberlain told the Board that Mr. Parks had canvassed the neighborhood to see if people objected to this lot division. None had objected.

Mr. Mooreland told the Board that his inspector had seen this property and reported that the shed was in violation, and that the second house was built without a permit. Had he made application for that building it would not have been granted. This is a narrow piece of land which could not be subdivided. Mr. Parks was notified in November 1956 and was asked for a plat of his property. Mr. Parks sent in a photograph which was not acceptable. Later he sent in a survey plat which is filed with this case. Mr. Mooreland said the application for the shed did not show the second house Mr. Parks had built. The shed showed on his original application that it was 10 feet from the side line. The second house, is not permitted, Mr. Mooreland continued, because this land cannot be divided. It is not a guest house nor a tenant house.

Mr. Washington appeared in opposition. Mr. Washington contended that there are three houses on this property - the shed he said, is two story. Mr. Washington presented a petition from practically all the adjoining neighbors opposing this and asking the Board to enforce the restrictions.

Mrs. Ruby Roussos, the owner of adjoining property, objected - telling the Board of Mr. Parks' purchase of this property from her family.

These houses are built of old charred lumber, which Mr. Parks bought from the Government. She believed them to be a fire hazard to the area, Mrs. Roussos contended, and a detriment to the neighborhood. She also insisted that Mr. Parks has three houses on the property - that three families are living in the houses.

This property was accurately surveyed by Mr. Joseph Berry, Mrs. Roussos continued, and there was no reason for Mr. Parks to mistake his line.

Considerable discussion followed about how many houses are on the property - Mr. Chamberlain contending that there are only two dwellings and that the structures are comparable to other buildings in the area. Mr. Parks is building gradually, Mr. Chamberlain continued, he must have a place to store his materials in the meantime, and that is the purpose of the shed - purely for storage. When these buildings were constructed, Mr. Parks was within the Ordinance in effect at that time - the new ordinance passed in 1956 was not retro-active, Mr. Chamberlain contended. Mr. Parks admits the violation of the shed and asks the indulgence of the Board. This development, when completed, Mr. Chamberlain went on, will be a credit to the neighborhood.

Mr. Parks said he made out the permit for the second house at the same time he applied for the permit for the first house, but he did not file it as he was waiting to see if the first house would meet structural requirements. This being a prefabricated house - he was not sure. Since the first house did

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2-Ctd.

meet requirements, the two houses went up almost simultaneously - however, Mr. Parks admitted this was in violation. The shed was put up merely so he could store materials for the second house. The people in the shed - or what has been termed his third house, Mr. Parks contended, were there as caretakers - to look after his materials. He did not rent the house to them. Mr. T. Barnes stated that in his opinion Mr. Parks had not shown good faith, therefore, he moved to deny the case under Section 6-12-g of the Ordinance as it appears that this would adversely affect the welfare of the community. The applicant will comply with the Ordinance within 30 days of this denial.

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Seconded, Mr. Lamond

Carried, unanimously.

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3-

ELMIRA LEE BRENT, to permit division of a lot with less street frontage than allowed by the Ordinance to carry out provisions of a Will made 4 December 1929. South side Poplar Street - approximately 200' west of Annandale Road. Falls Church District. (Suburban Residence-Class I ). Mr. Ollie Tinner represented the applicant. Mr. Tinner explained the situation.

Mrs. Brent is the second wife of the first owner of this tract. Her first husband died leaving this property to Mrs. Brent with the expectation that she would do what is right by his children by another marriage. Mrs. Brent is now remarried and has turned over the home place to one of the daughters of her former husband and now wants to give the other daughter a building lot. A survey was made of the land and it was found that with the division of these lots it would not be possible to provide the full amount of frontage to comply with the Ordinance. The area of each lot, however, is in excess of requirements - one lot being 10,162 square feet and the other 13,439 sq. feet. They have split the property the best way they could, considering there is a house on one lot.

This is the best division that could be made of the property, Mr. Mooreland told the Board.

Mrs. Brent is trying to carry out a moral obligation, Mr. Tinner continued, and in so doing it does not appear to adversely affect anyone.

Mr. Lamond moved to grant the application under 6-12-g as it does not appear that this will adversely affect the safety and welfare of the neighborhood, and there appears to be no possibility of making any better division of the property.

Seconded, T. Barnes

Carried, unanimously.

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July 9, 1957

## NEW CASES - Ctd.

4-

CONGRESSIONAL SCHOOL OF ARLINGTON, INC., to permit erection and operation of a private school (Kindergarten thru Junior High). Southeast corner of Route #237 and Scheurman Road #655. Providence District. (Sub. Res.-Class II).

Mr. William Johnston represented the applicant.

Congressional School wishes to operate a private school on this property, Mr. Johnston told the Board, probably through Junior High School, to start within approximately six months with a portion of the permanent building.

The ultimate plan is for 20 class rooms. These people have operated in Alexandria and Arlington for 18 or 20 years, Mr. Johnston continued. They are one of the better private school operators in the Metropolitan area.

Mr. Johnston described the boundaries of the property - the golf driving range to the rear, Rural Business across Route #237, and commercial at the Fairfax Circle and down Scheurman Road for about 600 feet. The Town of Fairfax sewage disposal plant is to the south, at one end. If this is granted, Mr. Johnston went on, the golf driving range will ease out in time.

Mr. Johnston showed elevations indicating the type of architecture they plan. This is only a suggestion, however, Mr. Johnston explained, but the buildings will be colonial in character - having columns across the front. This school will meet all requirements of the County.

Most of the schools Congressional has operated have been old homes remodeled.

Mr. Johnston told the Board, but that has proved expensive and they plan to start this from scratch. The old building on the property will be removed.

In answer to Mr. Lamond's question - what about the sewer? Mr. Johnston answered that they probably would not be ready to operate until connections are allowed to the sewers. The main entrance will be from Scheurman Road.

Mr. Johnston presented proof of notification of neighboring property owners. Also he presented a petition from property owners in the immediate neighborhood stating they have no objections to this use.

Mrs. Henderson moved to grant the application, referring to the location plan and the proposed building plan site by John M. Coldwell, Certified Land Surveyor, dated July 1, 1957 - survey plat dated March 1954. This granting is subject to any County regulations, such as Fire and Health regulations which govern this use. All parking for users of the school shall be on the land and this shall be approved by the Highway Department. This is granted subject to Section 6-12-f-2-a-b of the Ordinance because it does not appear to adversely affect people working or residing in the neighborhood nor does it appear to adversely affect the development of the area in accordance with the zoning regulations.

Seconded, T. Barnes

Carried, unanimously.

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5-

LEONARD JOHNSON, to permit operation of a Tea Room, on east side of Patrick Henry Drive - 570' south of Route #7. Falls Church Dist. (Sub. Res.-II).

Mr. Jack Wood and Mr. Henry Mackall represented the applicant.

Since there seems to be no isolated definition of a tea room, Mr. Wood told the Board, they would give their concept of a tea room which could be granted by this Board and show that this property is particularly well suited to that use. Mr. Wood called Mr. Leonard Johnson, the applicant, who would operate the tea room.

Mr. Johnson showed photographs of the area, of the Crewe home, in which the tea room would be operated, and the surrounding area - the photograph taken in 1948 - at which time the application for an antique shop and a tea room were granted. Mr. Johnson said he had lived near the Crewe property for 6 years, and had long thought it to be an ideal spot for this restricted type of restaurant. He approached Mrs. Donohue, daughter of the Crewes and present owner of the property, in 1956 regarding this use. For over a year they have discussed plans and the restricting features which would be incorporated in the lease. These restrictions include certain features in landscaping, no alterations to the building except a 30 x 35 foot kitchen, no trees can be removed, and no alterations to the house without approval of Mrs. Donohue.

Mr. Lamond asked about the status of the original permit for a tea room.

Mr. Johnson said they do not admit that that permit is dead - but they came before the Board as they wish to enlarge the house - therefore making a new application necessary.

Mr. Samuel Hannenberg, President of the Ravenwood Park Citizens' Association told the Board that the applicant has no permit at the present time. He asked to speak to that point later in the hearing.

Mr. Johnson showed a Land Use map indicating the various types of business and zoning in the area; Seven Corners, filling stations, apartments, real estate office, and tourist homes. This property is across the street from Seven Corners, the largest or most concentrated shopping area in the County, and a large apartment development, Mr. Johnson explained.

Mr. Johnson indicated on his map the location of Patrick Henry Drive which made it necessary to remove the garage on the Crewe property - the road comes within 27 feet of the house.

Mr. Johnson read the following "Outline of Intent" setting forth the conditions under which he plans to operate:

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## "OUTLINE OF INTENT

We propose to establish a rustic, country style Tea House in the building situated on the 6.6 acres of Crewe property located at 102 Leesburg Pike, Fairfax County, Virginia.

We have lived in the immediate area for the past 5 years and for some time we have felt the need in our community for a quality Tea House, that would afford our people the opportunity for gracious dining in a relaxed atmosphere, akin to our suburban way of life.

The character of our endeavour will be of the highest calibre and will strive always for the informal dignity that characterizes our community.

We have particularly analyzed the need for a more refined approach to the manner in which foods are served. It is fundamental that food be intelligently prepared, especially where it concerns dishes that derive from other parts of this or other countries. We have given a great deal of thought and care to the way in which foods are to be set before our guests. Interesting china, glassware and appropriate garnishes will contribute to the nicety of our service. Our staff will be carefully schooled on the phases of service that we feel are so essential to the comfort and enjoyment of the guest.

We propose a place that will reduce the commercial aspect to a minimum and we feel this to be our most important and significant consideration. The whole concept and eventual success of the undertaking is predicated on the natural charm of the surroundings and the creation of a subtle, homelike feeling.

There will be no bright lights or glaring signs. There will be no Neon. Our few modest, mainly informative signs will consist of old-style lettering carved on natural wood, much in the tradition of Country Clubs and National Parks.

Carefully selected, subdued dinner music will help to define the atmosphere we want. We feel that music should provide a soft background for dining and conversation. Needless to say, there will be no juke box.

There will be none of the garbage cans and refuse boxes usually associated with a dining place. All waste material will be eliminated immediately through our commercial electric disposal.

Our dining room will provide a quiet, scenic view of gently rolling hills and trees, rather than the harrowing outlook of a busy street or parking lot or no outlook at all.

We plan a 30' x 35' addition to the southeast end of the building, in the same architecture as the present structure. It will house our kitchen. This addition will be concealed among existing trees and shrubs and can best be visualized from an architect's rendering, which we will submit.

There will be a service drive directly to the rear of the building. This drive will be adequately shielded from view by closed fencing of split redwood palings and the density of trees and evergreen shrubbery that exist at the present time.

Parking will be in and among the trees beyond the southeast end of the building. It will be completely concealed from view by existing trees, supplemented where necessary by additional shrubbery.

We have planned a rustic walkway of heavy timber, stone and brick, to run from Leesburg Pike to the building entrance.

In many respects, particularly in appearance characteristics, the place we are proposing will parallel Allison's Little Tea House on Arlington Ridge Road. It is our observation that the Little Tea House has for many years, contributed much to the need for gracious dining in that area.

From a physical point of view, our location is ideally situated for the place we have planned. The building is removed from the busy highway and is secluded by trees and natural landscape, that afford the quiet atmosphere that is so essential to the realization of the undertaking.

We recognize the inherent, natural charm of the site and we propose to make no changes in the basic, rustic feeling but rather, to enhance it insofar as possible. It is so stipulated in our lease.

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It is our most fervent wish that our Tea House will be an asset to, and will have the respect and confidence of, our community. We sincerely hope that the endeavour meets with your whole-hearted and enthusiastic approval.

Respectfully yours,

s/s Leonard Johnson"

This, Mr. Johnson contended, will produce a substantial tax revenue for the County, requiring a minimum of services compared to a home development.

Mr. Johnson presented a petition with approximately 43 names of people in Ravenwood Park, the adjoining residential area, which would be most affected, stating they have no objection to this project.

Also, Mr. Johnson showed a plat indicating the location of homes in the area with relation to this property. This is <sup>a</sup>heavily wooded piece of ground, Mr. Johnson explained, and most of the homes are about 1/2 mile away. He listed the distances of the nearest homes to his property, ranging from 250 feet to 450 feet, and showed the Seven Corners property to be only 240 feet away.

There is a thick screening of woods between the homes to the rear of the Crewe house, so thick that the buildings facing on Kilmore Court would not be able to see the tea room. Mr. Johnson showed photographs indicating the screening and the secluded character of the Crewe house. He noted also that the Ravenwood people would go out of the subdivision to Route #7 through Juniper Lane rather than Patrick Henry Drive.

Mr. Johnson said he had gone into the adjoining subdivisions and explained to people what he had planned here. He found very little objection. He stated that he was perfectly willing to have his "Outline of Intent" incorporated in the granting of this application.

Under questioning from Mr. Wood, Mr. Johnson revealed the following information: There will be no noise from this operation (they consider the control of noise very important to themselves as well as to the neighborhood). They will conduct a small quiet place for refined people who would naturally not be noisy, they will have accoustical features in the ceiling of the kitchen to reduce noise; no odors - as they will have an electronic oven - at a cost of \$3600 - and will cook by radar. There will be no heat. This will be a completely modern and electric kitchen, the food cooked with no resulting heat. The food comes from the oven piping hot - but the container will be cooled. However, they will have charcoal broiled steaks.

In answer to Mrs. Henderson's questions, Mr. Johnson said that he lived in Willston Apartments. He has a firm lease with Mrs. Donahue - not a contingent lease. He will have a capacity for 90 people, parking for 45 cars. They have no plans to utilize the grounds for anything except to maintain attractive landscaping and the specialized charm of the property. A very few minor alterations will be made to the house, in addition to the kitchen, it will be necessary to widen doorways, and a few other small adjustments.

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5-Ctd. They will operate from 11:30 a.m. until - they have not yet set the closing hour. That will depend upon the demand, Mr. Johnson continued. He plans to sell wine with dinner, and possibly beer - the more expensive variety. Mr. Johnson said he had owned and operated the restaurant-delicatessen in the Willston shopping center which he sold and has since that time managed the Mayfair restaurant in Washington. He has never operated this particular type of restaurant. Mr. Johnson said he has made no distinction in his mind between a tea room and a tea house - he has used the terms interchangeably.

Mrs. Donohue, formerly Barbara Crewe, came before the Board telling of the pioneering days of her family in this area. They owned considerable acreage between Seven Corners and Sleepy Hollow Road, which included the areas now developed as Ravenwood and Ravenwood Park. Much of this land was bought at a sacrifice, Mrs. Donohue told the Board, with a series of mortgages which kept them always one jump ahead of payments. However, it was the plan of her mother that none of the property they owned should be sold unless she could be completely assured that the type of development was worthy of this area. Ravenwood was the product of her Mother's mind - she had sold the ground to a friend and induced him to put in the attractive homes now on this property. The purchaser had followed Mrs. Crewe's advice - much against his own judgment. He had planned small mass-produced homes. In like manner, Mrs. Crewe protected every piece of property she sold.

Mrs. Donohue said her own home now is on Patrick Henry Drive. She could have sold this property many times, Mrs. Donohue continued, at a large figure for small home development, but she did not think that in keeping with the area nor with the wishes of her family. Developers of larger homes will not put houses on this property - they say it is not economically practical. Therefore, since she does not wish to break faith with her people nor people in the area, she has tried to get the highest and best transitional use on this tract which lies between a heavily concentrated business area and the attractive homes to the rear. This, Mrs. Donohue contended, would appear to soften the change from one such area to the other. It is the best thing that has been found. Financially it is not as good for her, Mrs. Donohue continued, as if a developer of small shoe-box houses were to take the property, but it is necessary for her to sell the property.

There is now operating an antique shop on the property which will close if this is granted. The property is run down, she cannot keep it in proper condition, but with this limited business use and with the large landscaped yard and the buffer of trees it would appear to be the best use for the property. They intended to have the tea room in 1948 when the permit was granted.

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Mr. Hugh McCaffrey from the office of Coffman and McCaffrey, the original developers of Ravenwood Park, stated that he had no objection to this use. They have built 88 houses - six lots remain to be developed. They have no financial nor material interest in this, Mr. McCaffrey stated, but since they hold the largest undeveloped property in the immediate area, they are interested in the type of development that goes on this property. It was his belief that this type of business is needed in the area as it will be the only restaurant of this restricted type within a considerable distance. He would actively oppose anything on this property which he thought would in any way jeopardize the subdivision or the sale of Ravenwood Park property. They purchased land from Mrs. Donohue, Mr. McCaffrey continued, to the rear of this tract and at that time could have bought this property but did not do so because they considered it uneconomical because of topographic conditions which they thought would preclude construction of the estate-type homes.

Mr. McCaffrey said he also considered this a suitable transition from commercial to residential property. He suggested that the entrance from Patrick Henry Drive would be an improvement.

The presence of the opposition (people living in the area where he is selling homes) places him in an embarrassing position, Mr. McCaffrey said. However, he felt that the people were being protected and that the area would gain by the addition of this quiet-atmosphere tea room as a semi-commercial and recreational use.

Mrs. Henderson noted that Snell and Murphy had developed homes just across Seven Corners with less screening than on this property. Mr. McCaffrey answered that the ridge on that property acts as a natural barrier between the commercial and residential property. The homes cannot be seen from the commercial development because the crest of the hill bears in toward Route #7. To develop this in the same way one would have to go back 500 feet, which would allow only two or three estates.

Mr. Samuel Hannenberg, President of the Ravenwood Park Citizens Association, appeared before the Board, authorized to oppose this requested use. Mr. Hannenberg presented the following documents to the Board in support of the opposition: A letter from Mr. Hannenberg to Mr. Mooreland, stating the opposition and his authority to oppose it for the Ravenwood Park Association; a photostatic copy of Mr. Johnson's statement to the Home Owners of Ravenwood Park; a letter from Mr. L. O. Bolton, dated July 3, 1957 regarding Patrick Henry Drive with relation to the Tea House; Memorandum from Mr. Hannenberg detailing the reasons for the opposition; extract from Board of Zoning Appeals minutes covering the granting of an antique shop and tea room on this property on July 20, 1948; landscaping plan; and statement of Mrs. Barbara Crewe Donohue - all of which are on file in the records of this case and are made a part of the records of the case.

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5-Ctd. Mr. Hannenberg also presented an opposing petition with 123 names, representing 62 families. (It was noted that one person had withdrawn her name from the opposing petition and signed the favoring petition.)

Mr. Hannenberg's statement is quoted in part as follows:

"MEMORANDUM

TO: Fairfax County Board of Zoning Appeals

FROM: Samuel Hanenberg, President, Ravenwood Park Citizens Association and Attorney-at-Law

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On May 21, 1957, Mr. Leonard Johnson addressed a letter to the homeowners and residents of Ravenwood Park, photostatic copy attached, (Tab "B"), in which he outlined his plan for the operation of a "rustic, country-style restaurant" on the property. Mr. Johnson in his letter speaks of the need in Northern Virginia for a "quality restuarant" which would afford people the opportunities for gracious and relaxed dining in a countrified atmosphere. Reference is made in a letter to a "restaurant" that would incorporate imagination in the menu and inspire confidence in the field of quality and satisfaction---"a restaurant" that would reduce the commercial aspect to a minimum. Mr. JOHNSON proposes a 30' by 35' addition to the southeast end of the present building and a service drive directly to the rear of the building with access to Patrick Henry Drive. Mr. Johnson also contemplates a parking area and in conversations with him has indicated one for approximately fifty cars. Although not stated in the letter, Mr. Johnson has advised the undersigned he intends to obtain a license to serve beer and wine on the premises. It is indicated that the restaurant described above will parallel among others, the Little Tea House on Ridge Road in Arlington, Virginia. In support of this letter, Mr. Johnson made available to the undersigned a map which shows that in addition to the service drive at the rear of the present building, there would be an entrance to the property also with access to patrick Henry Drive. This map is attached (Tab "C").

On June 28, 1957, Mr. Johnson together with the present owner of the property, Mrs. Barbara Donahue, distributed a circular to the residents and home owners of Ravenwood Park containing essentially the same facts set forth in the May 21, 1957 letter except for the fact that wherever the word restaurant appeared in the letter, the circular now refers to "tea house". A copy of this circular is attached ("Tab "D").

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DISCUSSION

At the time the 1948 special exception was granted, the character of the neighborhood was far different than at present. Then, no residential homes surrounded the portion of the property on which the present building is located. A reading of the minutes of the 1948 hearing before the Board of Zoning Appeals makes it evident that a tearoom operation was intended in an area in which no homes would be located immediately adjacent. This is supported by the testimony of Mrs. Crewe wherein she referred to developing 'the property....a country club style tearoom with a golf course and with the addition of a swimming pool and tennis court'. The statement of Mr. Stockton that operation of a tearoom was a desirable graduation between the very attractive subdivisions on the one hand and multiple housing on the other,... clearly evidences the intent of the Board that a tearoom would be conducted in an area which was not residential. The present owner of the property in selling the adjacent property for residential development purposes, by her own act, caused the character of the neighborhood to be changed. To permit Mr. Johnson, as lessee of Mrs. Donahue, now to conduct what he calls a 'tea house' would manifestly be inconsistent with the intentions of the Zoning Board when the original special exception was granted in 1948---and for reasons hereafter set forth inconsistent with such an operation in the present circumstances.

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On September 14, 1956 the Board of County Supervisors adopted an amendment to the Fairfax County Zoning Ordinance which repealed the authority of the Board of Zoning Appeals to grant special exceptions for the operation of restaurants in areas presently zoned as suburban residential. However, authority to grant special exceptions for tearooms was continued in the Board of Zoning Appeals. The applicant in his May 21 letter clearly shows that the type of operation he proposes to conduct at this location is basically that of a restaurant. / In the present application, the applicant characterizes these same operations as a tearoom. Apparently, the applicant considers that there is no legal distinction between a restaurant and a tearoom or tea house. We agree with the applicant in this respect and hereafter will set forth the legal authorities in support of this position, and the logical conclusion that since tearooms are included with the term 'restaurants' and since the Board has no authority with respect to restaurants, it is without authority to grant the present application.

Patrick Henry Drive is a well-traveled street leading from Route #7 through the Ravenwood Park subdivision into the Ravenwood subdivision and the Sleepy Hollow area. It will eventually lead to the Lake Barcroft area. If this application is granted and two roads from the property will have access to Patrick Henry Dr. it would create a serious traffic situation. These roads would intersect Patrick Henry at each side of the crest of the natural ridge which separates Ravenwood Park from Route #7 and the Seven Corners Shopping Center area. The noise from numerous cars entering and leaving the property together with cooking smells which are inherent in the operation of a restaurant would actually create a nuisance in so far as the owners whose homes are located as near as 150 feet from the property covered by the application. Not only would such a nuisance make these homes undesirable as homes, but it is believed would immediately result in an economic loss to such owners in the event of sale. ....

HIGHEST & BEST USE OF THE PROPERTY COVERED BY THE APPLICATION

The applicant or his lessor undoubtedly will urge that the highest and best use of the property is not for development as suburban residential; that some type of activity similar to that requested in the present application would be more in line with the economic value of the property. We must take issue with any such position, if made by the applicant. We believe that the present area is highly desirable for development as a suburban residential area. This is proved by the fact that other property closer to Seven Corners on the south side of Route #7 has been developed and is being used for residential purposes by one of the developers of the Murphy and Snell Sleepy Hollow Manor subdivision. The burden of proof in this respect is upon the applicant, and the legal requirements will be shown below in this memorandum.

.....  
 .....

It should be borne in mind that the 1948 special exception was granted for an 'antique shop and tearoom'. For a period of approximately 10 years, the activity carried on under this authority has been only that of an antique shop. It seems clear that non-use for this period as a tearoom, together with the overt acts of operating an antique shop, resulted in an abandonment as a matter of law to operate a tea room. The Board, therefore, may not in considering the present application give any weight to any argument that there is in existence any authority to operate a tea room on the property.

2. Burden of Proof on applicant for a variance---what must be shown. The applicant for a variance must show:
1. No diminution in value of surrounding properties would be suffered.
  2. Granting the permit would be of benefit to the public interest.
  3. Denial of the permit would result in unnecessary hardship to the owner seeking it.
  4. By granting the permit substantial justice will be done.
  5. The use must not be contrary to the ordinance.

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The Board must recognize that the surrounding properties would suffer. If this tea room or restaurant is permitted, residential homes, some of which are only 150 feet away, undoubtedly would suffer. They would suffer in a number of ways. Traffic, smells, noise, which go with such an activity would be present. No one can deny that the adjacent property owners would be adversely affected. They also would suffer in another sense, namely in any attempted sale, the value of their property undoubtedly would be lower than similar property not proximately located to the requested activity.

Denial of the permit would not result in unnecessary hardship to the owner. Similar property adjacent to Route 7 has been developed for residential purposes recently. The developers of Sleepy Hollow Manor have erected homes on property which abuts Route 7 not too far from the property in question. Homes have been constructed in the Munson Hill area and some of these are on property abutting Route 7. Other homes also are located similarly. ....

3. Restaurants include tearooms.

In People v Kupas, 13 N.Y.S. 2nd 488, 490, 171 Misc. 480, it was stated that the term 'restaurant' was first used for an establishment in Paris about 1765. 'Restaurant' was first applied to the dining rooms of the better class hotels and to a few high class a la carte restaurants. As establishments of different types came into being their character was fixed by some expression as 'coffee house' in England. Then came cafes, lunchrooms, dairy lunch rooms, cafeterias, tearooms, waffle houses, fountain lunches, sandwich shops and many others included in the general use of the word 'restaurant'.....

.....  
We agree with the applicant's basic assumption that legally there is no distinction between a tearoom and a restaurant, that tearooms are included within the term restaurants, and since the Board has no authority to permit a non-conforming use as a restaurant in this area, it is without authority to grant the present application.

CONCLUSION

In view of the foregoing, it is respectfully requested that the application filed by Mr. Leonard Johnson, described above, be rejected.

RAVENWOOD PARK CITIZENS' ASSOCIATION  
By its President and Attorney:

/s/ Samuel Hanenberg"

Also the following letter from the Resident Engineer, L. O. Bolton was read:

"Fairfax, Virginia  
July 3, 1957

The Board of Zoning Appeals  
County of Fairfax  
Fairfax, Virginia

Gentlemen:

Attached is copy of letter dated July 2, 1957 from Mr. Thomas D. Mara, Vice-President of Ravenwood Park Citizens' Association. This letter refers to a request being made for a use permit to operate a Tea House on Patrick Henry Drive (Route #2327) approximately 600' south of Route #7. Mr. Mara calls our attention to the hazard which already exists at this location and requests that an inspection be made of this condition. We have made the inspection and we also feel that this location is not suitable for commercial entrances, due to the 10% grade on each side of this proposed Tea House, the short vertical curve, and the kink in the alignment of the street. Also attached is a sketch of this site, which shows the features mentioned.

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Although we probably will not be able to deny access to this property we certainly do not feel that it will be adequately safe for public usage. Even a private entrance at this location would not be entirely satisfactory.

We trust this safety factor will be considered in the issuance of the use permit.

Very truly yours,

/s/ L. O. Bolton  
Resident Engineer"

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Copy of letter from Mr. Mara was also read, as follows:

"Ravenwood Park Citizens Association  
103 Kilmer Court  
Falls Church, Virginia

2 July 1957

Mr. A. R. Laube  
Virginia Department of Highways  
Fairfax, Virginia

Dear Sir:

The Board of Zoning Appeals will entertain a request for a special use permit for the operation of a tea house on the land known as the Crewe homestead off Patrick Henry Drive on the south side of Leesburg Pike. This hearing is to be held on 9 July, 1957 at the Fairfax County Court House.

Inclosed is a drawing of the land in question with the proposed access roads that will join Patrick Henry Drive. Because of the 10° drop on both sides of the crest of Patrick Henry Drive between the two access roads, we believe this will create a serious traffic hazard in our community.

It is requested that you investigate this condition. If you determine that a traffic hazard will exist as a result of the action mentioned above, we would appreciate your submitting a report of your findings to the Board of Zoning Appeals. A copy of your letter to the Board of Zoning Appeals will also be greatly appreciated.

Sincerely yours,

/s/ Thomas D. Mara  
Vice President  
Ravenwood Park Citizens Association"

This, Mr. Hannenberg considered to be of the utmost importance. He asked the Board to consider the safety factor along with the foregoing Memorandum and reject the requested use.

Mr. T. Barnes asked if the opposition thought that a Tea Room of this nature as outlined by Mr. Johnson's "Outline of Intent" would lower property values in the area. The answer was unquestionably a "yes". Mr. Barnes noted that the antique shop has been operating without depreciation of property for ten years. That is a very limited operation, Mr. Hannenberg stated, they ~~are~~ are open only during the day, and it has a restricted clientele.

A restaurant would be open nights, serving wine and beer - the house would be late, it would naturally be noisy, the people in the area would be subjected to odors, garbage, and litter - the natural attributes of a restaurant.

The Crewe property backs up to residential lots - the restaurant itself would not be more than 150 feet from these lots, Mr. Hannenberg stated, and expressed the opinion that this use would greatly reduce property values and would be entirely incompatible with the area.

July 29, 1977

## NEW CASES - Ctd.

5-Ctd. It was brought out that Mr. Coffman of Coffman and McGaffrey did not support this requested use. Mr. McGaffrey agreed that that is true - but noted that he is President of the Company and owns 50% of the stock.

L. B. Reed appeared before the Board representing Ravenwood Citizens' Assn. and read a statement opposing this use. The Association agreed without a dissenting vote to oppose this use and voted that the Executive Committee take necessary action to implement their decision.

Mr. Reed represented his own home as being 200 Juniper Lane, within a base ball throw of this property.

In his prepared statement, Mr. Reed questioned the seclusion from trees which are bare in winter - but whatever seclusion they have had - it has been an asset which they bought in Ravenwood Park, and which this use is invading. The restaurant will be located on the Ravenwood Park side of the Ridge, Mr. Reed noted - not on the Route #7 side where it would at least be a little farther from homes.

There is no question but that this will be a full fledged restaurant, Mr. Reed continued, it is so designated by Mr. Johnson's own statements. Mr. Johnson has stated that he would serve full meals and would have a large parking area, and that he could not rely on customers from the immediate area, but must draw from the Washington Metropolitan Area. This means this will be a large scale eating house, and the neighborhood will be subjected to trucks, garbage, cans, coming and going of deliveries and rats, mice, flees and rodents will spread to their homes. A restaurant will naturally accumulate trash and cans containing waste food which will breed insects which would be extremely dangerous to people in the area.

They dont want noise at night, Mr. Reed contended, when children and older people or the sick should not be disturbed. They bought in a quiet neighborhood where they could have their own gracious dining in a relaxed atmosphere - they have bought all that at a high price, Mr. Reed continued, but they want it in their own homes. They object to the night music, head lights, the invasion of their privacy by a large eating house.

Nothing that Mr. Johnson can say changes the fact that he plans to operate a restaurant with all its bad effects. Mr. Johnson insists that he wants to bring culture and beauty into his establishment - but he is bringing the restaurant into an expensive residential district - against the wishes of the neighborhood. There are many other suitable locations in the County, Mr. Reed suggested, without ruining the County's better residential area. This is for all intents and purposes the same as a rezoning - a spot zone - it wipes out the protection from the Zoning Ordinance and would let down the bars and act as a wedge to encourage other commercial enterprises to enter the neighborhood. What better precedent could be set in other similar residential areas, Mr. Reed asked, than to point to this. This is a use permit for what is prohibited by zoning. Granting such a use would kill incentive to buy in

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good neighborhoods, Mr. Reed continued. Zoning should provide protection, therefore it should be guarded. The tax revenue from this neighborhood also should be considered. Is it the County's desire to reduce that revenue?

Mr. Reed also questioned the long lease on this property - with no financial backing - a lease which is not contingent upon the granting of this permit. That would <sup>not</sup> appear to be good business, Mr. Reed contended.

Mr. Reed suggested that the owners rights stop where the rights of others begin. He thought Mrs. Donohue's financial difficulties should not be considered at the expense of property owners in the area. Mr. Reed urged the Board to reject the requested use.

Mr. J. ~~Van~~<sup>W.</sup> Creed from Ravenwood Citizens Association objected to the devaluation of property and the circumventing of the zoning regulations and the lack of protection for people who have bought in the area.

Mr. Wood presented Mr. E. G. Lord, Real Estate salesman, living at 314. Ravenwood Drive, employed by Coffman and McCaffrey. Mr. Lord stated that he had sold every house in Ravenwood Park and in his honest and frank opinion this use would not harm the homes in the immediate area.

The Board asked about areas surrounding Tea Rooms in other areas. Mr. Lord mentioned the good development around Olney Inn and also Allison's Tea House in Arlington, which Mrs. Henderson noted was started long before zoning regulations and also noting that there are no homes near it, therefore no traffic from the Tea House would pass by homes.

Discussion followed regarding Coffman and McCaffrey's attempt to purchase this tract at one time for home development, and the statement attributed to Mr. Lord that this property would never be used for commercial purposes. He had not made the latter statement, Mr. Lord said, and the purchase of the Crewe property was the affair of Coffman and McCaffrey.

Mr. Mackall expressed the opinion that Mr. Reed had made a vitriolic statement unsupported by facts.

Mr. Mackall suggested that the opposition has stated that there is no definition of a Tea Room - that it is actually a special type of restaurant. But the Board left the words "Tea Room" in the Ordinance, they therefore must have intended that a special type of restaurant could be granted.

This establishment will make very little change in the premises, Mr. Mackall continued, a quiet Tea Room will fit appropriately with the area and in his opinion would be an added attraction.

Mr. Jack Wood referred to the letter from the Highway Department regarding ingress and egress and noted that this property already has an entrance which is commercial to a degree.

The question of a use creating additional traffic was raised in a recent case before Judge Garrico, and he had stated in his decision that additional traffic on a highway where a traffic situation already exists is no reason to deny that use - and that the highways are for all the people and to be used by them. However, Mr. Wood continued, the ingress and egress will

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## NEW CASES - Ctd.

5-Ctd. have to be worked out - he was confident that could be done.

Contrary to Mr. Reed's implication, they do not wish to put a slum or a dump on this property, Mr. Wood told the Board, but they are offering a project proposed by an old resident of the County whose family have sacrificed much for the good of this area. This property could be put into small home development, Mr. Wood went on, and create more traffic hazards and bring down the values of adjoining property far more than the proposed project, which will actually change the home very little - it will leave the spacious well landscaped, well screened property and give the same appearance of the present open area.

The Board of Zoning Appeals is empowered to take the rough edges off of the Zoning Ordinance, Mr. Wood explained, operating to allow variances from the strict letter of the law, and not out of harmony with the character of any area.

This would act as a buffer between a highly developed commercial area and a good residential neighborhood, Mr. Wood contended. It is a good protection. He felt that they had given sufficient reasons for the granting of this use. Mr. Wood concluded, he thanked the Board for their patience.

Mr. Mackall said they would be willing to do anything the Board wishes in the way of a buffer - say 100 feet - if the Board desires, they would switch the entrance to comply with whatever requirements the Board sees fit to impose.

While the Board has not settled upon an arbitrary definition of a Tea Room, Mrs. Henderson stated, they have searched extensively for a definition and have discussed at length what could be termed a tea room, as distinguished from a restaurant, and have found many suggested definitions - but the Board found no definition in their research to cover anything like what has been described here today. If this is a restaurant the Board cannot grant it - by whatever name it is called - under Section 6-12-f-2-a and b.

With regard to the highway and safety factor which Mr. Wood discussed with relation to the Judge Carrico <sup>case</sup> - that/is being appealed, Mrs. Henderson continued, therefore the outcome is still uncertain.

The hours of this Tea House are uncertain (according to Mr. Johnson's own statement), the serving of wine and beer is not conducive to a quiet place, the coming and going of traffic will not add to the welfare and safety of people working or residing in the community, therefore, Mrs. Henderson moved to deny the case. Also Mrs. Henderson added - it is admitted by the applicant that this is not being established as a service to the immediate neighborhood.

Mr. V. W. Smith noted that there are several letters in the file which should be read. The following letters, which are on file in the records of this case, were read; From Mr. Hannenberg dated June 4, 1957; Lt. Col. Eberts, dated July 6, 1957; and George H. Henry, dated July 7, 1957 - all objecting to this use.

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There was no second to Mrs. Henderson's motion.

Mr. Lamond moved to grant the application as it conforms to Section 6-12-f-2-a and b of the Ordinance, and it does not appear that it will adversely affect the use of neighboring property. In his opinion, Mr. Lamond stated, nothing could be put here that would be a better transition between a highly commercial development and a good residential area than this type of use. Since this is a controlled use, if the project is not a success the property would revert back to its original status.

Seconded; Mr. T. Barnes, who stated that in his opinion it would be more detrimental to adjoining property owners to have a shoe-box house development on this property than this limited type of business.

A number of people in the room asked to speak - although the Chairman had asked at the closing of the case if anyone else wished to be heard - and no one volunteered to speak. There were approximately 33 present opposing the application.

Since the Board had no desire to refuse opportunity to anyone to speak - the Chairman granted the right for further discussion.

The following stated their objections: R. S. Webber; T. D. Mara, 103 Kilmer Court, adjacent property owner who labeled this an encroachment on the rights of citizens. He objected to the noise, noting that at their home they can hear conversational talking going on at the Crewe house. He thought the restaurant would be detrimental to their homes.

Mr. Raider - who stated that much of his life savings are in his home. He bought here with the understanding that this would be a residential area - always. This use would cause him great inconvenience and financial loss. He was unalterably opposed.

Mr. William Shaffer, objected to this nuisance, noise, traffic, trash.

Mr. Stuart Dawson, who lives across the street, also described how clearly noises carry from the Crewe home.

Colonel Scott, living on Patrick Henry Drive, said he was assured this property would not go commercial when he bought. He also objected to the dangerous entrance.

Joan Hancock, living on Patrick Henry Drive, spoke of the danger to children playing in and near the streets - running for balls, and the great hazard from cars coming and going to the restaurant.

Mrs. Hancock also spoke opposing.

Mr. R. S. Clipper asked denial of the case as he believed further business would follow on this 6.6 acre tract. He also objected to the dangerous entrance at the crest of the hill.

Mr. Lamond suggested changing the entrance to Route #7 - he was over-ruled by the other Board members.

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NEW CASES - Ctd.

5-Ctd. Mrs. Henderson suggested that more restrictions should be added to the motion.

Mr. Lamond added to his motion that this be granted to the applicant only and that there should be no transfer of the use permit as long as it continues to exist, and that this use shall include the full 6.6 acres for the Tea Room and this shall be confined to the use as stated by the applicant in his "Outline of Intent".

Mr. Barnes accepted the additions.

Mr. V. W. Smith was apprehensive of the entrance which he thought very dangerous. He also did not consider that this conforms to Section 6-12-f-2- a and b of the Ordinance. He felt that this use will affect adversely the neighboring property and community, and that if houses were built on this property a service drive would be required by the Subdivision Control office along ~~Patrick Henry Drive~~ <sup>St. 7</sup> - therefore, the traffic hazard from home development would be reduced.

For the Motion: Messrs. Lamond, Barnes, J. B. Smith

Against: Mrs. Henderson and Mr. V. W. Smith

Motion carried.

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6- SAFEWAY STORES, INC., to permit erection of 6 signs with larger area than allowed by the Ordinance (Total Area-530 sq. ft.), northwest corner of Patrick Henry Drive and Arlington Boulevard, Falls Church District. (General Business).

The applicant had asked for an indefinite deferrment on this, Mr. Mooreland told the Board as he can make no plans until the realignment of Patrick Henry Drive is completed.

The Board agreed to an indefinite deferrment.

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DEFERRED CASES:

3- MICHAEL DEVELOPMENT CORPORATION, to permit erection and operation of a service station and permit pump islands within 25 feet of street property line, on south side of Columbia Pike, 200 feet west of Evergreen Lane, Mason District. (General Business).

This case was referred to the Planning Commission for recommendation. The following recommendation was read:

"The location of the proposed building as shown on the plot plan submitted with the application is such as not to interfere with the maximum right of way needs which can be foreseen by the Highway Department for the improvement of Columbia Pike in this location.

It appears that the Highway Department has no concrete plan for construction of a proposed Annandale By-pass in the foreseeable future."

Therefore, Mr. Schumann told the Board that the Planning Commission recommended the granting of this application. It was noted that the pump islands

DEFERRED CASES - Ctd.

3-Ctd.

are set back 34 feet. The required setback is 35 feet. The main building is setback 88 feet from the right of way. This would allow for the proposed widening of Columbia Pike.

Mr. Lamond moved to grant the application in accordance with the plat presented with the case, dated October 27, 1956 by E. A. Kramer.

Seconded, T. Barnes

Carried, unanimously.

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4-

SUNSET DRIVE IN THEATRE, to permit erection of an additional sign to existing marquee which makes the aggregate area in excess allowed by the Ordinance, (214 sq.ft.), north side of #7, approximately 1/2 mile east of Bailey's Cross Roads, Mason District. (Rural Business).

Mr. Jack Wood represented the applicant.

This is the scheduled re-hearing requested by the Service Neon Sign Company.

Mr. Wood told the Board.

The new evidence justifying the re-hearing, Mr. Wood stated is the following letter from Mr. Karl Noerr, District Traffic Engineer of the State Highway Department:

"June 21, 1957

Mr. Anthony D. Gallo  
1916 Diagonal Road  
Alexandria, Virginia

Dear Mr. Gallo:

As requested in your recent telephone conversation, I have made a study of the sight distance restrictions at the exit from the Sunset Drive In Theatre.

The sight distance to the west along Route #7 was almost completely unrestricted. To the east, it was found that if a car was stopped with its front bumper fifteen feet from the edge of Route 7, the full extent of sight distance could be utilized. If a vehicle is stopped more than fifteen feet from the edge of Route 7, the sight distance to the driver is somewhat restricted by the announcement board to his left. A vehicle stopping from five to fifteen feet from the edge of Route 7 would have an excess of one quarter mile sight distance in both directions, which is considered adequate for safe entry into the highway. If I can be of further service, please advise.

Sincerely yours,

/s/ Karl Noerr, District Traffic Engineer"

The total sign area on this property will be 214 square feet, Mr. Wood noted, and the applicant has 400 foot frontage.

This Board exists because there are inequities in the Ordinance, Mr. Wood stated, inequities which can be corrected. If this property was divided into business lots the owner would be allowed 1200 square feet of sign - it would therefore appear that the Board could grant a sign compatible with the use.

Mr. Gallo showed pictures of the sign with relation to the highway in an attempt to show that this sign is not a traffic hazard. The new sign would be in the middle of the existing sign and on top of it, Mr. Wood noted.

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## DEFERRED CASES - Ctd.

2-Ctd. Mr. V. W. Smith objected to the solid part of the sign at the base - which he thought would obstruct vision.

The possibility of widening of the highway was discussed, Mr. V. W. Smith noting that the full right of way would not be paved, and that the sign as placed would be too close if another lane is added to Route #7.

This is an old sign, Mr. Wood noted, and the time will come when it will be removed. By the time the highway is widened no doubt this sign will be removed and a new modern sign put up. This actually is a temporary measure to give the owner an even break/competing with other open air theatres.

Mr. Gallo said he was sure the owner of the theatre would put a stop sign up for entry to the highway when the show is out and they will also have a policeman on duty.

Mr. Gallo said he had checked with the highway Department and they have informed him that they will not put four-lanes on an 80 foot right of way. If this is widened for four-lanes they would necessarily acquire more right of way.

Again the removing of the solid portion of the sign was discussed, Mr. Gallo explaining that the back of this part of the sign is arranged as a storage area for letters for the marquee.

Whether or not this sign is a structure, was discussed.

Mr. Lamond moved to grant the application to Sunset Drive In for a sign with approximately 100 square feet in area located on top of the existing attraction panel, plat dated March 6, 1957, because this does not appear to adversely affect the neighborhood nor the health and welfare of the community. Granted under Section 6-12-g.

Seconded, T. Barnes

For the motion: Lamond and T. Barnes

Against: Mrs. Henderson, J. B. Smith, V. W. Smith

Motion lost.

Mr. V. W. Smith said if the applicant would agree to remove the solid portion at the base of the sign he would go along with a favorable motion.

Mr. Lamond moved to grant the application for a sign with approximately 100 square feet of area, provided the lower solid portion of the marquee be removed (the wooden panel) and the new sign shall be put on top of and in the center of the existing sign, the existing attraction panel and the new sign shall be supported by metal columns, approved by the building inspector.

Seconded, T. Barnes

For the motion: Lamond, J. B. Smith, T. Barnes, V; W. Smith

Mrs. Henderson voted no.

Motion carried.

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DEFERRED CASES - Ctd.

Mr. Mooreland called to the attention of the Board the case of THOMAS J. ALWARD, who was given permission to operate a repair garage on January 22, 1957 with the condition that Mr. Alward was to clean up the storage area. That has not been done, Mr. Mooreland informed the Board - therefore, he asked the Board to set a date for Mr. Alward to appear to show cause why his permit should not be revoked.

The Secretary was instructed to notify Mr. Alward in the name of the Board to appear before the Board on August 13, 1957 to show cause why this permit should not be revoked.

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In 1955 the Board granted a use for KIDDY LAND - not "to the applicant only", Mr. Mooreland told the Board, the applicant has leased the property and is now trying to break the lease. Since the application was not granted to the applicant only - the permit could not be revoked. This Mr. Mooreland brought to the Board for their information only. No action necessary. Mr. Mooreland showed the Board a sample of a new type of screening which is cut in such a way that on the inside it is clear and can be seen through. but from the outside it is not possible to see into the area screened. This is accomplished by louvres. This is a screen by name, Mr. Mooreland stated - but is actually screening or enclosing material. Since it does not provide enclosure for winter heat - the Board agreed that it is screening.

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The meeting adjourned

*Verlin W. Smith*  
Verlin W. Smith, Chairman

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The regular meeting of the Fairfax County Board of Zoning Appeals was held Tuesday, July 23, 1957 at 10 a.m. in the Board Room of the Fairfax Courthouse, with all members present: Messrs. V. W. Smith, Chairman; A. Slater Lamond; J. B. Smith; George T. Barnes; and Mrs. L. J. Henderson, Jr.

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The meeting was opened with a prayer by Mr. J. B. Smith

NEW CASES:

1- JAMES R. PAYNTER, to permit dwelling as erected to remain within 38.8 feet of street property line, Lot 4, Section 4, Piney Run, Lee District. (Rural Residence-Class II).

Mr. Cohen represented the applicant. The applicant got a building permit for the dwelling and started construction, Mr. Cohan told the Board. Some-time later he discovered the house location was in violation on the front setback. This error came about because the cul-de-sac was not taken into consideration. They had planned a 63 foot setback from the continuation of Piney Run Drive - which conforms to the setback of the existing house on adjoining Lot 5, and is back farther than all other houses in the subdivision on this side of the street. Mr. Paynter owns all the area surrounding - the lot is large and this violation will not adversely affect anyone, Mr. Cohen contended.

Mr. Cohen presented a petition signed by the owners of property in Section 4 of Piney Run Subdivision, stating they have no objections to this encroachment.

Mr. Paynter said he had continued the house to get it under roof for protection - then stopped immediately he was aware of the violation. This is an inadvertent error, Mr. Paynter continued - which never would have happened had they realized the circle would have to be put in.

Mr. Mooreland explained that this property was divided under the old zoning which required only a 40 foot setback - rather than 50 feet as the present zoning requires - therefore the variance is very slight. It was noted on the plat that this lot borders half of the cul-de-sac therefore no dwelling could be located near this dwelling.

Mr. V. W. Smith asked that in cases where the zoning has been changed by the Freehill Amendment both the old zoning and the new be put on the agenda for the Board's information, indicating which zoning is pertaining.

Mr. Cohen said they had thought the 40 foot setback prevailed.

There were no objections from the area.

This lot could never be subdivided further, Mr. Cohen explained as about 1/2 of the lot is very low and unbuildable. In fact, Mr. Cohen continued, the site where the house is located is the only usable building site on the property. The garage is under the house. Also this is the last lot in the subdivision.

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1-Ctd.

Mr. Lamond moved to grant the application because this is a slight variance and it does not appear that it would adversely affect the neighboring property nor the safety and welfare of the community.

Seconded, J. B. Smith

For the motion: Lamond, J. B. Smith, T. Barnes and Mrs. Henderson

Mr. V. W. Smith not voting

Motion carried.

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2-

MRS. A. H. HEILEMAN, to permit erection of dwelling 25 feet of the street property line, Parcel 2, Block 3, Section 1, Belle Haven Subdivision, Mt. Vernon District. (Urban Residence).

Mrs. Heileman and Mr. Ayres, the architect for the applicant, appeared before the Board.

Mrs. Heileman presented the letters of notification which she had sent to adjoining and nearby property owners, all of whom returned the notification with a signed statement that they did not object to this variance.

Also, Mrs. Heileman presented a letter from the Belle Haven Citizens Assn. stating that that Association has no objections to the variance and expressing confidence in the type of home Mrs. Heileman would build and their belief that the architecture would be in keeping with Belle Haven.

Mrs. Heileman recalled that this ground was formerly used as a gravel pit and the topography is very rugged. The topographic map she presented with the case indicated a tremendous drop off at the rear - with the only buildable area toward the front of the lot - on which the house is proposed to be located, and which location would require this variance.

Mr. Ayres explained that by locating the house back farther (the slope is about 8%) it would be necessary to go about 7 feet below the curb line - which would make it difficult to enter the sanitary sewer.

Mrs. Heileman showed a drawing of the house proposed to be built which was designed particularly to fit the topography of the lot. It is a split level at the rear - thereby utilizing the back slope.

Mr. Lamond said he knew the property very well and told the Board that in his opinion this lot would be difficult to build upon and under Section 6-12-2-g of the Ordinance, which gives the Board powers relative to variances where by reason of exceptional topographic conditions of a specific piece of property the strict application of the ordinance would result in exceptional and undue hardship - he would move to grant the application.

Seconded, T. Barnes

For the motion: Lamond, T. Barnes, J. B. Smith

Against: Mrs. Henderson, V. W. Smith

Motion carried.

//Mr. Lamond said he knew Mrs. Heileman to be a reputable person and one whose word could be depended upon. He felt she was the type of person the County should encourage as a permanent resident.

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3- CITIES SERVICE OIL COMPANY, to permit erection and operation of a service station with pump islands within 15 feet and 20 feet of the street property lines, Lots 28 and 29, Hybla Valley, Mt. Vernon District. (Rural Business). Mr. Art Post represented the applicant. Mr. Post asked to make a correction in the application - in that the setback of the pump islands be changed from the requested 15 and 20 feet setback to a 25 foot setback.

Mr. Schumann said he felt it necessary to give the Board the following information: That he had received a letter from the Highway Department in Jan. of this year stating that they have ultimate plans for a 160' right of way for U. S. #1 along here, but that they have no definite plans as to when this widening will be done. The highway has four-lanes at present, each of which lane is only 10 feet wide with no division between traffic lanes. The Highway Department do not consider this improvement to be as necessary as other roads in the area - therefore, the definite plans are not formulated - nor are funds available. Mr. Schumann thought this work would not be done in the immediate future. However, Mr. Schumann also noted that the 160' right of way could be acquired without moving the pump islands. He noted that there are other filling stations on the same side of the road where provisions have not been made for the proposed 160' right of way.

It was noted that the road name on which this property borders on one side has been changed from Abingdon Avenue to Boswell Avenue.

Mr. Post called attention to the fact that this application involves only 150 foot frontage - and he considered it unfair to hold up this business for the widening - when there are many other businesses along U. S. #1 in this area which have not provided for the widening. Whenever the right of way is to be acquired, Mr. Post continued, they will make a clean sweep and purchase from all property owners where the right of way is necessary. It would seem unfair to compel this applicant to wait for that indefinite future time.

(It was noted that the application involves two plats - one certified as to the property, the other showing the site location. Mr. Post called attention to the fact that the plat on which the site location is shown is taken from the certified survey.)

Mr. Lamond moved that the application be granted in accordance with the original survey plat by Walter Phillips, dated Feb. 1957, and the site location plat by Wm. H. Eubank, C.E., No. 1408 - certified Mar. 1, 1957 - except that the pump islands shall not be located closer to the right of way of U.S. #1 or Boswell Avenue, also known as Abingdon Ave., than 25 feet. This is granted under Section 6-16 of the Zoning Ordinance.

Seconded, Mrs. Henderson

Mr. V. W. Smith suggested that the building be moved back 15 feet farther to give more clearance for the future right of way.

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3-Ctd.

Mr. Post answered that this is the second layout they have made - at first they had located the building closer to the right of way. It was moved back as far as it could practically be done and still keep within open vision of the travelling public. If it is located back farther the building is shielded by construction on adjoining property.

Mr. Post noted that Robert Hall and Kinney Shoes are located back 56 feet from the curb line - this is along only a 50 foot right of way.

Mr. V. W. Smith said this is the first time he had heard that the Highway Department are contemplating a 160 foot right of way here - therefore he thought it ridiculous to put a building so close. But, Mr. Post answered - this is the only business to be so penalized, and as a matter of fact the widening could take place here without moving the building. There is a considerable amount of other new construction along U. S. #1 which is in the way of the proposed widening highway, Mr. Post continued - and under any circumstances it takes years to accomplish such a widening - he insisted that it is unfair to insist upon this one business setting back any farther than others.

For the motion: Lamond, T. Barnes, and Mrs. Henderwon

Against: V. W. Smith and J. B. Smith

Motion carried to grant.

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4-

ANDREW J. PRINCE, to permit erection of dwelling within 25 feet of Marshall Place, (at N. E. corner of Collingwood Road and Marshall Place), Mt. Vernon District. (Rural Residence). Mr. Schneider represented the applicant.

This is an old subdivision, Mr. Schneider told the Board - of 50 foot lots, which have been combined into 100 foot lots. Lot purchasers have discovered that they cannot build on these combined lots and observe the 50 foot required setback.

Mr. Schneider presented his petition notifying property owners in the immediate area all of whom noted that they did not object to the 25 foot setback requested from Marshall Place. There are two houses now with frontage on Marshall Place, Mr. Schneider continued, both of which have a 25 foot setback. (These houses are in different blocks). If the other lot owners have to set back the 50 feet - they cannot build, Mr. Schneider continued. Mr. Schneider pointed out that Marshall Place is a short street, running between Collingwood Road and Chadwick Place. It has never been improved - and no houses face on it. The people owning property adjoining Marshall Place continue their lawns or yards to the center of the street.

Both Collingwood Road and Chadwick Place are two blocks long - running into U. S. #1 at one end and Fort Hunt Road at the other. These streets will not be continued. Marshall Place also could not be continued as it ends in front of a dwelling.

## NEW CASES - Ctd.

4-ctd. Mr. Mooreland noted that if the addition on this house were a one car carport instead of a two-car port the 25 foot setback would not be necessary, as he could grant that variance.

Since there is no need for Marshall Place they would like to abandon the street, Mr. Schneider said, but one property owner in the subdivision objects to that.

Mrs. Henderson suggested building a single width carport with room for the second carport behind the first. Mr. Schneider answered that there is a screened porch between the carport and the dwelling proper and to continue the structure on back - would cover the kitchen windows.

There are six vacant lots in the same position as this one, Mr. Schneider pointed out, all of whom would like to ask the same variance. There are only eight lots involved, two are already built upon with the 25 foot setback. A 50 foot setback would be out of line with these two houses as well as being impractical for location of the houses. The people bought these lots in good faith - thinking they could use the 25 foot setback which the title company had said was satisfactory. Several of the lot owners have their plans and are ready to start building.

Mr. Lamond moved to grant the application on the grounds that it will not adversely affect the neighborhood and from the facts of the case as presented it appears that there will be no development of Marshall Place, therefore, there is no reason not to grant the requested 25 foot variance.

Seconded: Mr. T. Barnes

For: Messrs. Lamond and Barnes

Against: Mrs. Henderson, J. B. Smith, V. W. Smith

Motion lost -- case denied.

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## DEFERRED CASES:

1- FLORA McNEIL MALLORY, to permit operation of a kindergarten and first grade in present building, on west side of Route #123, approximately .9 mile south of intersection of Route #123 and Route #236. Providence District. (Rural Residence-Class II).

Mr. Lee Bean represented the applicant.

The Chairman called attention to the fact that this was deferred for report on the percolation test and for a report from Richmond on the water.

Two letters from Doctor Kennedy were read - one stating that the septic system is satisfactory at present, but must be enlarged for additional load; the second letter stated that Mrs. Mallory had made application for sewage disposal system but that the permit has not yet been issued - pending results of the percolation test, which was to be made July 24, 1957.

Since this is the day of the hearing, Mr. Bean suggested granting this contingent upon the satisfactory percolation test.

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DEFERRED CASES - Ctd.

1-ctd

Mr. Rust's opposition on the behalf of the adjoining neighbor at the last hearing was recalled. Mr. Bean told the Board that Mrs. Mallory would fence the play yard and the play yard would not be on the side of the objecting neighbor.

Mrs. Mallory said the well had been re-tiled and the water approved by the Virginia Health Department.

Mr. Rust said his client objected to this use under any circumstances. They considered it a nuisance and not in keeping with the area. Mr. Rust thought his client, Mr. Atkins, could have a serious liability with a project of this kind next door. He has cows and a lake - both of which could be dangerous to the children.

Mr. T. Barnes moved to defer the case until the next meeting (August 13th) for report from Doctor Kennedy on the percolation test.

Seconded, Mrs. Henderson

Carried, unanimously.

Mr. Lamond felt the application should have been granted contingent upon the satisfactory percolation test.

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2-

JAMES S. KEITH, for an appeal from decision of Administrative officer under 6-12 (e), Zoning Ordinance, in re: River Towers Apartments, adjacent to south side Section 3, Belle View Apartments, Mt. Vernon District. (Urban Class-1).

Mr. Prichard asked to respond to Mr. Richard's Memorandum on the previous hearing in this case.

Mr. Lamond suggested that the Board retire for a short executive session - which he thought might facilitate the Board's agreement. However, the other Board members preferred to go ahead with the case in open session.

The following letter from Mr. Fitzgerald, in response to Mr. V. W. Smith's questions, was read:

"July 22, 1957

In answer to your memorandum of July 12, 1957, concerning the appeal of James S. Keith regarding River Towers Apartments, I advise that you failed to enclose 'Excerpts from minutes of the meeting of Board of Zoning Appeals of July 9, 1957'. At our request, Mrs. Lawson furnished us with the following excerpt, which I assume was what you intended in your memorandum:

'Mr. Richard stated that they would concede that at the time the application on the Belle View Apartment was made in 1947 that they did anticipate at that time a garden type apartment, similar to the apartments which have been built upon the property.....'

On the three questions proposed in your memorandum, I advise as follows:

1) It is my opinion that the phrase 'one ownership' contained in the definition of a multiple housing project does not alter item 5 of my previous memorandum. It is used solely in the definition of a multiple housing project and I do not believe that such would preclude the holder of a use permit for multiple housing from ever selling portions of a parcel of land for which a use permit had been granted. It is my information that

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Blank



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DEFERRED CASES - Ctd.

2-Ctd.

a number of the larger apartment projects in the County were developed in sections, each section being under different ownership, based on the use permit granted for an entire tract.

2) The words used in the Planning Commission's recommendation of 1947 were 'type of architectural design indicated by the prospective rendering submitted with the application'. I do not know the 'type of architectural design' shown on the rendering nor do I know that a garden type apartment is a 'type of architectural design'. Therefore, I cannot alter my opinion contained in items 2 and 6 of my previous memorandum.

3) I find no express authority given the Board of Zoning Appeals to attach conditions to the granting of an exception for apartments. To the contrary, it is stated in Section 6-12, 5, on page 94 of the Code which was in effect at the time the exception concerned was granted:

'5. The board of zoning appeals is hereby empowered to grant special exceptions and authorize the zoning administrator to issue use permits for the erection of multiple housing projects in the Urban Residence District, but any such exception shall not be granted unless the application shall have first been submitted to the County Planning Commission for its recommendations.

Provided the appeal is granted, the layout of the project shall be approved by the Planning Commission as being in conformance with the regulations as set forth in Section 6-14 of this Volume, and a subdivision plat in accordance with duly adopted subdivision regulations shall be approved and recorded before any construction permit shall be issued.'

It will be noted that the underlined portion above specifically empowers the Planning Commission to approve the application as being in conformance with the regulation set forth in Section 6-14. Section 2(b) or Section 6-14 specifically states that 'the height of any structure shall not be limited;....' Therefore I am compelled to conclude that the Planning Commission or the Board of Zoning Appeals had no authority, if that was the intention, to limit the height of the structures. To do so would seem to clearly violate the word as well as the intention of Section 6-14 (a), 2 (b).

/s/ Robert C. Fitzgerald  
Commonwealth's Attorney"

In view of the Memorandum from Mr. Fitzgerald, Mr. Lamond moved that this appeal be denied.

Mr. Fitzgerald has taken the position, Mr. Lamond stated, that it was not within the authority of this Board, nor the Planning Commission to set conditions on such apartment project. This Board could argue for hours, Mr. Lamond continued, whether or not it agrees with the Commonwealth's Attorney, but in his opinion the answer in the Commonwealth's Attorney's letter is clear cut.

Mrs. Henderson stated that in her opinion it is not necessary to go beyond the language of the Ordinance itself for the answer. Mrs. Henderson quoted Section 6-12-d-2 a-b of the Ordinance showing that the applicant is not being denied the use of his land but that the building permit must be 'in accordance with such permit' and the permit was granted on the design of the original plan at the time of the hearing. This present plan, Mrs. Henderson went on, is completely different from the original permit.

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## DEFERRED CASES - Ctd.

2-Ctd. The Board of Supervisors say (by Amendment to the Zoning Ordinance) that the granting of apartment use is a legislative policy, showing that the granting of an apartment use is not now a matter for the Board of Zoning Appeals - but rather a legislative policy.

Mrs. Henderson said she did not question the use of the land but she did question the type of apartment planned - the 17 story buildings. If the garden type apartments were continued, it would be all right, Mrs. Henderson continued, but the 17 story buildings are not consistent with the original permit and the type of apartments granted originally.

Mrs. Henderson said she had thought this case through very carefully for the past two weeks, she had talked with attorneys and architects and that it is their opinion that the original granting was legally restricted to designate the type and actual design of buildings.

Mr. V. W. Smith expressed the appreciation of the Board to both Mr. Prichard and Mr. Richard for their Memoranda - which he thought excellent and the cases cited in the Memoranda were very helpful.

Mr. Prichard, in his statement to the Board referred to the case of Burkhart vs the Board of Zoning Appeals of the City of Richmond (191 Va 606 - 66 SE Second, Sec. 525). This involved the granting of setback with the condition of a wall across the rear yard. The case was appealed and upheld - thus showing that the Board of Zoning Appeals does have the power generally to place conditions when it is for the general benefit to do so.

The Board has the power to grant and to deny, Mr. Prichard continued, there must be some middle ground so the County can have control over a situation. If the Board has no control over a granting - the Board of Zoning Appeals is of little use, Mr. Prichard went on. In 1947 it was the intent of the Board to limit Messrs. Olmi and Landrith to a certain type of apartment. Under Section 6-12-6-7 of the Ordinance the Board has broad powers, Mr. Prichard continued, provided the granting is "in harmony with the general purpose and intent of the Zoning Regulations and will not adversely affect neighboring property." Therefore, the Board must listen to the evidence and make that decision. If conditions cannot be placed on a granting the people of the County are at the mercy of the applicant. Mr. Fitzgerald went out on a limb in his first letter, Mr. Prichard contended, naturally he did not saw that limb off in the second letter.

Under Section 6-14, the Ordinance provides standards for multiple housing, Mr. Prichard continued, stating within these standards that there shall be no height limitations. What does that mean, Mr. Prichard asked? The word "shall" may be permissive or future, he answered. In his opinion it means that when application for apartments is made the Ordinance shall not limit the height of the building but the Ordinance will limit height under Section 6-11-2 to 75 feet. In the next section it is said that that last section does not apply to apartments. It does not say, however, that the Board of Zoning Appeals cannot place limitations on height.

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DEFERRED CASES - Ctd.

2-Ctd.

The conditions on the granting in 1947 did not limit the height of the building, Mr. Prichard continued, they were not particularly worried about that at that time because no one had thought of a 17 story building. They did limit it to what they said they would build. The question is if these buildings now being considered conform to those in 1947 - what they said they would build. It is obvious they do not, Mr. Prichard answered.

They are attempting to get the permit on the 1947 permit but do not wish to comply with the conditions. You cannot deny the validity of the conditions of the original permit and give the building permit which is granted upon that permit, Mr. Prichard concluded.

Mr. Richard called the Board's attention to the case of Burkhart vs the City of Richmond making it clear that the case is not before the Board to determine if a variance can attach conditions but rather the question is if the Board can legally attach conditions to an exception for use of land for multiple housing. The answer is clear, Mr. Richard continued, that such conditions cannot be attached as shown in the cases cited in his Memorandum. It would be impossible, Mr. Richard argued, to grant this appeal without in effect amending the Ordinance - which this Board cannot do.

The powers and jurisdiction of the Board of Zoning Appeals are set forth in the Code in Section 15-850, Code of Virginia, which states that in the Zoning Ordinance the Board of Supervisors may provide if they so desire a Board of Zoning Appeals - setting forth the powers of the Board.

The State law also makes a clear distinction between an exception and a variance just as does the Zoning Ordinance of Fairfax County. Therefore - the Board of Supervisors cannot delegate power that the Board of Supervisors does not have. Under the terms of the Ordinance, the Board cannot attach conditions to an exception. Under the Ordinance the only power of the Board of Zoning Appeals in 1947 was to say the use for the tract of land was desirable for multiple housing. That was the beginning and the end of the jurisdiction of the Board of Zoning Appeals. Any conditions attached were illegal.

In Section 6-14-b (height limitations) Mr. Prichard has stated, Mr. Richard recalled, that "shall" does not mean "shall" but that it is permissive. That is not so, Mr. Richard insisted, it is mandatory.

It is abundantly clear, Mr. Richard continued, that the real objection to this case is on the basis of height. It is clear also that the Ordinance prohibits any restriction on the height of multiple housing. What additional argument can be given to this Board other than the clear and open decision of the Court, when the reading of the Ordinance strictly limits the authority and jurisdiction of this Board of Zoning Appeals.

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## DEFERRED CASES - Ctd.

2-Ctd. If you should grant this appeal, Mr. Richard continued, again it is true that you are in affect attempting to fit the language of this Ordinance to fit what you are thinking the Ordinance should contain - not what the Ordinance does contain. Mr. Richard said he hoped the Board would deny the request for the appeal on the grounds of Mr. Fitzgerald's statements and upon the provisions of the Ordinance under which you are authorized to work and upon the discussion set forth in the Memoranda filed with the Board. (Mr. Richard asked that the Memoranda be made a part of the official records of this case.)

As to the six months clause, Mr. Richard continued, that too is abundantly clear. Under the authority of the Board of Zoning Appeals, when this was granted in 1947, they had only one thing to do - to decide upon the use of the land. The Zoning Administrator was, under Section 6-14 of the Ordinance, charged with seeing that that Section of the Ordinance was complied with. It is difficult to stretch the meaning of the six months provisions to a case where the Board of Zoning Appeals does not order the erection of a building.

Mr. Richard quoted Section 6-12-d-2.

The Board of Zoning Appeals under the Ordinance in 1947 did not issue an order for the erection of a building - they authorized the Zoning Administrator to issue a permit for multiple housing in accordance with the Ordinance. If you argue the six-months provision it would only apply from the time the building permit was issued by the Zoning Administrator. Construction has commenced on this and the six months provision has not elapsed.

In case of an adverse decision on this appeal, Mr. Richard cautioned, the question of individual responsibility for continuous and unnecessary delays is to be answered.

Mrs. Henderson recalled that Mr. Price had said the Commission wished to grant nothing less than Fairlington - that was most certainly something of a condition, Mrs. Henderson continued.

When they granted this in 1947 - they performed their duty, Mr. Richard said, they determined that the use of the tract was in harmony with the zoning scheme and that it would not affect adjoining property adversely. How could they do more than that, Mr. Richard asked, in accordance with the Ordinance? To say that if the Board of Zoning Appeals in 1947 - had they thought the multiple housing apartments would have been buildings of 16 or 17 stories - would have rejected the case - it is in affect to impute to the members of the 1947 Board the unfair accusation that they, because of personal whim would have attempted to ignore the Ordinance.

However, if they had thought it would be worse than Fairlington, they would not have granted the multiple housing, Mrs. Henderson noted. The different use in the same category, Mrs. Henderson said, is the thing that worried her.

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DEFERRED CASES - Ctd.

2-Ctd.

For example - the Board could grant a cemetery use for a Memorial type cemetery which is much different from a cemetery with tall head-stones. Styles change, and the desires of people change. If a Memorial type cemetery were granted and if a section of the cemetery were to be changed from the Memorial type - would this be in harmony with the granting? Mrs. Henderson quoted the section of the Code ".....permit.....and proceeds to completion in accordance with the original permit, etc....." - that is not on something different, it is on the type of building thought of at the time of the granting.

If a use permit is granted for a cemetery, Mr. Richard stated, and a very few were buried and a period of perhaps eight months elapsed with no burials, they have not lost the use permit. That use goes with the ground, Mr. Richard continued. The opposition to this permit is trying to attach conditions, Mr. Richard went on, that - under our Ordinance - are not permissible.

Mr. Richard thanked the Board for its courtesy in listening to the lengthy discussions in this case, but pointed out that the duty of the Board is clear - this appeal should be denied on the grounds of the facts set forth.

Mr. V. W. Smith suggested a hypothetical case whereby the applicant in 1947 might have submitted renderings or sketches of cinderblock, flat-roof buildings similar to Shirley Homes housing project - under Section 6-12-f "Upon appeals, the Board is.....empowered to grant requests for....exceptions when in the judgement of the Board such exception shall be found to be in harmony with the general purpose and intent of this chapter.....etc."

If the renderings and the discussion before the Board at that time had been around flat roofs like the Shirley Homes temporary housing, Mr. V. W. Smith asked - do you think the Board would find that to be in harmony with the surrounding property?

Mr. Richard answered that he did not know what action the Board would have taken in 1947 - but the Courts have held repeatedly that in zoning matters when you determine the use of land you cannot put conditions on the land about the cost of the buildings - which is in affect what Mr. V. W. Smith was saying.

It is more than the cost, Mr. V. W. Smith insisted, the flat top roofs and cinderblock construction would enter into the fact of "harmony".

There are no regulations giving architectural control to any Board, Mr. Richard answered. The architectural design referred to in the motion of 1947 was too ambiguous to have any meaning, Mr. Richard continued, what does it mean - brick, colonial, or what? We do not know, Mr. Richard answered, but we do know that the Board cannot control architectural design.

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## DEFERRED CASES - Ctd.

2-Ctd. Mr. V. W. Smith quoted Mr. Richard's statement at the last meeting, conceding that at the time application was made on the Belle View Apartment project in 1947 they did anticipate a garden type apartment, and asked Mr. Richard if that was correct. Mr. Richard answered that it was substantially so - but, Mr. Richard continued, they could say they contemplated anything, and after the exception or a zoning is established the applicant could materially alter what he has honestly expected to construct - and not violate anything in the Ordinance.

Mr. V. W. Smith asked - at the hearings in 1947, did the applicant present renderings like Fairlington?

He was not the attorney for the applicant in 1947, Mr. Richard answered - Mr. Andrew Clarke handled the case, and he had discussed this with Mr. Clarke who did not recall the renderings. The Secretaries in the office have searched all the office files thoroughly for the renderings and have not found them, nor any reference to them. Mr. Richard said he did represent Belle View with the Federal Government, and recalled the amount of money and time involved in preparing drawings for submission to FHA. He was confident they did not spend the money necessary for such drawings before they knew they could have multiple housing on that property. Many times they have artists sketches to show a Board of Commission - to give an idea of what is contemplated. That could have happened in this case, but he did not know.

Mr. V. W. Smith quoted from the minutes of this case in 1947 which referred to "renderings". These renderings, Mr. V. W. Smith stated have mysteriously disappeared very recently, as he understood that they were in the file during April of this year. Mr. Schumann and Mr. Mooreland both objected to this - saying the layout of the buildings on which the permits were granted were here in 1956 - but cannot now be found.

Mr. V. W. Smith asked Mr. Landrith if he recalled that the impression conveyed and the renderings submitted in 1947 would have conveyed the idea that the type of project planned to be built would be like Fairlington.

Mr. Landrith said he recalled no 17 story building.

Mr. V. W. Smith asked his question again. Mr. Landrith answered - that that was agreed to at the last meeting in Mr. Richard's statement. Mr. Landrith said he also had searched his office many times and found nothing - he did not remember renderings of any kind.

But, Mr. V. W. Smith continued, the impression you intended to convey at that time was a project similar to what is built.

That is probably true, Mr. Landrith answered - but he stated he did not remember the conversation.

Mr. Richard called to the attention of the Board that artists sketches are not to be considered as the "architectural design".

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2-Ctd.

To draw the inference that the applicants presented drawings of the project before the Board of Zoning Appeals in 1947 is to say that the applicant spent many thousands of dollars before they knew the use would be allowed. That is not sensible, Mr. Richard stated, it is implausible.

The Board can make a decision only on terms of the Ordinance, Mr. Richard continued, and certainly the opinion of the Commonwealth's Attorney and the legislative decisions of the State of Virginia should outweigh random legal opinions from other sources.

Mr. Lamond moved that this appeal be denied because the Board has no legal right to attach conditions to the granting of a case such as were attached in 1947.

Mr. Richard suggested that in view of the fact that this is an appeal from the action of the Zoning Administrator it should be included in the motion the language that the Board finds no error in connection with the granting of the permit.

Mr. Lamond included in his motion that the Board finds no error in connection with the granting of the building permit by the office of the Zoning Administrator.

Seconded, J. B. Smith

For the motion: Messrs. Lamond, T. Barnes, J. B. Smith

Against: Mrs. Henderson and V. W. Smith

Motion carried.

Mrs. Henderson and Mr. V. W. Smith pointed to the language of the Ordinance under Section 6-12-2-a-b - particularly the words "such" and "proceeds to completion", and to Section 6-12-f - "Upon appeals the Board is...empowered to grant requests...for special exceptions when in the judgment of the Board such exception shall be found to be in harmony with the general purpose ....".

Mr. V. W. Smith said he had talked with several 1947 members of the Board of Zoning Appeals and the Board of Supervisors, and others, all of whom were in agreement that the conditions of the first permit should obtain.

Following are the Memoranda presented by both attorneys covering the hearing of July 9, 1957:

"MEMORANDUM

TO: Board of Zoning Appeals

SUBJECT: Power of Board of Zoning Appeals to attach Conditions to Exceptions Granted by it.

The question to be decided by the Board is whether the Zoning Administrator erred in approving building permits for two 17-story apartment buildings at Belle-View.

It is not only proven by the photographs and the statements of Messrs. Schumann and Price, but conceded by Mr. Richard, that all of the discussions in 1947 concerned 'Fairlington-type' apartments. It is certain

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## DEFERRED CASES - Ctd.

2-Ctd.

that two seventeen-story buildings could not have been shown on the perspective drawings submitted and that the issuance of permits for the two buildings violates the condition imposed by the Board in 1947. The position taken by River Towers is simply that the 1947 exception is still good but that the condition attached to it is void. Mr. Richard says the Board has no power to impose conditions.

In 1947 Section XII-F of the Zoning Ordinance read substantially as it reads today:

'Upon appeals, the Board is hereby empowered to grant requests for the following special exceptions when in the judgment of the Board such exceptions shall be found to be in harmony with the general purpose and intent of the Zoning regulations and will not tend to affect adversely the neighboring property in accordance with the Zoning regulations and maps.'

Later in the same Section, Sub-Section 5 empowered the Board to grant 'special exceptions and to authorize a Zoning Administrator to issue use permits for the erection of multiple-housing projects provided the application should have first been submitted to the planning commission for its recommendations'.

Unquestionably, under this section the Board had the power to grant some requests and to deny others. It had the power to grant those requests in harmony with the general purpose and intent of the regulations and those which would not adversely affect the neighboring property. It had the power to deny those requests which would not be in harmony with the general purpose of the ordinance. In order to determine whether the proposed use would adversely affect the use of neighboring property and whether it would be in harmony with the general purpose of the Zoning regulations the Board had to listen to the applicant explain what he wanted to do.

The Board listened to Mr. Landrith and conditioned the exception on the finished product being like the drawings. But Mr. Richard now argues that regardless of what the applicant told the Board and regardless of the condition attached by the Board that once the applicant got the permit, he could do as he pleased. We submit that this is not the law.

In Vol. 2, Metzenbaum on Zoning, page 957, it is said:

'It has become a rather common practice for Boards of Appeals to allow a 'variance' or an 'Exception' subject to limitations imposed upon such permission itself. The power to attach such conditions, should usually be upheld unless the conditions are beyond the authority of the Board, and are outside of the Law or unless they are plainly unreasonable, because, in the absence of such 'conditions', the applicant might use a favorable ruling in such a way as to work an injury to the public and particularly to the neighboring area. Then, too, if a board were not permitted to stipulate 'conditions' upon which it will allow an appeal, it may plainly result in a refusal on the part of the board to grant any variance or exception which it would otherwise have granted if permitted to tack a condition upon such favorable relief at all, whereas the board might feel justified in making a variance or in allowing an exception upon an appropriate 'conditional' basis.'

The right of the Board of Zoning Appeals to impose conditions upon the grant of an exception has been recognized in countless decisions of Court. For example, in the case of Hopkins vs The Board of Appeals of Rochester, 178 N.Y. Misc. 186, 33 N.Y.S 2d 396, the Court said:

'The power to impose reasonable conditions in making exceptions under the Zoning Ordinance is inherent in the Board.'

Again, in the case of Reed vs Board of Standards and Appeals of N.Y. 225 N.Y. 126, 174 N.E. 301, the Court said:

'Conditions deemed suitable by the Board, were adopted to safeguard and preserve the general character of the neighborhood and to minimize the inconvenience of having the theater extend beyond the line of business use.'

In the case of Amis vs Bryan Petroleum Corporation, 185 Ala. 206, the Court even sustained the power of the Board of Zoning Appeals to require a bond to insure the performance of conditions imposed by the Board in granting of an exception.

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DEFERRED CASES - Ctd.

2-Ctd.

In Virginia we have one of the earliest cases on the granting of conditional permits. In the case of Woods vs The City of Richmond, 138 S. E. 560 the director of public works granted permission to a filling station to erect a driveway on 34th Street which expressly reserved the right of the City to revoke the permit at any time. Subsequently after the driveway had been built the permit was revoked and owner was required to remove his driveway. The power of the City was upheld.

Again, in the Case of the City of Alexandria, Vs The Texas Company, 172 Va. 209, 1 S.E. (2d) 296 the Court of Appeals, while over- turning the power of the City Council to require the grantee of a permit to surrender a constitutional right recognized the right of Board of Zoning Appeals to grant variances upon conditions. The City argued that the City Council was acting as a Board of Zoning Appeals and that it could vary the application of the Ordinance. The Court held:

'The restrictions sought to be imposed upon the use of this property is not the result of the ruling of the Board of Zoning Appeals. It resulted from the direct action of the City Council. The statute gives to the Board of Zoning Appeals and not to the City Council the power to grant variance permits, even if it be assumed that the restrictions here involved is within the meaning of that term.'

It is thus established in Virginia that conditions may be attached to a permit and recognized that the right belongs to the Board of Zoning Appeals and not to the legislative body - in this case the Board of Supervisors.

The case of Winchester vs Glover, 97 S.E. (2nd) 661, which was cited by Mr. Richard has nothing to do with the Board of Zoning Appeals. It held unconstitutional an ordinance which reserved to the City Council the right to issue permits for filling stations, because no standards were set out in the ordinance.

Section XII-F of the Fairfax County Ordinance does contain standards whether the neighborhood will be adversely affected. This is quite similar to the provision of the Falls Church Ordinance upheld by the Supreme Court of Appeals in Ours Property vs Ley, 96 S.E.(2d) 754.

If there is still doubt as to the meaning of the term 'architectural design' it will be resolved by the definition of that term contained in the case of Hecht vs Commuters' Cafe, 30 N.F.S. (2nd) 861 where the Court said:

'A design drawn for the purpose of construction according to architectural detail, in scale and in accordance with principles of mathematics, aesthetics and the physical sciences is an 'architectural design'.'

It will be noted that the opinion of Mr. Fitzgerald on the meaning of the term cited no case, no statute and no dictionary. We submit that it clearly involves such things as height, shape, size and appearance.

Finally, even if the condition had not been violated, the exception as to the River Towers tract has long since expired. Section 6-12-d-2 clearly provides that a use permit involving a building remains valid for only six months unless a building permit is taken out and the building proceeds to completion within that period. No permits were taken out for these two 17-story apartments until 10 years after the exception was granted.

We submit that the Board should reverse the decision of the Zoning Administrator and direct the cancellation of the permit.

Respectfully submitted,

/s/ E. A. Prichard"

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DEFERRED CASES - Ctd.

2-Ctd.

## "MEMORANDUM

TO: Board of Zoning Appeals for Fairfax County, Virginia

SUBJECT: Appeal from action of Zoning Administrator issuing building permit to River Towers, Inc., pursuant to Sec. 6-12 (e) of the Code of the County of Fairfax, Va.

The Appellants have alleged the following:

(a) That the special exception granted by the Board of Zoning Appeals in 1947 for the tract of land known as the Belle View tract of land was granted with certain conditions attached and that certain conditions have been violated by the building permits issued by the Zoning Administrator.

(b) That the special exception granted by the Board of Zoning Appeals in 1947 has expired as the same relates to the approximately 26 acres to be developed as multiple housing by River Towers, Inc. pursuant to the provisions of Sec. 6-12 (d) 2 of the Code of the County of Fairfax.

The burden of proving before the Board of Zoning Appeals that there was any error in the decision and determination made by the Zoning Administrator in this matter is upon the Appellants who initiated this appeal.

BRIEF FACTUAL BACKGROUND

The Zoning Ordinances and the powers of the Board of Zoning Appeals, as the same relate to the instant matter were the same in 1947 as at the present time.

Sec. 6-12 (f) 5 provided that 'the Board of Zoning Appeals is hereby empowered to grant special exceptions and authorize the Zoning Administrator to issue use permits for the erection of multiple-housing projects in the 'Urban' Residence District but any such exception shall not be granted unless the application shall have first been submitted to the County Planning Commission for its recommendations'.

The owners of the Belle View tract consisting of approximately 110 acres, including the approximately 26 acres to be developed by River Towers, Inc., obtained a special exception pursuant to provisions of paragraph 5 quoted above. The decision of the Board of Zoning Appeals and the recommendation of the Planning Commission referred to certain Architectural Plans for the development of the tract.

The Belle View Apartments now in existence were developed over a period of several years under the special exception and authorization of the Zoning Administrator pursuant to paragraph 5 quoted above.

In April 1957 the Board of Zoning Appeals denied an application by River Towers, Inc., for a variance to increase the density upon the 26 acres above the amount permitted by Sec. 6-14 of the Code of the County of Fairfax. River Towers acquiesced in this decision and proceeded to obtain and did obtain building permits for two multiple-housing structures upon the 26 acres. The issuance of the building permits by the Zoning Administrator led to the instant appeal, after the Board of Supervisors of Fairfax County, Virginia, withdrew their temporary 'stop order' to the Zoning Administrator to give the Board of Supervisors time to make a study of the matter.

HEIGHT REGULATIONS

It is apparent that the underlying objection to the project by River Towers, Inc., is the height of the Cooperative Apartment Buildings, although efforts have been made to justify the appeal on other grounds for obvious reason that Sec. 6-14 (b) of the Code of the County of Fairfax, in effect in 1947 and in effect at the present time, relating to multiple-housing includes the following mandatory language: 'the height of any structure shall not be limited'.

INFERRED CONDITION BY BOARD OF ZONING APPEALS TO MULTIPLE-HOUSING EXCEPTION GRANTED IN 1947

The appellants cite only one Virginia case supporting their position that the Board of Zoning Appeals can legally attach conditions to an exception for multiple-housing under the applicable ordinances of Fairfax County. They cite Woods vs the City of Richmond, 138 S.E. 560. This case was decided in 1927 and has absolutely no bearing on the matter presently before the Board of Zoning Appeals. The Woods case simply held that under the Police power the City of Richmond in the public welfare could close a driveway from a heavily travelled street.

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DEFERRED CASES - Ctd.

2-Ctd.

The only other Virginia case cited by the Appellants is the City of Alexandria vs. the Texas Company, 1 S. E. (2d) 296. The decision in the Texas Company case is still the law of the Commonwealth of Virginia and was decided in 1939, long before the exception was granted by the Board of Zoning Appeals for the Belle View tract in 1947. The principles of the Texas Company case apply to the case at hand. The Texas Company case clearly holds that:

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'The principle is well settled that a state cannot grant a privilege subject to the agreement that the grantee will surrender a constitutional right, even in those cases where the state has the unqualified power to withhold the grant altogether. Where such a condition is imposed upon the grantee, he may ignore or enjoin the enforcement of the condition without thereby losing the grant'.

The Texas Company case also held that 'under its police power [a city may not arbitrarily restrict an owner in the use of his property. A restriction of the character sought to be imposed here must bear a substantial relation to the public health, safety, morals, or general welfare'.

Thus it is seen that the Virginia law is clear on the point that the governing body of a municipality, a City Council within a city or a Board of Supervisors within a county cannot attach an illegal condition to a permit.

It is obvious that the powers of a Board of Zoning Appeals cannot exceed the powers of the legislative or governing body which appoints the same. The Board of Zoning Appeals even if it so desired cannot legally attach or enforce a condition which it would be invalid for the governing body of a municipality to do. A Board of Supervisors cannot delegate a power it does not have.

The powers of the Board of Zoning Appeals of Fairfax County are limited by the authority delegated to it by the ordinances of Fairfax County, commencing with Sec. 6-12 of the Code of the County of Fairfax. Nowhere in the ordinances of Fairfax County is there any authorization for the Board of Zoning Appeals to attempt to attach a condition to an exception granted relating to multiple-housing. The ordinance is clear. Under the ordinance as it existed in 1947 and as it exists today the authority of the Board of Zoning Appeals in connection with multiple-housing is limited to one question, as follows:

'The Board of Zoning Appeals is hereby empowered to grant special exceptions and authorize the Zoning Administrator to issue use permits for the erection of multiple-housing'. Any attempts by the Board of Zoning Appeals to exceed its authority and to, in effect, attempt to legislate or amend the terms of the ordinance by attempting to attach an unlawful condition to an exception for multiple-housing are unconstitutional, null, void, and of no effect.

Thus it clearly appears that any condition which could be inferred to be a part of the recommendations of the Planning Commission or the Board of Zoning Appeals in 1947 were pure surplusage, without legal effect.

Let us consider for a moment the 26 acre tract of land in question. It is located in Mount Vernon Magisterial District in the area between Fort Hunt Road and the Mount Vernon Memorial Boulevard. At the present time it is bounded on the south by about 40 acres of swamp land owned by the Federal Government and it is bounded on the east by the Mount Vernon Memorial Boulevard and the Potomac River, it is bounded on the north by the Belle View Apartments constructed to date, and it is bounded on the west by the Fairfax County sewage disposal plant.

Under the physical location of this tract of land it is difficult to believe that any person could seriously maintain that this area is suitable for any purpose other than multiple-housing. The Board of Zoning Appeals in 1947 determined the use for this land. This use runs with this land. The land in question was zoned in a manner to permit multiple-housing prior to 1947 and so continues up to the present time, with only one step necessary, the special exception by the Board of Zoning Appeals which was granted. There has been no change in Zoning which would prohibit the use of this land for multiple-housing. The statutes of the State of Virginia provide, Virginia Code Sec. 15-848, that the amendment of a Zoning Ordinance shall not prohibit the continuance of the use of any land, building or structure for the purpose for which such land, building or structure are used at the time such ordinance or ordinances take effect.

## DEFERRED CASES - Ctd.

2-Ctd.

As pointed out in the Texas Company case cited above: a municipality may not arbitrarily restrict an owner in the use of his property. To maintain this appeal, or for that matter in any action relating to the use of the 26 acres in question, that the 26 acres cannot be developed for multiple-housing would on its face be unreasonable, arbitrary and capricious, and therefore unconstitutional, as arbitrarily restricting the owner of the land in the use of his property.

Most of the cases cited by the appellants relate to gasoline filling stations, which at one time fell within a special category as being potentially dangerous. Many merits which the cases cited by the appellants may have had at one time are outlawed by the more recent decisions of the Supreme Court of Appeals of Virginia, holding that the operation of filling stations is not an inherently dangerous business. See Daniel et al. vs. Kosh, 4 S.E. (2nd) 381 and the very recent case, City of Winchester, etc., et al vs. John D. Glover 97 S. E. (2nd) 661.

There has never been a case which has held that multiple-housing is inherently dangerous or bears a substantial relationship to the public Health, Safety, Morals, or General Welfare when such multiple-housing is located within a zone where such structures are permitted, as in the instant case. The City of Winchester case held a municipal ordinance unconstitutional because of the fact that the ordinance 'failed to prescribe rules, standards or guides for the granting or withholding of such permit; that under the ordinance the council could grant the permit to one applicant and under the same circumstances withhold it from another; that sole discretion is attempted to be vested in the city council which it may exercise in the interest of one citizen and against the interest of another'.

The Fairfax County Ordinance, Sec. 6-14 relating to multiple-housing sets up definite rules and standards for the guidance of the Zoning Administrator in connection with the issuance of permits for multiple-housing, once the special exception has been granted. The Board of Zoning Appeals, under this appeal, is asked to prescribe additional rules not in the ordinance. Any such attempt is invalid under the principles laid down by the City of Winchester case and places the Board of Zoning Appeals in the position of violating the ordinances of the County of Fairfax by attempting to act as a legislative body without authority. The members of the Board of Zoning Appeals have the constitutional duty to perform their functions in a manner that Fairfax County shall remain a 'Government of laws rather than a Government of men'. As stated in the City of Winchester case, privileges are not to be granted or withheld according to 'Governmental whim'.

The appellants cite the recent case, Ours Properties, Inc., vs Ralph Ley, 96 S.E. (2nd) 754. A careful reading of this case fails to disclose any semblance of relevancy with the matter at hand. The discretion granted by the Falls Church Ordinance related to industrial establishments which might become public nuisances because of smoke, fumes, etc. In the instant case the Board of Zoning Appeals in 1947 made its decision that the land in question could be used for multiple-housing. Any discretion in the matter was exhausted by the Board of Zoning Appeals in 1947 in making this decision. From that point on it became an obligation of the Zoning Administrator prior to the issuance of building permits to see that the rules and standards of Sec. 6-14 of the Code of the County of Fairfax were complied with, which has been done.

The appellants in their Memorandum attempt to give a definition of 'architectural design'. Although it is submitted that this question is unimportant for the reasons set forth above, it is well to bear in mind certain facts. The proposed Belle View Apartments in 1947 were to be financed by F.H.A. insured loans. To obtain F.H.A. approval required the expending of many thousands of dollars for architectural drawings and plans. It appears reasonable to believe, as indicated by Mr. Landrith at the public hearing on this appeal, that these drawings were not obtained until after the special exception was obtained. It is probable that sketches or renderings by an artist were presented to give a general idea to the Board of Zoning Appeals as to the quality of architecture then proposed for the project as well as reference to other projects in the area. This is not an architectural design as contemplated by the case cited by appellants, Hecht vs Commuters' Cafe, 80 N.Y.S. (2nd) 861, because this case held that artists sketches or plans were not as a matter of law 'architectural designs or plans'.

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ARGUMENTS THAT SPECIAL EXCEPTION HAS EXPIRED  
PURSUANT TO SEC. 6-12 (d) 2 OF THE CODE OF  
THE COUNTY OF FAIRFAX.

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The appellants in these appeals allege that the exception as to the 26 acre tract, a portion of the Belle View tract has expired under the provisions of Sec. 6-12 (d) 2 of the Code of the County of Fairfax. We believe it is clear that the appellants are in error in this connection for many reasons including the following: Sec. 6-12 (d) 2 provides as follows: 'No order of the Board approving the erection, alteration or use of a building shall be valid for a period of longer than six months unless:.....'. It is significant that the above language does not include the 'use of land'.

As previously pointed out above, the only power of the Board of Zoning Appeals relating to multiple-housing is concerned with the power to grant a special exception. It is the Zoning Administrator under the Fairfax County Ordinance who approves the use permit for the erection of multiple-housing projects. Therefore it appears obvious that the above cited provision would not apply to a special exception relating to the use of land for multiple-housing.

The use of the land for multiple-housing was established by the Board of Zoning Appeals in 1947 and is a use which runs with the land and cannot be revoked by the Board of Supervisors of Fairfax County or the Board of Zoning Appeals of Fairfax County unless or until the land in question is rezoned by an amendment to the zoning ordinance to a zoning classification which would prohibit the use of the land for multiple-housing. This is a mandatory requirement of the Virginia Statute, Virginia Code Sec. 15-848, cited above.

There is certainly no question that the use of the Belle View tract, of which the 26 acres is a part was established for multiple-housing, upon building multiple-housing upon portions of the tract over a period of several years. That the establishment of such use applied to the entire Belle View tract, including the 26 acre portion of the same, is without question. Even in the case of non-conforming uses 'an entire tract is regarded as within the exemption of an existing non-conforming use, although the entire tract is not so used at the time of the passage or effective date of the zoning law'. 56 AM. Jur., Zoning, 151, and cases cited therein.

The Board of Zoning Appeals of Fairfax County, under the Ordinance, is authorized to grant exceptions or variances under certain conditions prescribed by the Ordinance. Some confusion apparently exists as to the distinction between an 'exception' and a 'variance'.

As pointed out in Yokley 'Zoning Law and Pradtine', Sec. 133, the Courts do understand the difference. As stated by the Pennsylvania Supreme Court, 41 A (2nd) 744 'An exception in a Zoning Ordinance is one allowable where facts and conditions detailed in the Ordinance, as those upon which an exception may be permitted, are found to exist. But Zoning Ordinances usually provide, as does the present one, for another dispensation, also permitted by the statute, by which a variance from the terms of the Ordinance can be authorized in cases where the literal enforcement of its provisions would result in unnecessary hardship'. As Yokley states in this connection, we consider it apropos of this discussion to state that as a future ground of distinction that an applicant for a special exception need not carry the burden of proving unnecessary hardship. It is when seeking a variance that the applicant therefore must show that unnecessary hardship will result unless the variance is permitted'.

It is submitted that under the clear terms of the Fairfax County Ordinance the action taken by the Board of Zoning Appeals in 1947 was and only could be an exception determining that the land in question was desirable for multiple-housing and that the use of the said land for that purpose was in harmony with the general purpose and intent of the Zoning Regulations and would not tend to affect adversely neighboring property. This finding by the Board of Zoning Appeals established a use for the entire Belle View tract which ran with the land and continues to run with the land at the present time.

The provision of the ordinance, Sec. 6-12 (d) 2 referring to a six month period obviously refers to variances, or possibly exceptions where the Board approves the 'erection, alteration, or use of a building', rather than a case where the Board grants a special exception relating to use of land.

## DEFERRED CASES - Ctd.

2-Ctd.

That the above conclusions are sound is amply demonstrated by the following:

In April, 1957, when River Towers, Inc., made application for a variance, relating to density, the Board of Zoning Appeals of Fairfax County took jurisdiction over the application, held public hearings and eventually denied the application after obtaining from the Commonwealth Attorney of Fairfax County an opinion that the special exception granted in 1947 was still in effect. Unless the Board of Zoning Appeals recognized that the special exception permitting the use of the 26 acre tract for multiple-housing was still in effect, the Board of Zoning Appeals had no jurisdiction to hear and reach a decision on an application for a variance to increase the density of the multiple-housing units to be built upon the 26 acre tract of land.

As pointed out by Board member, Mrs. Henderson, from the minutes of the Board of Zoning Appeals, April 9, 1957, the Board recognized that the land was zoned for multiple-housing. Mrs. Henderson at that meeting recognized the limitations upon the Board of Zoning Appeals in connection with acting as a legislative body when she stated that to grant the application for a variance to increase the density would 'in effect be creating an entirely new category of zoning under the guise of a variance, which we are not empowered to do under the State Enabling Act of 1938'.

That the Board of Supervisors of Fairfax County at the time of enacting the ordinance in question and at the time of enacting the Freehill Amendment to the Zoning Ordinance had no intention of placing special exceptions for multiple-housing under the six month limitation is amply demonstrated by the following:

The Freehill Amendment withdraws from the Board of Zoning Appeals the right to grant special exceptions for multiple-housing and places the same power in the Board of Supervisors, under the same general requirements as formerly provided relating to the conformity with the regulations set forth in Sec. 6-14 of the Code of the County of Fairfax. It is obvious as the Fairfax County Ordinance now stands that any exceptions granted by the Board of Supervisors for multiple-housing could not be subject to a six month limitation.

SUMMARY

We submit that the Board of Zoning Appeals should deny the Appeal filed by the Appellants for the reasons stated above, the opinion of the Commonwealth's Attorney of Fairfax County, Virginia, the legal limitations under the law and decided Virginia cases, and the failure of the Appellants to carry the burden of proof required to show that the Zoning Administrator erred in authorizing and granting building permits to River Towers, Inc.

It has been and it is the policy of Fairfax County to encourage development within Fairfax County which is beneficial to the entire County taxwise. Unfortunately, it has apparently become fashionable for a few individuals within Fairfax County to become, in effect, 'obstructionists' to normal progress, basing their opposition arguments upon emotional, technical, or whimsical grounds without regard to the overall interests of the County. In doing this, they will oftentimes use the name of respected citizens organizations, giving the impression that they speak the sentiments of the great majority of Fairfax County citizens. It was interesting that at the public hearing before the Board of Zoning Appeals on this Appeal, counsel for the Appellants stated that they were representing several citizen's organizations. Later it developed that the authorization originated only in action of the Board of Directors of one or two organizations, in no case exceeding 10 persons. It was also interesting that most, if not all, of the speakers at the public hearing on this Appeal stated that they were not opposed to the River Towers project, as such, but were simply opposed for technical reasons, upon principle.

It is submitted that the Board of Zoning Appeals should reject the appeal pending, rather than permit itself to be used as a tool by a handful of persons who would penalize the best interests of Fairfax County by continued harassment and delays based upon technical objections.

The delays by the Appellants have already caused River Towers, Inc., to suffer many thousands of dollars in damages. Continued delay will unjustly add to these damages or will encourage the sponsors to locate their beneficial and tax profitable project in a jurisdiction which has evidenced not only a willingness but a desire to have the project therein, upon reading news stories concerning the delays encountered within Fairfax County.

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DEFERRED CASES - Ctd.

2-Ctd.

It is true that a provision of Sec. 6-12 (d) 4 'that, upon Appeals, the Board shall interpret the words of this chapter where there is a dispute as to meaning.' It is obvious that this provision does not grant to the Board of Zoning Appeals a power to interpret any provision of the chapter in a manner inconsistent with the Statutes of Virginia, or the decisions of the Supreme Court of Appeals of Virginia.

Section 6-12 (d) 5 expressly provides that 'the Board shall not have the power to amend any provisions of this chapter or the Zoning Map.'

It is submitted that the Appeal pending before the Board cannot be granted by the Board of Zoning Appeals without arbitrarily and capriciously interpreting the language of the Ordinance in a manner, in effect, amending the same.

Respectfully submitted

July 18, 1957

/s/ Glenn U. Richard  
Counsel for River Towers, Inc."

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Mr. Mooreland read the following letter from Mr. Samuel Hannenberg:

"Dear Mr. Mooreland:

In connection with the granting by the Board of Zoning Appeals of the application of MR. LEONARD JOHNSON for a restaurant or tea room south of the intersection of Patrick Henry Drive and Leesburg Pike, I wish to advise you that the Ravenwood Park Citizens' Association is contemplating an appeal to the Circuit Court of Fairfax County in accordance with Section 15-850 of the Code of Virginia.

My purpose in writing this letter is to request that you withhold action to issue any building permit with respect to the property involved in the application pending an appeal to the Court.

Very truly yours,

/s/ Samuel Hanenberg, President

Dated July 11, 1957"

The occupancy permit was issued to Mr. Johnson the day after the case was granted, Mr. Mooreland told the Board. Had he been put on notice that there was to be an appeal, Mr. Mooreland told the Board, he could have held up the permit. As it is nothing can be done.

Also Mr. Mooreland read the following letter from Mr. and Mrs. Stewart Dawson:

"July 11, 1957

Reference: Use permit Crewe property, 102 Leesburg Pike

As residents and property owners in Ravenwood Park, we are still wondering why we are being forced to have a 'Tea House' within less than 100 yards of our homes.

We did not buy trusting any statements of the Real Estate Developer that the 'Crewe property' would remain residential. We bought with the expectations and belief that our County officials would protect us from undesirable issuance of permit and change of zoning.

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Quotation of letter from Mr. & Mrs. Stewart Dawson - ctd. (Re: Leonard Johnson case).

An attorney from the Tea House suggested that a 100 foot buffer zone could be inserted in the permit, but no such consideration and protection was made by the Board.

The safety factor was not considered, that is in reference to the letter from the State Highway Department.

Is it possible for a review of the hearing or an insertion of the buffer zone in the (use) permit?

Thank you for your consideration.

/s/ Mr. & Mrs. Stewart Dawson."

No action by the Board.

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Mr. William Gallo came before the Board again to discuss SUNSET DRIVE IN sign which was granted at the rehearing on this case, with the provision that the filled-in portion of the sign nearest the ground be removed leaving the sign supported by posts.

Mr. Mooreland told the Board that Mr. C. C. Massey had received a call from Mr. Wilson, the owner of Sunset Drive In, asking what had happened regarding this sign - that he had not asked for the rehearing and did not want it.

Mr. Mooreland said he had received the letter from the attorney, Mr. Jack Wood, employed by the Sign Company, who asked for the rehearing.

Mr. Massey had referred Mr. Wilson to him.

Mr. Gallo said the Sign Company had asked for the rehearing since the Board would have denied the sign had they not put on the condition of removal of the filled-in area - but Mr. Wilson did not wish to remove the lower portion of the marquee. Therefore, Mr. Gallo continued, this would mean that the sign applied for would be denied. He has a considerable investment in this job, Mr. Gallo explained, therefore he wished to ask the Board if the motion could not be changed to require the removal of only four feet of the paneled area.

The Chairman asked if the Board wished to re-consider this case.

The Board agreed that they had done all they could for Mr. Gallo - they had felt handicapped by the fact that the owner of this property had not been present, but did not wish to re-consider the case.

The following letter from the Commonwealth's Attorney was read - regarding a definition of a "Tea Room":

"MEMORANDUM

July 26, 1957

TO: Board of Zoning Appeals  
County of Fairfax, Virginia

FROM: Robert C. Fitzgerald  
Commonwealth's Attorney

RE: Definition of 'Tea Room'

Quotation of letter from Commonwealth's Attorney - Ctd.

It is my opinion, from a legal viewpoint, that in the absence of statutory definition the terms 'Tea Room' and 'Restaurant' are synonymous.

It is clear that the Board of Supervisors' intention in deleting 'Restaurant' and leaving 'Tea Room' as a use permitted by use permit granted by the Board of Zoning Appeals was to allow an eating place of a limited nature in such zone. The Board of Zoning Appeals was given authority to make interpretations of the Ordinance, therefore I believe it is incumbent upon the Board of Zoning Appeals to define the use that they will grant a use permit for as a 'Tea Room'. Such a definition would, of course, have to be reasonable and be based solely upon the ordinary concept of a tea room. The Board may very well find itself in a position of having to make a completely arbitrary definition of the term and, if this be so, I would suggest that the Board request the Board of Supervisors to define the term by amendment to the Ordinance, thereby giving the term 'Tea Room' a statutory definition.

Respectfully submitted,

/s/Robert C. Fitzgerald  
Commonwealth's Attorney"

Mrs. Henderson recalled that she had appeared before the Board of Supervisors asking for their definition of a Tea Room - but was told that was up to the Board of Zoning Appeals. It was suggested that Mr. Pameroy might have something definite on this in his draft of the new Zoning Ordinance.

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Mr. Mooreland asked the Board if they wished to draft an answer to the letter from Mr. & Mrs. Dawson.

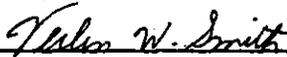
Mr. Lamond moved that the Secretary be instructed to answer the letter, with the statement that under the circumstances the Board took no action.

Seconded, J. B. Smith

Carried.

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The meeting adjourned

  
Verlin W. Smith, Chairman

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The regular meeting of the Fairfax County Board of Zoning Appeals was held Tuesday, August 13, 1957 at 10 o'clock a.m. in the Board Room of the Fairfax County Courthouse, with the following members present: Mr. Verlin W. Smith, Chairman; Mrs. L. J. Henderson, Jr.; Mr. George T. Barnes; Mr. J. Bryant Smith; Mr. A. Slater Lamond was absent.

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The meeting was opened by a prayer by Mr. J. B. Smith

DEFERRED CASES:

- 1- THOMAS D. ALWARD, to show cause why the permit granted to you on January 22, 1957, to operate a repair garage, should not be revoked, on south side #244, approximately 1500 feet east of Bailey's Cross Roads, Mason District.  
(General Business).

Lytton Gibson represented the applicant. Mr. Gibson quoted paragraph 2 under Section 6-16 of the Ordinance giving the Board the power to revoke a permit. "Any use permit.....shall be revocable by such Board at any time for failure of the owner or operator of such use to maintain all requirements of law with respect to the maintenance and conduct of the same and all conditions designated in connection therewith by such Board granting the use permit. Before revoking any permit, however, the Board shall give the holder thereof at least 10 days written notice of the time and place for hearing to be held by the Board on the revocation of such permit and shall conduct a hearing on the matter...."

Since the letter from the Board of Zoning Appeals notifying Mr. Alward of the hearing date of this show cause to revoke his permit does not state a reason why this hearing is scheduled, Mr. Gibson told the Board, he has been at a loss to know how to proceed with Mr. Alward's case. He has seen the property, Mr. Gibson continued, and has discussed the operation with Mr. Alward but was unable to determine what the violation is. Since this Board sets as a quasi judicial body, Mr. Gibson continued, it should first have made a full statement to Mr. Alward what the violation is with the basis for the purported violation, giving him a date of hearing on his violation. Has Mr. Alward violated some general law, Mr. Gibson questioned, or are there specific charges - he is at a loss to know....

This case was brought to the attention of the Board by Mr. Mooreland, it was noted - therefore, Mr. Mooreland stated that at the time this case was granted there was a considerable amount of old equipment scattered on the premises which Mr. Alward had agreed to clear away. He has not done so, Mr. Mooreland contended. He has therefore considered that Mr. Alward is in violation of the permit granted to him.

Mr. V. W. Smith read the following motion granting this case on January 22, 1957: ".....to permit operation of a repair garage, granted as shown on plat dated 11/26/56 prepared by Donald H. Pearson, C.S.....This is granted under Section 6-16 of the Zoning Ordinance and those sections applicable thereto, particularly Section A-1, because it conforms to the requirements of Section 6-16-d-1-2. This is granted subject to the applicant furnishing the plat signed by the G. S. - the same one as presented with the application.  
....."

DEFERRED CASES - Ctd.

1-Ctd.

The storage of old equipment and wrecked vehicles on the property, Mr. Mooreland stated, are the violations.

In that case, Mr. Gibson continued, he was not prepared with the case - he had thought the Board would go into the non-conforming use - in fact he did not know what angle to work on without the specific charges of the violation. If this revocation is based on the fact that Mr. Alward has not removed his old equipment, Mr. Gibson asked, what should be removed?

Mr. Alward works on some of the equipment continuously.

Mr. Mooreland volunteered to get the minutes of the Alward case held Jan. 22, 1957. The minutes were read.

Mr. Gibson still was not sure of the violation - if it is because Mr. Alward is supposed to have no wrecked cars on the premises, Mr. Gibson said, he would proceed with the case - as in his opinion, Mr. Alward is not storing wrecked cars on the premises, but rather he is using the old cars in his work. He takes parts from the wrecked cars to use in repair jobs on other cars. Sometimes it takes three or four weeks to dismantle a car, Mr. Gibson continued, and remove all its usable parts. He did not consider this the "storing of wrecked cars."

Mr. V. W. Smith quoted from the Ordinance - "no storage of wrecked vehicles or wrecking of vehicles shall be permitted on the premises....."

Mr. Gibson asked, what is the wrecking of vehicles? If it is the taking of parts from one car and putting them on another he would argue that, Mr. Gibson, continued, when a man is doing that - most certainly he is not wrecking vehicles. Mr. Alward is now operating under his old non-conforming use status, Mr. Gibson went on, as he has been operating since 1936.

Mr. Mooreland took exception to this - stating that when Mr. Alward made application under the use permit, he lost his non-conforming use status and now comes under Section 6-16.

Mr. Gibson was in disagreement with the interpretation of both the wrecking and storing of cars and with Mr. Mooreland's statement that Mr. Alward has lost his non-conforming use status.

What did Mr. Alward mean, Mrs. Henderson asked, when he stated that he would conform with the Ordinance - if he is not conforming to the Ordinance.

It was her understanding, Mrs. Henderson continued, that most of the vehicles would be kept within the garage. If he would tow the cars away within four or five days, that would be all right, Mrs. Henderson continued, but if they stay on the property for four or five years - that is certainly "storing vehicles."

It was agreed that it is necessary for wrecked cars to remain on the premises until the insurance company clears the repair job - and this often runs into several weeks.

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DEFERRED CASES - Ctd.

1-Ctd. Mr. Gibson asked - is Mr. Alward allowed to continue in a non-conforming use status?

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The answer to that, Mr. T. Barnes suggested, is a matter for the Commonwealth's Attorney. He therefore moved to defer the case for consultation with the Commonwealth's Attorney regarding the position of the Board in this case.

Mr. Gibson suggested that he might meet with the Board and the Commonwealth's Attorney and it might be possible to work out something satisfactory to both sides. It must be determined, Mr. Gibson stated, what is the storing of cars and what is the wrecking of vehicles.

The Board members agreed.

Mr. J. B. Smith seconded the motion

Carried, unanimously.

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2- FLORA McNEILL MALLORY, to permit operation of a kindergarten and first grade in present building, on west side of Route #123, approximately .9 mile south of intersection of Route #123 and Route #236, Providence District. (Rural Res.) This case was deferred for report from the Health Department regarding the percolation test. The following letter was read:

".....Percolation test on the above ground is satisfactory and a permit can be issued for the extension of the drainfield to take care of a kindergarten school upon receipt of building and plot plans.

Very truly yours,

/s/Harold Kennedy, M.D., Director Health Dept. Fairfax County."

Mr. Sizemore, attorney for Mrs. Mallory, stated that requirements of the Board have been complied with and all objections have been met - that the play yard, which will be fenced, will be located on the opposite side of the house from Mr. Ollie Atkins, who had objected to this use. Also, Mr. Sizemore noted, a thick grove of trees separate the play area from the Atkins home. It would appear that this use would not in any way hamper Mr. Atkins in the normal use of his property, Mr. Sizemore contended.

Mrs. Henderson moved to grant the application to the applicant only, Mrs. Flora Mallory, granted on all of the land shown on the plat by N. Peyton Young (plat not dated) because the water has been tested by the State Health Dept. and found to be satisfactory; the Health Department has also okayed the percolation test. This is granted subject to compliance with the Fire Marshall's request for alterations. This is granted because it does not appear to adversely affect neighboring property and is granted under Section 6-12-f of the Zoning Ordinance.

It was noted that the school will be operated jointly with Mrs. Mary Metcalf. However, Mrs. Mallory being the owner - the application was granted in her name.

Seconded, J. B. Smith

Carried, unanimously.

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NEW CASES

- 1- DOROTHY MURPHY, to permit operation of a nursery, kindergarten and first grade, Lot 52, Section 1, Fairfax Acres, (on Hill Street,) Providence Dist. (Rural Residence).

The applicant had asked to have this case deferred indefinitely.

Mr. J. B. Smith so moved

Seconded, Mr. T. Barnes

Carried, unanimously.

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- 2- RAY R. PAUL, to permit dwelling as erected to remain within 19.62 feet of the side property line, Lot 205, Section 3, Pinecrest, Mason District. (Rural Residence).

It was discovered after the house was under construction, Mr. Paul told the Board, that the builder had - for some unknown reason - mis-located the house thereby creating this violation on one side.

It was noted that the house is placed on the lot at a slight angle. That was done, Mr. Paul explained, to follow the contour of the hill. People in the area know of this violation, Mr. Paul assured the Board that he had notified them as requested, and nine families in the immediate area signed a statement, which was filed with the records of this case, indicating they have no objection.

Mr. Warren Quenstedt was present with Mr. Paul, supporting the case. He showed a chart indicating the small amount of square footage which is in violation - approximately 60 to 80 square feet.

In answer to Mrs. Henderson's question as to the distance between this house and the house on Lot #206, Mr. Paul said that lot is vacant but he had notified Mr. Lynch, who has no objection and stated that the lot is in the process of a sale. The new purchasers were notified - they expressed no opposition.

Mr. J. B. Smith moved to grant the application because the error is so slight that it would not appear to adversely affect anyone in the neighborhood.

Seconded, Mr. T. Barnes

Carried, unanimously.

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- CARL M. FREEMAN, to permit carport to remain as erected 5.4 feet of the side property line, Lot 22, Block C, Section 3, Ridge View, Lee District. (Suburban Residence).

Mr. Freedman represented the applicant. Mr. Harry Otis Wright, Engineer, was also present.

This is their one mistake in a subdivision of 100 homes, Mr. Freedman told the Board. Under the regulations, Mr. Freedman pointed out, this open carport can come to within 10 feet of the side line. Through some mistake in the house location - the carport is now located 5.5 feet from the line.

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## NEW CASES - Ctd.

3-Ctd. The purchaser is waiting for final settlement - which will first require County, and subsequently FHA, approval.

These houses were sold prior to construction, Mr. Freedman explained, either with or without the attached carport. Through some mistake this carport was added at the request of the purchaser and it was not noticed that it was too close to the line. However, Mr. Freedman called attention to the fact that the carport is more than 25 feet from the house on the adjoining lot. The distance between the houses meets the minimum setback requirement - 10 feet plus 15 feet. Since they have this required space between houses, Mr. Freedman contended that the intent of the Ordinance was not violated and no one would be adversely affected.

Mr. Freedman showed pictures of the house in question with its carport, indicating the position of the house on the adjoining lot and the spacing between houses.

Proper notification has been given property owners in the immediate area, Mr. Freedman continued, and presented evidence of such notification.

There were no objections.

The carport on Lot 21 is on the opposite side of the house. There are 19.8 feet between the side of the house and Lot 23.

There is no topographic condition, Mr. Freedman stated. The area slopes slightly and there are dips between the houses - but no unusual topography.

It was agreed that the carport could have been put on the back of the house within regulations - but this was not done - and while it is an admitted mistake, Mr. Freedman stated, there was a tremendous amount of work going on during the early construction of these homes, bulldozing, grading, surveying and the carport got over the line.

They built about 100 houses last year, Mr. Freedman told the Board, about 50 or 60 of which have been sold and settled for. This is the first such violation.

Mr. Handler, the prospective purchaser of the property, came up with questions for the builder, which had no bearing on the case, and which the Chairman asked to be settled between them after the hearing.

Mr. J. B. Smith moved to defer the case until September 10th, to view the property.

Seconded, Mr. T. Barnes

Carried, unanimously.

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4- HERMAN GRENADIER, to permit erection of three dwellings within 40.5 feet of the Street property line, Lots 344, thru 351, inclusive, Block H, Memorial Heights, Mt. Vernon District. (Suburban Residence).

This is a small irregular shaped piece of property, Mr. Grenadier told the Board - located in an old subdivision, which he is trying to subdivide by combining the old 25 foot lots. All of the lots conform to requirements in area and frontage but because of the topography it is impossible to locate

NEW CASES - Ctd.

4-Ctd.

the houses the required 45 feet from the street right of way. The entire rear of the property is a very steep hill, which he will dig into in order to give this setback, and to provide something of a back yard for the houses. Sewer and water are available.

Oak Street is not heavily traveled, Mr. Grenadier pointed out, and many of the homes in the area are located very close to the right of way, 15 or 20 feet. The houses are setback 40 feet plus - but the fact that Oak Street has a 40 foot right of way makes the 45 foot setback necessary.

Mr. Mooreland estimated that about 50% of the houses in this subdivision are set back within 25 feet of the right of way line.

These houses are small, Mr. Grenadier noted, but they are in keeping with the area - where there are mostly small inexpensive homes or semi-detached dwellings. It would not be practical to locate the houses with the narrow side to the front, extending the longer side to the rear, because the bank in the rear is too steep, Mr. Grenadier explained, as the amount of digging into the bank would make it impractical to build. Mr. Grenadier called attention to the fact that he is not crowding too many houses on this property. The lots average about 36,000 square feet.

Mrs. Henderson moved to defer the case until September 10th, to view the property.

Seconded, Mr. J. B. Smith

Carried, unanimously.

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5-

EVERETT O. TAUBER, to permit operation of a private school in present dwelling, grades 3 thru 6, Lot 8, Accotink Heights (919 E. Estabrook Drive), Falls Church District. (Suburban Residence).

Mr. Tauber explained his plans to the Board. He wishes to start this private school in a small way in his home - with the hope that he will build a sufficient reputation and that patronage will increase so he will be able to expand into a permanent location. This will be a school for children from the third to the sixth grade.

Practically all the classes will be conducted on the first floor, Mr. Tauber told the Board, which will take care of the ten pupils he expects to have for the first year. There are three exits on the first floor - which afford adequate protection - according to the Fire Marshall. Water and sewer will be available within about one month. He will have two baths, Mr. Tauber continued - one is installed and he has contracted for the other - if this case is granted.

Mr. Tyrrell objected to this use. He is the immediately adjoining neighbor.

Mr. Tyrrell said he objected because this is purely a residential area and he felt also that it would be very disturbing to his Mother, his wife and sister-in-law - all of whom are highly nervous. The yard would be 15 feet from his house, Mr. Tyrrell continued - children must play, and they would naturally be noisy. He was greatly concerned for his family and for the

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neighborhood, as he thought this use would depreciate property values in the area.

Also, Mr. Tyrrell continued, the newly proposed by-pass highway is scheduled to come within 500 feet of this property and with the ramp approaches a great volume of traffic would be generated. This house is on a corner, Mr. Tyrrell pointed out, and on the opposite corner is a beauty parlor - a television repair business is on the other side of his home - this together with the proposed by-pass will create a situation which might render this property suitable for business zoning. That would not be, in his opinion, a good place for a school. He felt that rather than put in a school here, it might be more appropriate to ask for business zoning on this area.

That, Mr. V. W. Smith informed Mr. Tyrrell would be a matter for the Board of Supervisors.

Mr. Tauber said he had considered Mr. Tyrrell, and the noise, and therefore had planned to have the classes all in the front part of the house. The house is air-conditioned, therefore would be closed both in summer and winter. There will be a play area on the opposite side of the house from Mr. Tyrrell. Teachers will always be on duty. As to the highway - that is not definitely established, Mr. Tauber noted, and by the time it does go in he hopes to have a new and permanent location. He thought the improvements he will make would be an asset to the neighborhood.

The classes will be small, Mr. Tauber continued, and the children will be outside only twice during the day. They will have organized games and exercises. We would make every effort not to disturb the Tyrrells, Mr. Tauber stated.

For a school of ten, with classes ranging from the third to the sixth grade Mrs. Henderson thought a 17,000 square foot lot hardly adequate. If the Highway Department should take some land for the widening of the street the area would be reduced even farther - it would therefore not appear to be a good location for a school - however, Mrs. Henderson thought the idea a good one - in another location - she therefore moved to deny the case.

Seconded, Mr. T. Barnes

Carried, unanimously.

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LAURANCE G. NEWMAN & DOROTHY A. BROOKS, to permit division of property left under Will, with less area than allowed by the Ordinance, and a variance to setback of existing houses, Lots 39 and 41, Wellington, Mt. Vernon District (Rural Residence).

This entire tract was owned by Mr. Newman's father, who died and left it to him and to his sister, Mrs. Brooks. Houses were built on the property during the lifetime of the father - which were rented by the father for income purposes. Now Mr. Newman and his sister wish to divide the property in the most equitable manner.

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6-Ctd.

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Mrs. Brooks owns Lot 5, which adjoins Lot D, and also Lot A - on which a house has been built. The dividing line between Lots B and C has been changed (it was noted on the plat that the original dividing line ran through one of the houses on Lot C) to make a 1/2 acre lot and to give as much setback as possible. It has been difficult to do anything with the lots as the topography is irregular and with the houses located as they are - it would appear that the only way to make this property into salable lots is the manner of division shown on the plat, Mr. Newman explained. However, Mr. Newman continued, they feel that they have accomplished an improvement over the present situation, even though the houses on Lots B and C do not meet the required front setbacks. The house on Lot A was built on an old 50 foot lot of record.

It was noted that while the houses do not meet the front setbacks - the Boulevard has a wide parkway, which is unused for travel purposes, and the setback is not noticeable. These houses were built during the period of 1920 to 1937.

Mr. Mooreland said he had talked this over many times with Mr. Newman and also Mr. Joseph Berry had worked out the plat as presented. It was noted that only lots A and B will have less than the required area. Mr. Mooreland said he thought the best division possible had been made.

Mr. Newman said they had given 2300 feet of frontage for the highway widening, which amounts to approximately 20,000 square feet - almost one entire lot.

They have one well located on Lot B which serves the entire property. However, Mr. Newman explained, his sister, Mrs. Brooks, will put in a well on Lot A.

The question of granting this and whether or not the granting would take these lots out of the non-conforming use status was discussed.

Mr. V. W. Smith was of the opinion that a non-conforming use never terminated.

Mr. Mooreland noted that if the houses should be destroyed by fire - they would have to conform to requirements if replaced. (This, Mr. V. W. Smith insisted, indicates that the granting of this request does not terminate the non-conforming use). It would be required that a new permit would necessarily be issued, Mr. Mooreland answered, if the houses were burned and the setbacks would have to conform.

Mr. Newman said he had thought of improving one of the houses with an addition.

The granting of that would be at the discretion of the Board, Mr. J. B. Smith noted.

The termination of the non-conforming use was discussed further.

Mrs. Henderson thought the Board should have legal advice before taking any definite step.

NEW CASES - Ctd.

6-Ctd.

If the Board grants both the variances and the lot division - that would take this out of the non-conforming status, Mr. Mooreland pointed out, however, if the house should be burned and the applicant wished to build back on the location - it would be necessary to come to the Board for another permit. By granting this, Mr. V. W. Smith noted, the Board could create a condition whereby five houses would be located on these four lots - two of which are below the minimum requirements of the Ordinance. Mr. V. W. Smith questioned the legality of this.

The one unoccupied lot has more area than required, Mr. Newman noted, and while the other four houses are on three lots - by granting this the present buildings would be taken out of a non-conforming status. This is invaluable property, Mr. Newman continued, he would like to improve the buildings - probably by taking one of the houses off of Lot c.

If any changes are made in the buildings, Mr. V. W. Smith noted, it would be necessary to come back to this Board, in his opinion. The status of the property after any action of the Board should be clarified, Mr. V. W. Smith continued.

Mrs. Henderson moved to defer the case until the Board can get legal advice on the question of the status of the property. Deferred to September 10th. Seconded, Mr. J. B. Smith

Mr. V. W. Smith questioned if the Board has the authority to grant a lot smaller than the legal lot size in any established zoned area. These lots should contain 21,780 square feet, Mr. V. W. Smith continued, and here we have one lot with at least 25% less area than required.

Mr. Newman pointed out that Lot A is a legal lot with a 50 foot frontage. He could sell that lot without question as it is. He suggested that the Board had granted lots with less area than required by the zoning regulations.

Mrs. Henderson questioned if the Board could divide this property into the four lots. Mr. Mooreland answered that this is actually one piece of land which is being divided into two parts - which is allowable under the Ordinance.

(Deferred for legal advice as to granting an area for a lot which is less than the established zoning in the area - and to obtain advice on the non-conforming status of this property.)

Motion carried, unanimously.

It was noted that it would not be necessary for Mr. Newman to appear at the next hearing - he would be notified of the outcome.

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CLARENCE B. HIGGINS, JR., to permit dwelling to remain as erected 36.7 feet of the Street right of way line, Lot A, section 1, Broadvale, Falls Church District. (Rural Residence).

Mr. Higgins explained that in the re-financing of his home it was discovered in search of the title that the house was originally built in conformance with required setbacks - but that <sup>after</sup> the house was completed 30 feet were dedicated for the widening of the street, which put the front setback in violation of requirements. He purchased the house after this dedication was made and had the place re-financed. The 66 foot setback had been reduced to 36 feet. This violation is not of his making, Mr. Higgins pointed out - he has almost two acres, on which only one house is located.

It was noted that Woodburn Road has not yet been widened. They have a 30 foot right of way which is being used, plus the 30 foot dedication which is being reserved for future use.

Mr. Higgins called attention to the fact that he and a neighbor had bought two lots to the rear in order to vacate the cul-de-sac.

It was pointed out that this house was built on acreage and the original owner could not have been forced to dedicate the 30 feet for the road widening - however, it would have been very unsatisfactory for the area had he not done so. The dedication was made and while it has placed this house in violation - it was beneficial to the community to have the available right of way. Mr. Higgins pointed out that other houses in the area are closer to the right of way than his - one of which is 35 feet.

This house was set back considerably farther than required because of the possibility of future widening, it was pointed out, it was also noted that the curve in the roadway makes it appear that the four houses in the immediate area are set back about the same distance.

There were no objections from the area.

Mrs. Henderson suggested that this could be a re-occurring situation - because of road widening. Mr. Mooreland thought not - because - Mr. Mooreland stated, when this house was built the subdivision office did not have the personnel to make inspections on the ground. The location of houses built on acreage was left to the engineers. In this case the engineer probably did not show the house on the ground. Today approximately 99% of the time this would be taken care of in the beginning. The plats show if the house is located too close to the right of way. In this case they had no notification that the right of way would be taken.

The Ordinance requires the location of buildings to be shown on subdivision plats, Mr. Mooreland noted - it was a matter of lack of personnel to see these situations on the ground which probably caused this.

If this situation would arise today, Mr. Schumann told the Board, the Subdivision Control Office would tell the developer that he must come before the Board of Zoning Appeals for clearance on setback. The plat would then come back to the Subdivision Office cleared. In this case, Mr. Schumann continued, it is a matter of which is more important - the widening of

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NEW CASES - Ctd.

7-Ctd. Woodburn Road, or the house meeting the required setback. It is his opinion Mr. Schumann continued, that the ultimate advantages from the road widening outweigh the fact of a setback violation.

Mrs. Henderson moved to grant the application because it could be done without substantial detriment to the public good, and it does not impair the intent of the zoning regulations.

Seconded, Mr. T. Barnes

Carried, unanimously.

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8- KEITH E. DENTEL, to permit conversion of existing garage to playroom which is within 14.2 feet of the side property line, Lot 34, Section 3, Holmes Run Park, (205 Devon Drive), Falls Church District. (Suburban Residence).

Mrs. Dentel represented the applicant. It was shown on the plat that the proposed carport comes within the allowable setback. A very small portion of this playroom would be in violation.

There were no objections from the area.

Mr. T. Barnes moved to grant the application as it does not appear that it would have an adverse affect on other property and only a slight portion of one corner of the room would be in violation.

Seconded, J. B. Smith

Carried, unanimously.

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9- MRS. BUN B. BRAY, to permit operation of a dancing school in residence, Lot 23, Block B, Section 2, Columbia Pines, (912 Rose Lane), Falls Church District. (Suburban Residence).

This application was withdrawn by letter from Mr. Bun Bray.

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10- CATHERINE B. DAVIAN, to permit erection and operation of a service station and permit pump islands 25 feet of the right of way line of Columbia Pike, northerly portions of Lots 2 and 3, Section B, Alpine Subdivision, Mason District. (Rural Business).

Mr. Hansbarger represented the applicant.

Mr. Hansbarger pointed out that the plats presented with the case do not show the amount of property to be used in this permit - therefore he suggested that the Board defer the case for proper plats.

Mr. Douglas Adams was present representing opposition from the adjoining property owner, stating that Mr. Crown, his client, objected to any line designating a portion of this lot to be used for a filling station. Mr. Adams asked that the case be heard at this time as a deferral would penalize his client. He thought proper plats could be presented at a later time - but the important fact was to hear the case on its merits.

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NEW CASES - Ctd.

10-Ctd.

Mr. Hansbarger said it was his understanding that the Board could not hear a case of this kind without correct certified plats. Mr. Hansbarger took full responsibility for the failure to have proper plats - he had not checked them and did not know just how much of the property Mrs. Davian wished to use for this purpose. He suggested deferring the case to any date convenient to Mr. Adams and his client.

Mr. Adams again insisted that the case be heard - stating that he was appearing here at the expense of his client to oppose this use - it is the responsibility of the applicant to present proper plats, Mr. Adams continued, and he felt it unfair to his client to continue the case because of the applicant's failure to present proper information to the Board.

Mr. V. W. Smith suggested that the Board could not hear the case without complete plats and full knowledge of the area to be used, Mrs. Henderson moved to defer the case until the Board has proper plats showing all the things required under Section 6-16-c-1-2-3-4 of the Ordinance.

Deferred to September 10th.

Seconded, Mr. J. B. Smith

Carried, unanimously.

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11-

DEFERRED CASE:

TREMARCO CORPORATION, to permit erection and operation of a service station with pump islands within 25 feet of the Street property line, on north side #644, 250 feet east of Brookland Road, Lee District. (General Business).

Mr. Johnson represented the applicant. The following letters were read:

"July 11, 1957

Re: Sewerage Facilities  
Franconia Road  
S. D. #1 Area

Gulf Oil Corporation  
Box 1801  
Washington, D. C.

Attention: Mr. S. A. Parks, District Manager

Dear Mr. Parks:

In response to your letter dated July 9, 1957 regarding sewerage facilities on Franconia Road (Rt. 644) near Gum and Cedar Streets, we wish to advise that a proposed sewer is to be installed on the south side of Franconia Road between Gum and Cedar Streets.

We further advise with respect to your specific questions as follows:

- (1) Sewer Contract number is #68
- (2) Contract #68 awarded June 5, 1957.
- (3) Contract #68 awarded to J. A. LaPorte, Inc.
- (4) Amount of Contract #68 - \$120,656.97
- (5) Contract #68 contains 13,696 lineal feet of sanitary sewers.
- (6) Contract #68 - Contract time - 200 Calendar days.

We trust that this information is satisfactory to answer your inquiry.

Very truly yours,

/s/ Harry L. Hale,  
Sanitary Engineer  
County of Fairfax"

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DEFERRED CASE - Ctd.

11-Ctd.

"Fairfax, Va.  
June 28, 1957

Mr. S. L. Johnson, Tremarco Corp.  
% Gulf Oil Corporation  
Box 1801  
1724 S. Capitol Street  
Washington 13, D. C.

Dear Mr. Johnson:

Please be advised that Route 644 (Franconia Road) near the west intersection of Route 973, and approximately 1.5 miles east of R. F. & P. Railroad, has a normal right of way width of 50 feet. This portion of Route 644 was reconstructed under Project 1378 F in 1947. At the present time there are no plans for any further improvement of this road in the near future.

We trust this is the information you desire.

Very truly yours,

/s/ L. O. Bolton  
Resident Engineer  
DEPARTMENT OF HIGHWAYS"

It was noted that the building is located 76 feet from the right of way of Franconia Road, which would allow sufficient area for future widening and for moving the pump islands back if and when this becomes necessary. Mr. Johnson called attention to the fact that they had changed the location of the entrance curbs to conform to those on the filling station now operating near this location. This station will not be in operation, Mr. Johnson stated, until the sewers are ready - which as indicated in Mr. Hale's letter will not be until later this fall.

Mrs. Henderson moved to grant the application to the Tremarco Corporation, allowing the pump islands to be located within 25 feet of the street property line. This is granted according to the plat presented with the case prepared by Richard O. Spencer, Certificate No. 696, dated July 30, 1957.

This is granted because as presented it conforms to all other provisions of Section 6-16 of the Ordinance.

Seconded, Mr. T. Barnes

Carried, unanimously.

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Mr. Chamberlin, representing Mr. Gilbert Parks, asked to speak to the Board regarding a re-hearing in the PARKS CASE.

Mr. Mooreland told the Board that Mr. Parks wished to protest the decision of the Board on this case - and has (in order to come within the 30 days required) filed suit in appeal. However, in the meantime, Mr. Parks is asking for a re-hearing, with the hope that it may<sup>not</sup> be necessary to go to court. This request for re-hearing must be requested within 45 days of denial of the case. If the re-hearing is granted and the decision is reversed - Mr. Parks would naturally withdraw the court case. The court case was filed merely to protect him in case the Board refuses the re-hearing, Mr. Mooreland explained.

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PARKS CASE - Ctd.

Mr. Chamberlin told the Board that they have new evidence - which he thought if brought before the Board would change the picture and perhaps give his client a more equitable decision.

In an effort to come nearer compliance with the Ordinance, Mr. Chamberlin noted that Mr. Parks has ripped off a portion of the violating building - back to an eight foot setback. He would like to stop there as it would be impractical to take off any more of the building.

The Board agreed to re-hear the case - if the applicant can produce new evidence. They asked Mr. Chamberlin to present the new evidence.

Mrs. Henderson recalled the Commonwealth Attorney's advice that in case of a re-hearing the date and time must be re-advertised.

Mrs. Henderson moved to hear Mr. Chamberlin - in order to determine if there is new evidence.

Seconded, Mr. T. Barnes

Carried, unanimously.

The new evidence is, Mr. Chamberlin stated, that the building in question is not now being used as a dwelling. It was being lived in temporarily by caretakers, but the building was designed for a store shed. The electric connections and water have been cut off and the people ejected. Mr. Parks will post bond to the affect that the building will not now be used for dwelling purposes.

The original application was in error as made out, Mr. Chamberlin continued, it was Mr. Parks' intention that the permit would read a storage building and not a dwelling. The office of the Zoning Administrator made out the application. There is now only one dwelling on the property, Mr. Chamberlin contended. They were taken back by the petition as presented to the Board, as the statements as advertised were entirely inaccurate, Mr. Chamberlin continued. The opposition was present under a misunderstanding and now many of them wish to remove their names from the petition objecting to this application.

Because of the uncomfortably hot day at the last meeting, Mr. Chamberlin thought the Board perhaps was tired and over-strained and did not give full consideration to the case.

Mr. V.W. Smith not@d the use of the buildings was not before the Board - the Board was considering only the setbacks.

Mr. Chamberlin explained to the Board that after the last hearing, Mr. Parks was very ill and was in the hospital - he tried to get this straightened out but was handicapped by his health. Mr. Chamberlin asked the Board to view the property, to assure themselves that Mr. Parks was trying in every way to better conditions.

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PARKS CASE - Ctd.

Mr. Chamberlin stated that the opposition also probably stemmed from a personal quarrel with Mr. Parks - which many in the area have now realized had nothing to do with his violations. Since Mr. Parks has cut off a portion of the violating building to the point where the violation amounts to only two feet, Mr. Chamberlin asked that the Board reconsider their former denial. Mr. Mooreland thought the Board should view the property if the members were of a mind to re-hear the case. He noted that the building was designed for two families originally.

Mr. Mooreland also noted that while the Zoning Office made out the application for Mr. Parks, it was read and signed by him, therefore approving the wording. He thought there was no misunderstanding involved.

Mrs. Henderson saw no reason why the factual information presented at this meeting could not have been presented at the original hearing. The fact that the people who were living in the building are now out - could have happened before the former meeting, and that evidence presented at that time.

Mr. Mooreland also noted that Mr. Parks uses this shed building for the storage of equipment which he uses in his business in Washington.

Mr. V. W. Smith said he saw nothing to be gained by a re-hearing.

Mr. Schumann called attention to the fact that the only thing on the property that does not conform now is the building, which is eight feet from the property line. This building was 1.4 feet from the line before Mr. Parks chopped off the corner.

Mr. T. Barnes stated that he did not feel that enough evidence has been presented to justify a re-hearing, therefore, he moved that the Board not re-hear the case because there was not sufficient new evidence presented which could not logically have been presented at the original hearing - according to the provisions of the Ordinance.

Seconded, J. B. Smith

Carried, unanimously.

Mrs. Henderson considered that Mr. Chamberlin was attempting to present a new case, and that no new evidence had been presented on the former case.

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The meeting adjourned.

*Verlin W. Smith*  
Verlin W. Smith, Chairman

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The regular meeting of the Fairfax County Board of Zoning Appeals was held Tuesday, September 10, 1957 at 10 o'clock a.m. in the Board Room of the Fairfax County Court-house, with all members present. Mr. Verlin W. Smith, Chairman, presiding.

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The meeting was opened with a prayer by Mr. J. B. Smith

DEFERRED CASES:

- 1- ELLIS G. HARRINGTON, to permit storage shed to remain as erected two feet of side and rear property lines, Lot 4, Blk. 8, Section 3, Hollin Hall Village, (406 Fairfax Road), Mt. Vernon District. (Urban Residence).

This case was deferred pending the adoption of a revised zoning ordinance which would permit this shed within two feet of the rear property line. The ordinance would appear to be several months from completion, Mr. Mooreland told the Board. The case had been deferred twice before - for this same reason.

Mrs. Henderson moved to again defer the case for six months for the adoption of the new zoning ordinance or to defer the case until the adoption of the new ordinance.

Seconded, Mr. Lamond

Carried, unanimously.

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- 2- THOMAS D. ALWARD, to show cause why the permit granted to you on January 22, 1957 to operate a repair garage, should not be revoked, on south side #244, approximately 1500 feet east of Bailey's Cross Roads, Mason Dist. (Gen. Bus.)

Mr. Lytton Gibson represented the applicant.

Mr. Gibson told the Board that he had advised Mr. Alward, his client, to clean up his property and that Mr. Alward has made a start on the cleaning process, having moved at least five vehicles.

Mr. Gibson said he was not entirely clear on what the law is in this case and he felt that the Commonwealth's Attorney would have a difficult time giving an opinion on it also - but since Mr. Alward has started cleaning up his place, Mr. Gibson suggested that the case be continued to give him a chance to go ahead with the clean-up. He has made a good start and Mr. Gibson said he believed they could get the place straightened out if the County would go along with him and give him a chance to work with Mr. Alward. Mr. Gibson said he did not know how far Mr. Alward would go but he had agreed to put the place in good condition. He felt that it could be worked out without causing a hardship on anyone. A deferrment of from 90 to 120 days was suggested.

Mrs. Henderson asked how far the Board expected Mr. Alward to go in this cleaning process - what could be kept on the property? She felt that the Board should arrive at an understanding of when they would consider the property "cleaned up". Could he keep three cars on the property - or ten cars - or how many?

L 10

2-Ctd. Mr. Gibson agreed that the Board and he should have a mutual understanding on this. What Mr. Alward could keep and for how long. Mr. Gibson suggested a letter stating what the Board expected. He would make every effort to have Mr. Alward conform - and if Mr. Alward cannot conform to what the Board expects him to do - he (Mr. Gibson) would discuss it with Mr. Mooreland and he was confident they could work out a satisfactory arrangement.

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Mrs. Henderson suggested a fence in the back. That, Mr. Gibson answered, has been arranged for.

This man, Mr. Gibson explained, is something of a "Jack-leg" mechanic with a clientele of friends, who bring their trucks and various types of cars and equipment to him for repairs. Mr. Alward utilizes the usable parts from wrecked vehicles in making these repairs. He does a good job, Mr. Gibson continued, and it is cheaper for his clients. He is a good mechanic and has satisfied his customers. He is well thought of in the community, and people who deal with him want to keep him in business.

Mr. Alward will put in an evergreen hedge - in addition to the anchor fence, Mr. Gibson went on. If he were more clear on the law, Mr. Gibson continued, he might know more definitely what Mr. Alward would have to do but as it is he was not entirely sure what Mr. Alward will do or what they can require of him. He did know that the evergreen hedge has been ordered. If the Board will request that the letter be sent covering what would be acceptable to them in cleaning up the place - he felt it could be done.

Mrs. Henderson moved to defer the case for 90 days for Mr. Alward to take steps to clean up the property, and for Mr. Mooreland to send a letter to Mr. Gibson with a specific listing of requirements of what he thinks should be done on the property, and for Mr. Mooreland to consult with Mr. Alward and Mr. Gibson to see what is feasible.

Seconded, Mr. Lamond

Carried, unanimously.

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3- CARL M. FREEMAN, to permit carport to remain as erected 5.4 feet of the side property line, Lot 22, Block C, Section 3, Ridge View, Lee Dist.(Sub. Res.)

Mr. Verlin W. Smith reported that he had seen the property and he did not think it would be <sup>a</sup>difficult matter for the applicant to remove the carport. He could see no justification for the violation - nor for the Board granting it.

Mrs. Henderson moved to deny the case because if there is a hardship involved here - it is self-created and therefore the case cannot be granted under Section 6-12-9 of the ordinance.

Seconded, Mr. T. Barnes

Carried, unanimously.

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DEFERRED CASES - Ctd.

4- HERMAN GRENADIER, to permit erection of three dwellings within 40.5 feet of the street property line, Lots 344 through 351, inclusive, Block H, Memorial Heights, Mt. Vernon District. (Suburban Residence).

Mr. Grenadier was asked for the square footage in these lots - which he could not give off-hand. However, Mr. Lamond told the Board that this is a generally wooded area, and the hill at the rear of the property makes it practically impossible to build upon these lots without this variance. There are other houses in the area with a less than required setback, Mr. Lamond continued, and he felt that the five foot difference would be little noticed.

Mrs. Henderson suggested that the Board should know the square footage in the lots. Mr. Mooreland asked why - when these are old legal lots which Mr. Grenadier could build upon without permission of the Board. Since the lots are so small Mr. Grenadier is combining and adding to the lots - he is not re-subdividing, Mr. Mooreland continued. The only question before the Board, Mr. Mooreland pointed out, is the setback.

Mr. Lamond stated that in his opinion - due to the topography and the shape of the lots and the character of the land, this should be granted. The only variance on setback would be from the street.

Mr. Verlin W. Smith suggested putting up a house with the carport or garage in the basement or constructed as an integral part of the house in order to avoid future requests for side variances.

Mr. Grenadier said he planned no carport nor garage, but would put in a driveway.

Mr. Lamond moved that the application be granted due to the topography, the character of the area, and the shape of the lot. This is granted under Section 6-12-g of the ordinance.

Seconded, Mr. T. Barnes.

For the motion: Lamond, Barnes, J. B. Smith and V. W. Smith

Mrs. Henderson refrained from voting.

Carried.

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5- LAURENCE G. NEWMAN & DOROTHY A. BROOKS, to permit division of property left under Will, with less area than allowed by the ordinance, and a variance to setback of existing houses, Lots 39 and 41, Wellington, Mt. Vernon District. (Rural Residence).

This case was deferred to view the property, also Mr. V. W. Smith said he had discussed the case with the Commonwealth's Attorney, who suggested that the Board (if it is inclined to grant the case) grant permission to subdivide... the land as shown on the plat but that the Board leave the buildings as they exist in a non-conforming status. Then in case of destruction by fire the buildings could not be replaced on the present foundations and no addition could be made to the existing buildings. This would apply to all buildings on the property.

Mr. Newman said they had tried in every way to conform to the regulations.

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DEFERRED CASES - Ctd.

5-Ctd.

They had drawn the lot lines paying particular attention that the buildings conform to the required side setbacks. On the lot with the two buildings, Mr. Newman continued, one would not be used as a dwelling.

But, Mr. V. W. Smith noted, Mr. Newman could use these two buildings as dwellings for an indefinite time - as they are - with no changes.

Mr. Newman said they had planned a considerable amount of remodeling to the one building on Lot B, which would make it into a very attractive home. He could rent it as it is, but it is his wish to have this as his own permanent dwelling.

Mr. Lamond suggested moving the houses so just one house would be on a lot. That would not work in with their plans, Mr. Newman answered. The division of the property (if this is granted) would result in Lots A and D belonging to Mrs. Brooks and Lots B and C to Mr. Newman. The building on Lot C would be rented.

Mr. Lamond suggested moving the building on Lot B to make it conform - however it was noted that the house could not, under any circumstances, meet the required setback from both Kent Road and Mt. Vernon Memorial Highway.

If the house is moved back nearer the Memorial Boulevard, and nearer to the center of the lot he would have no front nor back yard, Mr. Newman pointed out, since he faces on the two streets.

Mr. Newman said he felt discouraged - as he had tried very hard to make this division of the property as near to conformance with requirements as it is humanly possible - he wanted to remodel the house on Lot B to make it attractive and a credit to the County. These buildings were here long before the ordinance was adopted, Mr. Newman noted, and he wanted to make changes to modernize them. He was willing to abandon the dwelling use of one building on Lot C and he would like to remodel the other house on that lot. He felt he could do a good job with this and in the long run contribute something worthwhile to the County. He asked the Board to allow the remodeling as well as the division of the land.

It was noted that the setback from Memorial Highway was placed in violation when the Highway was put in and the right of way was taken. Also Mr. Newman noted that he is not allowed an outlet on the Memorial Highway. There is a wide parkway along the Boulevard, adjoining his property which gives no indication that the setbacks are in violation.

The Board discussed an "abutting street" as stated in the ordinance, Mr. Lamond contending that the abutting Government property, which does not allow access and as in this case the Government simply owns a strip of land which is presently used for Parkway between Mr. Newman's property and the right of way of the Memorial Highway, could not be considered an abutting street. However, it was agreed that this strip of land while it is not used for travel purposes is part of the Government's right of way for the Blvd. which is a limited access highway.

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September 10, 1971

DEFERRED CASES - Ctd.

5-Ctd.

Mr. Newman noted that no building along Kent Road is more than 25 feet from the right of way in the old sections. It was noted that Kent Road has a 30 foot right of way.

Mr. Mooreland noted that in the case of vacant lots the ordinance allows a building to line up with the other houses because the setback is already established.

Mr. Newman showed a plat indicating the setbacks of other houses in the area, contending that the houses on these lots were not out of line with an established setback.

Mr. Newman agreed that with his improvements to the houses on Lots B and C he would not come closer to any property line than the setback of the existing buildings.

Since these lots face on two streets - it was determined that the buildings face on Kent Road - since there is no access to Mt. Vernon Memorial Highway.

Mr. Lamond suggested granting the division of the lots and when Mr. Newman has his plans showing just what improvements he wishes to make to the buildings to bring a plat to the Board designating the changes.

It was noted that the two buildings on Lot C could not be rebuilt in case of fire and that no additions could be made to those buildings.

Mr. Lamond thought the Board should be lenient in so far as possible in this case, since the Government had created the situation which was placing a hardship on Mr. Newman.

Mr. Lamond moved that the division of the land be granted with less area - as shown on plat submitted with the case - plat prepared by Joseph Berry, Certified Surveyor, dated July 15, 1957.

Seconded, J. B. Smith

Carried, unanimously.

Mr. Lamond moved that on Lot B the Board allow the applicant to put an addition on the building which will not encroach closer to Kent Road than the present front line of the building, which is shown on the plat to be 34 feet from the right of way of Kent Road.

Seconded, J. B. Smith.

All voted for the motion except Mrs. Henderson, who voted "no" - stating that she wished to see the plan of the addition before voting "yes".

Carried.

On Lot C, Mr. Lamond moved that the Board allow an extension no closer to the Mt. Vernon Memorial Blvd. than the existing 20 foot setback. This is granted on the north building on the Lot. It is understood that the second building on the Lot (the south building) shall be abandoned as a dwelling.

Seconded, J. B. Smith.

All voted for the motion except Mrs. Henderson, who voted "no" as she preferred first to see the plan for an addition.

Carried.

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220  
6- DEFERRED CASES - Ctd.

CATHERINE B. DAVIAN, to permit erection and operation of a service station and permit pump islands 25 feet of the right of way line of Columbia Pike, northerly portions of Lots 2 and 3, Section B, Alpine Subdivision, Mason District. (Rural Business). 220

Mr. Hansbarger represented the applicant.

This case was deferred for complete plats.

In answer to Mr. V. W. Smith's request for proof of notification of this hearing to property owners in the immediate area, Mr. Hansbarger said he had not given these people official notification - he did not see this requirement in his notice of the hearing date, and he was not familiar with the resolution of the Board setting this policy. However, property owners in the immediate area were notified in the case of the rezoning of this property, Mr. Hansbarger noted, and the application had carried the statement that this was to be rezoned for the purpose of erecting a filling station. He was very sure the people in the area were advised of this proposed use. Mr. Adams, who was representing Mr. Crown, the adjoining owner, and one of the objectors, stated that he had talked with many people in the area who did know of the hearing and proposed use. He asked that the case be heard at this time.

Mrs. Henderson moved that in view of the fact that the opposition was willing to go ahead with the proceedings without the official notification, the Board proceed with the case.

Seconded, Mr. Lamond

Carried, unanimously.

The applicant is under contract to Shell Oil Company to erect a filling station on this property, Mr. Hansbarger told the Board, if the permit is granted. They had asked and been granted Rural Business zoning on the basis of putting in the filling station - the property was so advertised and posted and no objectors appeared at the rezoning hearings.

Mr. Hansbarger described the character of the area around this property. Across Evergreen Lane two pieces of property were recently rezoned to Rural Business classification, across Columbia Pike is a large area of General Business zoning - and one residential lot lies between this property and the Michael tract upon which will be erected a filling station, and a large scale shopping center. This is located in the immediate vicinity of two filling stations - a third could very well go in here - which would meet the ordinance requirement of locating filling stations in "compact groups".

They are asking for the 25 foot setback for the pump islands (a policy setback generally followed by the Board) and the building will be 63 feet from the right of way of Route #244 and 67 feet from Evergreen Lane.

Mr. Douglas Adams appeared for Mr. Crown, in opposition. Mr. Crown owns the residential lot adjoining this property.

Mr. Adams read a petition opposing this use, signed by 19 persons in Alpine Subdivision. The petitioners stated that their opposition was based on the fact that they believe there are sufficient filling stations in the area to take care of the need, and they think this use would be more detrimental to their residential property than any other type of commercial enterprise. They asked the Board to help establish a buffer between the existing service stations and the residential section of Alpine Subdivision by denying this use.

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There are two filling stations at this intersection, Mr. Adams pointed out, seven stations at Annandale and one more station under construction and two more proposed. That, Mr. Adams contended, is enough.

Mr. Adams located the existing business in the area and suggested that this lot was so situated that it should come in the category of transitional business uses in order to protect the residential property adjoining it to the south and east. The people object to the noise and the bright lights. They did not oppose the business zoning, but they were in hopes that a limited business use or transitional use could go in here. He suggested a professional office building, specialty shops, or a higher type of business use. They dislike a filling station with its noise, lights and traffic.

Mr. Crown did not object at the rezoning hearing, which proposed the erection of the filling station, as he was away from home at that time, Mr. Adams told the Board.

Mrs. Henderson asked why the other 18 signers of the petition waited so long before objecting. Mr. Adams answered that they did not see the posting sign.

Mr. Lamond recalled that during the rezoning discussions, Mr. Gray of the Planning Commission had stated that he thought Mr. Crown's property was also logically commercial.

Mr. Adams answered that Mr. Crown did realize that commercial zoning was coming to this neighborhood, and he did not especially object to that - but he wanted the character of the commercial development to be controlled.

In answer to Mrs. Henderson's question - Mr. Crown stated that he did know that the rezoning had included a filling station as the proposed use.

Mr. Mooreland read the following letter from Mr. J. Pi Mills of the Dept. of Highways, regarding right of way on Route #244:

"June 26, 1957

Future Development of Route #244  
in Vicinity of Annandale  
Fairfax County

H. F. Schumann, Jr.  
Director of Planning  
Office of Planning Commission  
Fairfax, Virginia

Dear Mr. Schumann:

Reference is made to your letter of June 25 concerning Route 244 in vicinity of Annandale.

DEFERRED CASES - Ctd.

6-Ctd. Letter from Highway Department - Ctd.

The traffic on Route 244 has increased tremendously during the past few years. It is now classified as a Class II, four-lane divided highway. According to our standards for a Class II, four-lane divided highway, we need a right of way width of 160 feet.

I might call your attention to the fact that at the present time we have a right of way width on Route 244 varying from 57 feet at the curb and gutter section to a maximum of 80 feet.

I have discussed this question of Route 244 with Mr. Huddle, our Location and Design Engineer. He could not give me any definite plans for the improvement of Route #244, especially on that section adjacent to Annandale. It is entirely possible that when money becomes available and the need arises, that the high cost of obtaining the additional right of way would necessitate putting this section of Route 244 on new location.

Normally, with a four-lane divided highway we like to obtain 160 feet of right of way which will allow us at least a 40 foot median strip. With a wide median strip, we can, naturally, construct left-turn lanes which mean added safety and less congestion to the motorist. With this type of facility, any service roads should be built outside of the right of way. However, if we build four-lane divided with a narrow median strip, the service roads can, naturally be built within the 160 foot right of way without too much difficulty.

Each particular road must be considered on its own merits. This is especially true in highly developed areas such as you have in Fairfax County. I would suggest that you discuss this particular case with Mr. Kestner or Mr. Bolton. I am sure that they can be of considerable help in reaching a conclusion as to what we might possibly do for this particular section of Route 244 that you are interested in in the way of future development.

I am sorry that I cannot be of any more service than I have, If I can be of help in the future, please advise.

Sincerely,

/s/ J. P. Mills, Jr.  
Traffic and Planning Engineer  
Department of Highways

Since the Highway Department does not know what they will want on this right of way, Mr. Hansbarger stated, nor when they will want it.....it would appear that the location of the building will take care of whatever may be required in the future for widening and only the pump islands would have to be moved back. Most of the other buildings along Columbia Pike in this area are considerably closer to the right of way than the applicant proposes on this, Mr. Hansbarger noted.

Mr. Adams still contended that a buffer should be required between this lot and Lot 4, the residential property, to protect the adjoining residences.

Mr. Hansbarger called attention to the plat, which indicated that only the front 101+ feet are being used for the filling station. Mrs. Davian will use the back 192 feet of Lots 2 and 3 for her residence - this in itself forms the buffer between the filling station and the residential lots immediately adjoining to the rear. Mr. Hansbarger also noted that the one person in Alpine Subdivision who did not sign the petition opposing this use was the owner of Lot 4, which immediately joins the Davian property.

The filling station will not create a traffic problem, Mr. Hansbarger continued, that problem already exists - the fact that this station might contribute to the existing traffic condition does not constitute a reason to deny a use when it would merely be adding to a condition which is caused by the normal traffic flow.

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DEFERRED CASES - Ctd.

6-Ctd.

Mr. Hansbarger read from a Supreme Court ruling regarding filling stations which states in the decision that a filling station is not to be considered a dangerous business.

Mr. Hansbarger contended that this is a reasonable request - in view of the surrounding development.

Mrs. Henderson called attention to the small strip of land at the rear of the area designated for this use, which is in business zoning but is not included in the filling station area. This is to give a little more land for yard for the Davian house, Mr. Hansbarger answered. The filling station does not need it, and by cutting the property at the 101+ feet depth it makes a conforming lot of the rear, and the house can abide by all setbacks.

Mr. Hansbarger said he had discussed this with Mr. Schumann.

Mrs. Henderson asked what setback the Michael filling station had shown.

Mr. Mooreland left to get the Michael case.

Mr. Davian said they would conform to the State Highway Departments requirements for curbs and entrances.

The width of the highway was again discussed. Mr. Hansbarger contended that since the Highway Department has stated that they have no definite future plans for the highway at this point, and they have complied with the existing ordinance; and have located the building back sufficiently far to take care of what is proposed for future widening, he felt that the application is reasonable and fair. It is not logical, Mr. Hansbarger continued, to disregard the existing ordinance and to deny a man the use of his land.

The minutes of the Michael case were read, which showed that the building was located on the plat 88 feet from the present right of way.

Mr. Lamond thought that since the Board has established a policy on filling station set backs and in this case the building is sufficiently far back to allow for any future widening, this would appear a logical request. Also Mr. Lamond recalled that the Planning Commission is studying other possible means of by-passing the intersection at Annandale, however, he thought the building should set back the 88 feet to conform to the setback of the Michael property. Mr. Lamond moved to defer action on the case pending re-submission of the plat to meet the 88 foot setback for the building.

They do not have the zoning depth to do that, Mr. Hansbarger pointed out.

Moving the building back that far would run too close to the house on the adjoining part of the lots. They could use the entire zoned area, Mr.

Hansbarger continued, but that would eliminate the buffer. They had thought the idea of creating the buffer a good one.

Mr. Lamond suggested that the pump islands be located 34 feet from the right of way instead of 25 feet requested. Mr. Hansbarger agreed that they could meet that.

Mr. Lamond moved that the application be granted provided the pump islands are located not closer than 34 feet from the right of way of Columbia Pike.

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DEFERRED CASES - Ctd.

6-Ctd.

This is granted as it conforms to Section 6-16 of the ordinance.

For the motion: Lamond, J. B. Smith, Mrs. Henderson

Both Messrs. V. W. Smith and T. Barnes refrained from voting.

Carried.

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NEW CASES:

1-

FRANCIS J. & GOLDA REED, to permit division of lot with less area than allowed by the ordinance, on west side Route 7, 2300 feet south of Route 694, Providence District. (Agriculture).

Mr. John Rust represented the applicant.

Mr. Mooreland told the Board that this case was mistakenly advertised in the Providence Journal for hearing on September 19 instead of the 10th. However, that does not in any way invalidate the advertising requirements, Mr. Mooreland noted, as the correct date of hearing was published in the Fairfax Herald - the newspaper which carries all County advertisements. It was suggested that someone wanting to come to the hearing could have been misled by the Providence Journal's notice.

Mr. Lamond moved that the Board proceed with the case.

Seconded, Mr. T. Barnes

Carried.

This land is located in a two acre minimum lot area, Mr. Rust told the Board.

There are two houses on the property, both built when this property was zoned for 1/2 acre lots. The houses were built without dividing the land. Now the owners wish to divide the property and sell one of the houses.

Since under the Freehill Amendment these are not now legal lots, one lot is set up for 0.8 of an acre and the other 1.09 acre, the sale cannot be consummated without prior approval of the Board of Zoning Appeals.

This 19.394 acre tract was purchased in 1946, Mr. Rust told the Board, and was split into two tracts. A trust was placed on the portion of the property on which this house, which is presently being sold, is located. The house on the other part of the tract was built about 7 years ago. In Jan. of 1956 Mr. Reed sold 17 acres of the rear of the property, leaving this 1.89 acre area. At that time the 1/2 acre zoning was in effect. In June of 1956 a contract was drawn to sell the little house. It was during these sale negotiations that they realized the violation in the lot area. Therefore, this application has been filed, Mr. Rust concluded.

Mrs. Henderson thought this should go before the Planning Commission for advice, as to what procedure the Board should take. It is very possible, Mrs. Henderson continued, that many similar cases could come before the Board and she felt it was wise to have a statement of policy or advice from the Planning Commission.

224

NEW CASES - Ctd.

1-Ctd.

Mr. Mooreland asked what the Planning Commission could do about it. The man has two houses on one piece of land which does not have sufficient area to meet zoning requirements. The houses were built seven and eleven years ago. They were built on an area which at that time could have been divided into legal lots. It would appear to him, Mr. Mooreland continued, that it was up to this Board to say what the applicant could do.

The people who wish to buy the property are living in the place, Mr. Rust told the Board.

There were no objections from the area.

Mrs. Henderson moved to defer the case for an opinion from the Planning Commission and the Commonwealth's Attorney as to dividing lots with less area than allowed by the ordinance.

Seconded, Mr. Lamond - Carried, unanimously.

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2-

MARTIN DALTON, to permit renewal of Special Exception for operation of a convalescent home in dwelling (granted by the Board of Zoning Appeals Sept. 21, 1954 for 3 years), Lot 10, First Addition to Leewood, Mason District. (Agriculture).

This applicant was granted a permit for three years, which permit will expire September 21st. They have been operating without objections from the area, Mr. Dalton told the Board, all during this time. Their investment on the property has been considerable and there is a need for such homes in the County - therefore they are asking now for an unlimited permit.

They will have public water within a short time, and they will hook on to the sewer, which is now available.

They have 20 patients.

Mr. J. W. Brookfield came before the Board stating that he knew this property, it is located near him, and he felt that the home had been well run, that it was not objectionable in any way, and that it helped to fill a great need in the County. He recommended that the Board grant the permit as requested.

Mr. Lamond moved to grant the use permit to Mr. and Mrs. Dalton only - during their ownership of the property.

Seconded, J. B. Smith

Carried, unanimously.

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3-

A. J. BRITTING & MRS. HELEN H. WALKER, to permit operation of a nursery, kindergarten and first grade in present dwelling, northwest corner of Arlington Boulevard and Javier Road, Falls Church District. (Sub. Res.)

The applicants asked that this case be placed at the bottom of the list as they could not be present at the time scheduled.

The Board agreed.

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225

220  
4  
September 10, 1957

BRYAN H. HELLER, to permit enclosure of porch within 40 feet of Route #50 and within 9 feet of Route #608, at the southwest corner of Route #50 and Route #608, Centreville District. (Rural Business).

Mr. Mooreland told the Board that he had received a letter from Mr. Hansbarger asking a deferral on this case. Also Mr. Mooreland noted that Mr. Schumann had asked him to show the Board the Highway plans on Route #50. However, the Board thought it unnecessary to look at the Highway plans if they considered deferring the case. These plans could be reviewed at the time of the hearing.

Mr. Lamond moved to defer the case until October 8th, at the request of the applicant.

Seconded, Mrs. Henderson

Carried, unanimously.

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5- THOMAS J. POWERS, to permit dwelling to remain as erected 18 feet of side property line, Lot 5, Resub. Lots 19 and 20, Unit 1, Fairfax Park, Falls Church District. (Agriculture).

Mr. Hayter represented the applicant.

Construction on this dwelling is almost completed, Mr. Hayter informed the Board. He called attention to the fact that the front corner of the house nearest to Hillside Road, is 18 feet from the side property line - but that the north wall of the house bears away from the side line so the rear of the house actually conforms to the required setback. When this construction was planned, Mr. Hayter continued, it was the understanding that the front of the house would be parallel with the road. The area was not developed at that time and the stakes were hard to find. As shown on the plat, the house was swung to one side creating this violation at the one corner.

Mr. Powers was granted a building permit, Mr. Hayter explained, on the basis of the plat which he presented, which showed this to be property located, and he was given final zoning approval. Mr. Powers has progressed slowly with the building - much of which he has done himself. There was a heavy growth of underbrush on the property and he evidently did not find his correct lines. Inspection was not checked with a tape - it was done by merely estimating the setback which appeared to be the right distance from what they thought was the correct line. The error came to light when Mr. Powers applied for the completion loan in July, Mr. Hayter explained. They have been unable to purchase additional land from Lot 6, Mr. Hayter told the Board. There is nothing built on Lot 6 but it is in the process of being sold.

Mr. Mooreland asked why the Zoning Office was asked in August to approve this location plat when Mr. Powers knew in July that he was in violation. The inspectors report dated August 5, 1957 was read.

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NEW CASES - Ctd.

5-Ctd.

Mr. Powers told him, Mr. Hayter explained, that he contacted the Zoning Office regarding his house when he realized the violation, and the variance was later applied for. However, the inspection was okayed in the beginning and the violation was not discovered until the loan survey was made.

There were no objections from the area.

They have no plan for a garage, Mr. Hayter informed the Board, the driveway will go in on the side nearest Lot 4.

The topography is generally regular, having a slight slope away from the street. The lot was in bad condition when Mr. Powers started work - it took a considerable amount of grading and clearing.

Mr. J. B. Smith moved to grant the application because this is a slight variation and it affects only one corner of the house.

Seconded, Mr. T. Barnes

Carried, unanimously.

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8-

Mr. Lamond suggested that some in the room may be waiting for the MILTON DIENER case, which has been withdrawn by the applicant. It was scheduled for hearing at 12:10 p.m. It was stated that the applicant will file a new case to be heard at a later date.

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6-

C. L. GRABILL, JR., to permit carport to remain 4.3 feet of side property line, Lot 248, Section 4, Tyler Park, (403 Johnson Road), Falls Church Dist. (Urban Residence).

Mr. Grabill presented the five letters of notification, two of whom are adjacent property owners, all persons notified responded by saying they had no objection to the carport remaining as it is.

This was the builder's error, Mr. Grabill told the Board. They could move one post which violates the ordinance, but it would look out of proportion and in his opinion would adversely affect not only himself but also his neighbor. He called attention to the fact that the carport is entirely open and the neighbors most affected approve it as it is.

There were no objections from the area.

He was not notified of a violation until the roof was on the carport, Mr. Grabill explained. His builder got the permit and put in the foundation for the pillars - which were apparently located all right.

It was suggested that the one post in violation could be taken out and two posts set in - away from the corner a sufficient distance so they would not be in violation. The roof would still have adequate support. However, it was agreed that such an arrangement would look a little odd.

Mr. Barnes moved to grant the application because only one post is in violation and to move the post, substituting the two posts which would not be in violation, would look unattractive and would be a hardship. This is a slight variance, Mr. Barnes continued, and does not appear to adversely affect neighboring property owners.

Seconded, J. B. Smith

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NEW CASES - Ctd.

6-Ctd. For the motion: T. Barnes, J. B. Smith, Lamond, V. W. Smith

Mrs. Henderson voted "no".

Motion carried.

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The Board adjourned for lunch.

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Upon re-convening, the Chairman read a letter from Mr. Milton Diener asking to withdraw his case. Mr. Mooreland said a new application had been filed by Mr. Diener which would be heard at 11:20 a.m. on September 24th.

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7- CITIES SERVICE OIL COMPANY, to permit erection of a sign with larger area than allowed by the ordinance, (90 sq. ft.) Parcel C, Fenwick Park, (2000 Lee Highway), Falls Church District. (General Business).

The applicant has requested that this case be deferred until October 8th.

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9- McLEAN SHOPPING CENTER, INC., to permit erection and operation of a service station with pump islands within 30 feet of the street property line, N. E. corner of Ingleside Avenue, Route #1813 and Route #123, Part Block 1, Ingleside Subdivision, Dranesville District. (General Business).

Mr. Ralph Kaul represented the applicant as president of the company. Mr. Kaul showed a plat of their entire property, recalling that last year his company had been given a permit for a filling station to be located near the fire house. The food store, which will become a part of their shopping center, has objected to that location for the filling station because it would crowd the traffic flow around the corner of their parking area, and would block the view of their store. The applicant then agreed to request this change in location - to the corner of Route #123, and Ingleside Avenue - which would benefit the food store and would actually be just as good a location for the filling station. The land amount is approximately the same, Mr. Kaul noted, and they are asking the same setback for the pump island as granted on the other permit - 30 feet. They will abandon the first permit.

There were no objections from the area.

Mr. Lamond moved to grant the application as it conforms to Section 6-16-d of the ordinance. It is the same square footage as formerly approved, Mr. Lamond continued, and in his opinion it is better planning to locate the filling station at this point rather than as formerly granted. It is also understood that the permit for the other location for the filling station on this property shall be revoked at this time. This is granted as per plat presented with the case, prepared by B. Calvin Burns, dated Sept. 9, 1957, showing the building to be back 86.5 feet from the right of way of Rt. #123 and the pump islands 30 feet back from the rights of way of both Rt. #123 and Ingleside Avenue.

Seconded, Mr. T. Barnes - Carried, unanimously.

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NEW CASES - Ctd.

Mr. Mooreland read a statement from Mr. H. F. Schumann's office stating that the Planning Commission has a tentative plan for a 100 foot - six lane right of way for Route #123. However, Mr. Mooreland observed, this has been approved by no one.

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10-

NATIONAL SIGN COMPANY, to permit erection of three signs with larger area than allowed by the Ordinance, (163 sq. ft.), N. E. corner of South Street and Annandale Road, Route 649, Falls Church Dist. (General Business).

Mr. Kinder represented the applicant. This is a completely new and different type of store, Mr. Kinder told the Board, which the owners desire to bring into the Metropolitan area. It is a chain of small grocery stores. They are open seven days a week from 7:00 a.m. until 11:00 p.m. They have something over 500 stores in the Country - all of which are identical - carrying the same goods and each store set up in the same manner. They have very rigid requirements as to cleanliness, service, maintenance, construction of the store, and signs. These stores are established as a neighborhood service. They carry a wide variety of articles - especially those things which people might need after the large super-markets are closed. The hours are early and late - for convenience of the customers who need to run in for last minute articles or things forgotten on the shopping list. These are actually neighborhood-convenience-stores.

The signs on all these stores are identical, Mr. Kinder continued, they are designed and made by one company. Whenever a new store goes in - the order for the signs is forwarded to the central sign contractor and it arrives - a package deal - ready for installation. The "7-11" has been their trade mark both on the pylon and on the post sign. It is their only form of advertising. In fact, the success of the store, Mr. Kinder contended, is based on their signs. These stores have been very popular in every area they have gone into - but they need the signs - their success trade-mark.

Mr. Kinder noted that the pylon is an integral part of the building (he showed photographs of stores identical to the one proposed) - the sign structure was granted along with the building permit. It is not furnished by the general sign contractor. Therefore, Mr. Kinder went on, the pylon actually should not be considered a part of the sign. It is built into the building and has been a part of it - and a part of the building permit as issued.

The letters across the canopy are 12" in height, Mr. Kinder noted. The pole type sign which would be located near the right of way is plastic - lighted from within.

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NEW CASES - Ctd.

10-Ctd. Mr. Haran represented opposition offered by the Sleepy Hollow Citizens' Association. The following letter from the Association was read:

"7 Aspen Lane  
Falls Church, Va.  
September 5, 1957

Board of Zoning Appeals of Fairfax County  
County Office Building  
Fairfax, Virginia

Gentlemen:

Reference is made to the following two items scheduled for a hearing before your Board on September 10, 1957:

1. Milton Diener - request to permit the erection of a sign with larger area than allowed by Ordinance (98 sq. ft.) on south side of Arlington Blvd., 650 feet west of intersection with South Street, Falls Church District.
2. National Sign Company - request for permit to erect 3 signs with larger area than allowed by Ordinance (163 sq. ft.) N.E. corner of South Street and Annandale Road, Rt. 649, Falls Church District.

This Association would like to go on record as opposing these requests for waivers of the Zoning Regulation. The area in question border existing residential developments, and it is felt that signs such as those proposed would be an eyesore to the community. Advertising signs are never a thing of beauty, however, they can be made less offensive if their size is restricted to decent proportions.

Naturally it is understood that businesses in the County must advertise, however, this Association is of the opinion that this can be satisfactorily done within the limitations of existing regulations. It is believed that to initiate a practice of granting exceptions or variances to established regulations or ordinances will eventually negate the reason for their existence. By definition, an exception or variance should be the exception and not the rule.

It would be appreciated if this objection would be read into the records of your proceedings. It is hoped that your Board, acting in the best interests of the overall County, will disapprove the above requests. Your advice as to final action taken would be appreciated.

Sincerely,

/s/ Henry P. Bisschop, President  
Sleepy Hollow Citizens' Association"

The size and colors of the signs were discussed - Mr. Kinder stating that the signs would have a white background with red and green lettering. The overall sign on the pylon would be 103 square feet (this would be double faced) and would be lighted from dark until 11:00 p.m.

Mr. Haran noted that the traffic increase on South Street in the past six months would be made more hazardous because of these large signs. He asked that the signs be kept within the ordinance requirements and that the rural character of their area be preserved.

Since this is a small store for a neighborhood clientele, Mrs. Haran asked, why such a large sign?

Mrs. Chaffiotte of 311 Holmes Road objected to the large sign because it would shine into her bedroom window. They are property owners nearest this proposed store. She thought, however, that many others in the immediate area would also be annoyed by the bright lights.

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NEW CASES - Ctd.

10-Ctd.

Mr. Kinder said he had talked with Mr. Whitcomb, the first home owner on the corner, who seemed pleased at the idea of having a store here, and he did not object to the sign.

These people are bordering on commercial property, Mr. Kinder argued, they knew that when they bought here - this is no longer a country rural area and it should not be expected that the rural atmosphere be maintained when the pattern has already been changed.

The increase in traffic on South Street, Mr. Kinder assured the Board, is only temporary because of construction work at 7 Corners. People will most certainly use the underpass when it is completed.

This is a small store, Mr. Kinder agreed, but it is a large business.

Again he stressed the need for the sign which, as their nationally used trade mark identification is the life blood of a business of this type.

These signs are approved by other areas, Mr. Kinder continued, all of their stores are near residential areas - that is their drawing card. The signs are well designed with good coloring and attractively lighted. They have not proved objectionable in other areas.

Mr. V. W. Smith asked why the sign must be so large - especially for a well known and successful business.

Simply because these signs are standard, made from standard molds and used in other areas and they carry out their trade mark, Mr. Kinder answered.

It is their signature. The architecture of the building is designed around the pylon - the whole operation is based upon this kind of a sign on the building. It is the one important thing they need. These are the first two stores (this application and the one following on the Agenda, which is located on Arlington Boulevard) in this County, Mr. Kinder told the Board. They plan 50 or 60 stores in the Washington Metropolitan area. The next two will be in Arlington County.

Mrs. Henderson said she had no objection to the signs if they were brought within the limits of the Ordinance, but she did object to the applicant telling the Board that these signs are ready-made stock which must be used on all their stores - attempting to force the Board to grant the over-sized sign. This sign may very well be acceptable in other counties, Mrs.

Henderson continued, but it is not acceptable in this County - according to our Ordinance. This is a small neighborhood store, Mrs. Henderson went on, and she could see no need for the excessive amount of sign. There is no hardship in this case - simply because the signs are already made up. She felt there was no reason to justify the granting.

Mr. Kinder again stressed the point that the trade mark is the keynote of their entire advertising program. He thought the Ordinance did provide for a sign like this which must be immediately recognizable by setting up this Board, empowered to grant variances.

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NEW CASES - Ctd.

10-Ctd. Mrs. Henderson suggested the same sign only smaller. The pylon has already been approved with the building plans, Mr. Kinder objected - also it would be out of proportion to cut the 7 and 11 and it would change the character of the building. Then, Mrs. Henderson answered, you could cut down the other signs. She noted that that has been done in other and similar cases. Mr. V. W. Smith suggested that the architect should have checked with this office (the Zoning Office) before designing such a large sign.

The areas requested were: Pylon 103 square feet; pole sign 30 square feet; and the strip on the building 30-1/4 square feet.

To reduce the pylon, Mr. Kinder argued, would render the sign so small it would not be seen by tourists on Route #50. They want people from other areas to recognize their trade mark.

Mr. Lamond thought the signs as requested - not too bad. Alexandria will have an ordinance to allow large signs - which he considered was going along with the modern trend. He felt the Board should work with business people coming into the County.

But this is a very small building, Mr. V. W. Smith noted, and a small lot.

Mrs. Henderson moved that Mr. Kinder consult with the Company to see if the signs cannot be reduced, using the same trade mark and at the same time conform to the requirements of the Ordinance.

Seconded, Mr. Lamond

Mr. Kinder suggested leaving out the pole sign, which would then leave a total sign area of 133-1/2 square feet. That would be only 13-1/2 square feet above the Ordinance requirements, Mr. Kinder noted.

The motion remained unchanged - this was deferred until September 24, 1956. Carried, unanimously.

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11- NATIONAL SIGN COMPANY, to permit erection of 3 signs with larger area than allowed by the Ordinance, (163 square feet) Part Lot 502, Block 5, Woodley North, north side of Arlington Boulevard, 160 feet east of Graham Road, Falls Church District. (General Business).

This is a request for the same type and size signs, Mr. Kinder informed the Board, However, the store will be larger. Mr. Kinder said he had talked with many people in this area and found no objection.

Mr. Lamond suggested that this case should be given the same treatment as the previous one - he therefore moved that the case be deferred until Sept. 24th for Mr. Kinder to consult with the Company to see if the signs cannot be reduced, using the same trade mark, but at the same time conforming to requirements of the Ordinance.

Seconded, Mrs. Henderson

Carried, unanimously

Mr. V.W. Smith also asked Mr. Kinder to furnish plats which would show the sign location in both cases.

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NEW CASES - Ctd.

12-

MRS. MARY HARPER CLARK, to permit operation of a kindergarten and nursery school, Lot 3, Section 1, Worthington Heights, (129 Gallows Tree Lane), Providence District. (Rural Residence).

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Mrs. Clarke said she had been operating her kindergarten at this location for four years without a permit. When she started her school she made inquiry as to an ordinance governing such operations and tried to get a copy of any regulations but was told that there was no such ordinance. She asked what steps to take in order to legitimately open her school, and was told to check with the fire department. She did that.

The fire department recommended a few changes, which she made. Her advertisements have been on her property, in the telephone book, and in the newspapers. She has also put out circulars. She had no idea a permit from this Board was required. When she thought she would need a larger school, she advertised for a permit which was granted without contest.

However, they did not use that permit but put an addition on the house and used that to enlarge the school rather than put up another building. She has no plan now to increase enrollment.

The only objections she has met with, Mrs. Clarke told the Board, have been regarding the interpretation of a use permit. Some have thought the granting of this use would commercialize the property. People have asked about that but when they understood it was a permit for this use only - they withdrew any objection. The people in this area also do not want this use to be transferable.

Mr. Lamond stated that in his opinion, Mrs. Clarke had been very cooperative and fair.

Mr. A. Dill stated that he and a group who were present with him are in favor of the granting of this use as long as it does not change hands if the ownership of the property changes, and as long as Mrs. Clarke resides in the house.

Others present from the area agreed with Mr. Dill. There were no objections.

Mr. Lamond moved to grant the application to the applicant only and for such time as she operates the kindergarten and resides on the premises.

Seconded, Mr. T. Barnes

Carried, unanimously.

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3-

A. J. BRITTING & MRS. HELEN H. WALKER, to permit operation of a nursery kindergarten and first grade in present dwelling, northwest corner of Arlington Boulevard and Javier Road, Falls Church District. (Sub. Res.) Three years ago the Board granted a permit to operate a day school on this property, Mrs. Britting told the Board. She used the permit for two years but did not keep the children all day. In 1956 and 1957 she added a kindergarten for morning sessions. In spite of nearby objections she had six children from the immediate neighborhood. This has been a successful school.

## NEW CASES - Ctd.

3-Ctd. It was agreed with the neighbors, Mrs. Britting continued, that if she continued the school it would be moved to another location. They have been working in that direction for the past two years - this is a change which she had hoped to accomplish. She has ten children in each class.

The following statement regarding Mrs. Walker was read:

"Mrs. Walker has successfully administered a kindergarten in her home under the name 'Little White House', at 1413 Westmoreland Road, during the years 1955-1956 and 1956-1957. The privilege of doing this was allowed her by the Fairfax Board of Zoning Appeals in May, 1955. The children have enjoyed the educational program she has offered and have made good progress. I, as a parent of a child in her school, would endorse her attempts to expand her facilities in a new location.

Signed:

Genevieve Newcomb  
Doris Johnson  
Dorothy Downing  
Constance LaFerriere  
Rose Olive Doane  
Lois Hamlin  
Robert D. Farmer  
Doris R. Maitland"

Several of the people signing this statement are near neighbors, Mrs. Britting pointed out.

They have had a preliminary survey by both the Fire Marshall and Health and Sanitation Departments, Mrs. Britting continued. The property is suitable for this purpose, the rooms are large, there are two baths on the first floor and the property sets well back (156 feet) from Arlington Boulevard. The property is not fenced, Mrs. Britting told the Board, but she would do so - if the Board requested it.

Mrs. Henderson thought the fencing necessary for a school of this kind facing on Route #50 - that it was too dangerous to allow children to play unrestricted.

It was brought out that no one would be living in the house - it will be used exclusively as a school. However, they may have a resident caretaker. They have put no limit on the number of pupils they will have.

The well and septic will be inspected.

There were no objections from the area.

Mrs. Henderson thought there was a considerable amount of information lacking which the Board should have - particularly a statement from the Health Department regarding the water supply and the operation and capacity of the septic field.

The Fire Marshall has made certain recommendations which will be met, Mrs. Britting said. The Health Department has made no recommendations except that they enclose the top of the well for six feet down to repel the surface water. The drain field is satisfactory, Mrs. Britting told the Board. They have asked only for a preliminary survey of these things for the Board's information, Mrs. Britting continued, but they will go into the requirements further and all recommendations will be met before the school opens.

Mrs. Britting said they had had only one reply from the five letters of notification she had sent out. However, it was agreed that she had met her obligation.

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NEW CASES - Ctd.

3-Ctd.

Mrs. Henderson moved to grant to Mrs. Britting and Mrs. Walker a permit to operate a nursery school, kindergarten, and first grade on Javier Road and Lee Blvd. (Arlington Boulevard), the property involved as shown on plat prepared by Carpenter and Cobb, dated December 10, 1956, as presented with the case, to operate for a period of three years. This is to be granted to the applicants only and is subject to their meeting the requirements of the Fire Department and the Health Department.

Mrs. Walker asked - why the three years? They will have to spend a considerable sum on the property which would hardly be practical on a limited permit. Mrs. Henderson said she had included the three year period because the applicants are not living in the house. However, Mrs. Henderson withdrew the three year limitation.

Seconded, Mr. Lamond

Carried, unanimously.

Mr. Mooreland told the Board that about one year ago Mr. Hilder came before the Board asking for a permit to operate a school on Route #123 (the Frances Pickens Miller property). Mr. Hilder withdrew from the ownership and never actively operated the school. The school continued on under another ownership. Mr. Hilder has asked Mr. Mooreland if this change in ownership had ever come before the Board. Mr. Mooreland said he had discussed this with the Commonwealth's Attorney who gave the opinion that the Board of Zoning Appeals, knowing the true facts, have the right to rescind the resolution granting this use to Hilder and can transfer the granting to the present operators.

Mr. V.W. Smith asked Mr. Lamond to take the Chair, as he did not wish to take part in this action, as he had been connected with the transfer of this property, and Mr. Nicholson was in the operation at the time of purchase.

Mr. Lamond took the Chair.

Mr. T. Barnes commended the school very highly, saying he had been there a number of times, that it is very well run and well supervised and he considered that it had made available to the County a fine type of recreation and was an asset in every way.

Mr. Niklasen Head Master, and Mr. Hervey were present. Mr. Niklasen and his brother have purchased the property for the school, Mr. Niklasen told the Board, they have put a considerable sum of money into the school, they have a good staff, limiting the classes to 18 per teacher. He felt that the school had been eminently successful. They carry pupils through the 10th grade at present, and will add both the 11th and 12th grades. This is co-educational.

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NEW CASES - Ctd.

Mr. Barnes moved that the motion granting this application on this school be changed so that the permit is issued to Frank and Don Nicholson.

Seconded, Mrs. Henderson

Carried - all voting for the motion except Mr. V. W. Smith who refrained from voting.

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Mr. Mooreland asked the Board if they would consider it necessary for a group of neighborhood youngsters playing ball on a vacant lot to get a permit from this Board. He cited a case in Mr. J. B. Smith's area where the question had arisen, and some complaint had been made.

The Board agreed that no permit was necessary for such recreation.

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The meeting adjourned.

Verlin W. Smith  
Verlin W. Smith, Chairman

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September 24, 1957

The regular meeting of the Fairfax County Board of Zoning Appeals was held Tuesday, September 24, 1957 at 10 o'clock a.m. in the Board Room of the Fairfax County Courthouse, with all members present except Mr. A. Slater Lamond. Mr. Verlin W. Smith, Chairman, presiding.

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The meeting was opened with a prayer by Mr. J. B. Smith

NEW CASES:

1-

LOTTIE N. PICKERAL, to permit operation of a beauty shop in residence, Lot 504, Block F, Courtland Park, (710 Maple Street), Falls Church District. (Suburban Residence).

Mrs. Pickeral said she plans a small operation for her friends and neighbors. She will employ no outside help. She has her equipment, which is now in storage, and which will be set up in her recreation room. There will be no advertising. The carport has been enclosed - one part of the other part of the enclosure is used for laundry drying.

The Chairman read a statement signed by eleven neighbors saying they are in favor of the Board granting this permit, and they understand there will be no advertisement nor display of signs in connection with the use.

Mrs. Pickeral said she had talked with members of the Citizens' Association whom she thought had no objection.

The following letter from the Courtland Park Civic Association was read, stating their objection to this use:

"September 19, 1957

Mr. William Moreland  
Assistant Zoning Commissioner  
Fairfax County Courthouse  
Fairfax, Virginia

Dear Mr. Moreland:

It is understood that Mrs. E. S. Pickral, 710 Maple Street, Courtland Park Subdivision, Fairfax County, has applied for a use-permit to operate a beauty parlor in her home at the aforementioned address. It is further understood that such application had been denied by your office and that the applicant, Mrs. Pickral has appealed the decision, and that the appeal will be heard on September 24, 1957.

The Courtland Park Civic Association met in special session on Tuesday, September 17, 1957, and at the session voted in opposition to the application in this instance and any other application for a use-permit which may be filed by residents of Courtland Park Subdivision whatever the nature of the operation might be.

It is sincerely hoped that your office will continue the present policy of refusing to grant use-permits in residential areas.

Very truly yours,

/s/Charles T. Hayes, President  
COURTLAND PARK CIVIC ASSOCIATION"

NEW CASES:

1-Ctd.

Mrs. Henderson noted the 10.35 foot setback of the enclosed carport. However since this is an old subdivision, Mr. Mooreland explained that some of the enclosed carports come within 7 feet of the line. He recalled that the Board did grant a variance on this carport. Mr. Mooreland also told the Board that he did not think that the Board had the authority to grant this application, and had so informed Mrs. Pickeral, but the applicant had chosen to bring the case to the Board. The Citizens' Association had met in special session, Mr. Mooreland told the Board, and after hearing Mrs. Pickeral's plan for the beauty shop had opposed it as shown in the letter quoted above.

Mrs. Pickeral thought the objections were to the fact that some had thought this would mean a rezoning and therefore would commercialize the property. Mrs. Henderson asked where the line would be drawn between one who might set hair for a friend or neighbor, would the fact that the operator owned equipment make her home a beauty shop..... That is up to the Board, Mr. Mooreland answered - when is one just working for friends and when is one in business. This Board has decided before, Mr. Mooreland continued, that they do not have the authority to grant this use in a residential area. But - is this considered a home occupation - if so it would not have to come before the Board.....

There is probably more danger of this becoming a large scale operation, Mrs. Henderson suggested, if the applicant is given a use permit, than if it is not legalized with a permit. While Mrs. Pickeral may not have the time for a large scale operation now while her children are small - it could grow into something considerably larger when the children are grown.

This is a small lot, Mr. V. W. Smith noted - he thought this use might develop a traffic condition, and once it is granted the County has no control over a congested condition. In his opinion, Mr. V. W. Smith continued, the Board does not have the authority to act. As to calling this a home occupation, Mr. V. W. Smith said - he did not know.

Mr. V. W. Smith suggested studying the case further - or waiting for the new Zoning Ordinance.

The possibility of calling this a home occupation was discussed - but no decision arrived at.

Mrs. Pickeral noted that the nearest neighbors do not object - she thought they - particularly - should be considered.

Mrs. Henderson moved to defer the case for further consideration - deferred until October 8th.

Seconded, J. B. Smith

Carried, unanimously.

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NEW CASES:

2- G. RAYMOND GAINES, to permit erection and operation of an auto repair shop, south side U. S. #1, 6/10 mile east #624, Mt. Vernon Dist. (Rural Business). Mr. Lockett represented the applicant.

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Proof of notification to surrounding and nearby property owners was presented. It was noted that two of those notified were adjoining owners. This is an addition to the business use now being carried on on this property, Mr. Lockett pointed out. There is a filling station on the front of the property, a used car lot, and an office. This would be used in conjunction with the existing business. The ingress and egress has been approved by the Highway Department, and will be built according to their specifications. Mr. Lockett showed a chart indicating the business uses in this area for a distance of 1/2 mile each way from this property. There are two garages within this mile and two used car lots. Therefore, Mr. Lockett contended this use would not depreciate the area - in fact it would be in keeping with uses already in operation.

Mr. Mooreland called attention to the prohibition on wrecked cars.

Mr. Lockett said he was aware of that - that Mr. Gaines does not handle wrecked cars and will not do so in connection with this use. This garage actually is to be used only for minor repairs for cars that come in. He assured the Board that no automobile graveyard would result.

Mr. Truax, who owns the property immediately adjoining this tract, stated that he had no objection to this use.

Mr. Gains had talked with Mr. Schumann about his property, Mr. Lockett told the Board, and it is planned to have a trailer park on the rear of the business zoned ground - therefore, Mr. Gaines would be very sure not to develop an automobile graveyard.

There will be three means of entry and exit - with concrete islands along the property line - two for the filling station and one for the used car lot.

Mr. Barnes moved to grant the application under Section 6-16 of the Ordinance because this does not appear that it would adversely affect the health and safety of people working or residing in the neighborhood.

Seconded, J. B. Smith

Carried, unanimously.

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FRANK H. & DON D. NIKLASON, to permit extension of a private school, kindergarten thru Junior High, east side #123, approximately 1 mile north of Lee Highway, Providence District. (Rural Residence).

Mr. Niklason recalled that this is the second year of their operation. Since they have classes restricted to 15 children to a teacher they need more class rooms and since they have a waiting list for entries. Their expansion plans include one more class room which will be added to the main building, an entirely new building and another swimming pool. The existing building is an attractive structure, Mr. Niklason noted, and stated that the additions will follow the same type of architecture.

NEW CASES - Ctd.

4-Ctd. There were no objections from the area.

Mr. Mooreland noted that there are private roads on both sides of this property.

They have an enrollment of 100 pupils now, Mr. Niklason said, and they expect to expand to 300.

Mr. Barnes moved to grant the application. Mr. Barnes stated that in his opinion this school is a great asset to the County - it is well conducted and is a welcome addition to the area.

Seconded, Mrs. Henderson

Carried, unanimously.

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5- RUPERT T. RASCHKE, to permit operation of a tea room in existing building on approximately 38 acres of land, north side of Lee Highway, approximately 1/2 mile west of #608, Centreville District.(Agriculture).

Mr. Charles Pickett represented the applicant - who was present also.

Mr. Pickett presented the letters of notification to property owners in the immediate vicinity, and read the following letter:

"18 September 1957

Mr. Carl A. Marshall  
Attorney at Law  
122 N. Washington Street  
Falls Church, Virginia

Dear Mr. Marshall:

This is to notify you that my application for an exception to operate a tea room on approximately 38 acres on the north side of Lee Highway, approximately 1/2 mile west of Route #608 will be heard by the Board of Zoning Appeals in the County Board Room in Fairfax, Virginia, at 10:40 a.m., on September 24, 1957.

Very truly yours

/s/ Rupert T. Raschke  
By: Charles Pickett

Dear Charlie:

If this pertains to me, I approve it.

Sincerely yours,

/s/ Carl A. Marshall"

Mr. Pickett asked Mr. Raschke to explain his plans to the Board.

Mr. Raschke told the Board that he owns the motel adjoining this property which has been known as "Briarwood Manor".

The motel was opened in June of 1957, Mr. Raschke told the Board, and he has had many requests from his clientele for an eating place nearby. (The nearest first class eating place to his motel is about three miles). He plans to serve breakfast and evening meals. He would be open until 10 p.m. He will also specialize in special lunches for women's clubs or groups as well as

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September 24, 1977

NEW CASES - Ctd.

5-Ctd.

the limited breakfast and dinner. The present building will not be changed except for re-decorating and further landscaping of the yard. The place will be attractively and quietly furnished in keeping with a restricted type of tea room. They will not cater to large boisterous crowds - this will be run mostly for people stopping at the motel, but they will serve others also. However, the location and type of place they plan will appeal to a restricted class of personnel.

Mr. Raschke said he had operated restaurants in many other cities and resorts, and was well acquainted with the requirements for this type of tea room.

Mrs. Henderson asked Mr. Raschke how he would distinguish between a tea room and a restaurant. Mr. Raschke answered that a tea room would only serve planned meals, it would cater to special parties and would serve home-cooked fried potatoes..... A tea room would also serve a limited buffet type breakfast - a continental breakfast. It would not expect to reach a wide public - as in his case - it would serve mainly the motel guests and people in the area - probably from Gainesville to Kamp Washington. He would have only the entrance sign, which he uses to the motel. The tea room sign would be added to the motel sign. There would be no name sign on the front of the tea room.

Mr. Raschke said he thought by attractive landscaping and by the use of colonial type decoration in the building and antique furnishings the building would have a refined distinction which would appear to the class of clientele he is attempting to attract. He hopes to have furniture and various articles pertaining to the history of Fairfax County, which would add interest and in time he hopes to make this a show place - not just a typical restaurant. The menu will be limited.

Asked if he would have a liquor license, Mr. Raschke said he was not sure at this point, but he would like to have light wines - wines of a special character and probably a foreign beer. He thought a few good wines would be an added attraction - and the fact that he might serve a foreign beer would help to establish the place as something a little special.

Mrs. Henderson thought the serving of wine and beer would put this into a restaurant class - which has been a particular problem of the Board.

She wondered if the business could not be carried on on a more limited basis.

Mr. Raschke mentioned other tea rooms in Maryland which serve wine and beer - but which operate on a limited basis and are without question in the tea room class. Mrs. Henderson noted that "Tea Room" and "Restaurant" are being used interchangeably.

Mr. Fickett called attention to the fact that if Mr. Raschke did enlarge his scope beyond the tea room type - that would be a matter for the Board to stop.

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## NEW CASES - Ctd.

5-Ctd.

Mr. V. W. Smith thought that with this location and the large acreage - 38 acres - the limited menu as outlined by Mr. Raschke - that this probably would come as near to being a tea room as anything the Board could expect. He thought the serving of light wine and beer would be almost essential in the type of place contemplated by the applicant.

Mr. Mooreland noted that this use as explained would meet the requirements now being set up in the re-write of the Zoning Ordinance.

There were no objections from the area.

Mr. T. Barnes moved to grant the application under Section 6-3 and 4 and under Section 6-12-2-a-b - because it does not appear that the granting of this application would materially affect the neighborhood adversely, nor would it affect adversely the people residing or working in the neighborhood. This is also granted subject to approval of the Health Department and the State Highway Department for entrances and exits.

Seconded, J. B. Smith

For the motion: Mr. Barnes, J. B. Smith and V. W. Smith

Mrs. Henderson refrained from voting.

Carried.

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6- LEO D. DeARMOND, to permit carport converted into a recreation room to remain within 14' 6" of the side property line, Lot 12, Section 1, Fairfield, (5112 Russell Road), Lee District. (Suburban Residence).

Mr. DeArmond presented his letters of notification to property owners in the immediate area.

Mr. DeArmond said he did not know it was necessary to have a permit to install the jalosies in his carport. However, they are installed and the room is completed and in use. He needed this extra room, Mr. DeArmond continued, because of his sick child who is a victim of nephrosis. She has been in bed for one year, and he is advised by his Doctor that she will be confined for at least another two years. Since her condition is very serious and she is highly sensitive, the Doctor has ordered that no one must come into their home. Any slight noise or disturbance will upset her and probably delay her recovery. Therefore, it has become necessary to have this room - which is at one end of the house to assure complete quiet in case anyone should come in. The addition of this room will relieve this temporary situation for him, and will help him to recover from the expenses at Johns Hopkins.

As the new Ordinance is proposed to be written this would not have to come before the Board, Mr. Mooreland told the Board.

It was noted that the variance is only six inches.

There were no objections from the area.

Mr. Barnes moved to grant the application because this is a hardship case and it would appear not to adversely affect the neighborhood, and it is a very slight variance. This is granted under Section 6-12-g

Carried. unanimously

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NEW CASES - Ctd.

7-

ROY D. EDWARDS, to permit erection of a garage within 45 feet of the Street Property Line, and within 14 feet of the Side Property Line, Lot 27, Section I, Stafforddale, (S. W. corner of Hollerman Road and Route #649), Falls Church Dist. (Rural Residence).

L.T.U.

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Mrs. Edwards discussed the case with the Board. They have no basement in their home, Mrs. Edwards explained - therefore they are short on storage space. This garage would take care of yard tools and would more or less take the place of a basement. Their lot is large, Mrs. Edwards noted, but it is difficult to do anything with it as they have no legal back yard - being bounded on two sides by roads, and it has an elongated triangular shape. This limits whatever they try to do with the two side yards.

There were no objections from the area.

The Board discussed locating the garage within 4 feet of the line - which could be done without a variance, or if the garage were attached to the house and moved back, it would need no variance. However, Mr. Mooreland called attention to the fact that if connected the garage would have to be at least 15 feet from the side line, but if it is detached and behind the rear line of the house it could be located 4 feet of the line.

Mr. Barnes moved to grant the application because the variance affects only one corner of the garage. This is granted provided the garage be moved back to within 50 feet from the street. Granted because this does not appear to adversely affect adjoining property - nor property in the neighborhood.

Seconded, Mr. J. B. Smith

Carried, unanimously.

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8-

ATLANTIC REFINING COMPANY, to permit erection and operation of a service station with pump islands within 15 feet of the street property line, S. W. corner of Route #237 and Routes #29-211, Part Lot 1, East Fairfax Park, Providence District. (Rural Business).

Mr. H. D. Hall represented the applicant.

Mr. V. W. Smith asked - why a 15 foot setback for the pump islands?

Because of the widely curved frontage, Mr. Hall answered, cars could swing in gradually without making an abrupt turn which they would have to do if the pump islands were located back farther. Mr. V. W. Smith recalled that the policy of the Board had been to grant no pump islands closer than 25 feet from the right of way.

Mr. Hall noted that the State Highway would allow a 12 foot setback. Mr. V. W. Smith noted that such a setback has created many problems traffic-wise. Mrs. Henderson suggested moving the building back farther on the lot, if the applicant considered he needed more space for a 25 foot setback on the pump islands. However, Mr. Hall said the building would be out of line of vision of the traveling public if they moved it back. He did not object to the 25 foot setback for the pump islands.

## NEW CASES - Ctd.

8-Ctd. There were no objections from the area.

Mrs. Henderson moved to grant the application with the pump islands to be located not closer than 25 feet from the rights of way of Routes #237 and #29-211-50 and that the permit for the filling station be granted under Section 6-16 of the Ordinance because it conforms to the provisions of that Section.

Seconded, J. B. Smith

Carried, unanimously.

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9- MILTON DIENER, to permit erection of a sign with larger area than allowed by the Ordinance, (181 sq. ft.), south side Rt. #50, approximately 650 feet west of intersection with South Street, Falls Church Dist. (General Business).

Mr. Holse from Jack Stone Company represented the applicant.

Mr. Holse called attention to the fact that this store is located well back from the highway and is therefore not easily seen by the traveling public, therefore, it would require a large sign to adequately call attention to the business.

Mr. Holse presented a statement from five people in the immediate area - all saying they do not object to this sign. Among the signers was Leo Rocca, who owns property on two sides of the applicant.

These are the nearest property owners, Mr. Holse said, which does not include the people on South Street. However, Mrs. Henderson thought the people on South Street - the people most concerned.

Since this building sets back so far from the highway and there will be new buildings on either side of him, Mr. Holse thought the main Diener building would be shielded to such an extent that the sign was almost necessary. This is a request for 181 square feet of sign. It would be located just back of the right of way of the service drive. (The service drive is within the highway right of way).

The Chairman asked for opposition.

Mr. Farnum Johnson represented the opposition, as Vice President of the Sleepy Hollow Citizens' Association. Mr. Johnson presented a petition with 50 names opposing this sign, because they believe to conform to the Ordinance would not work a hardship on the applicant; extra large signs will endanger nearby property values; that they are entitled to protection of the Ordinance; the reflected lights will be a nuisance; extra large signs will create a situation whereby other businesses will be compelled to erect extra large signs also because of economic pressure - and the nuisance will increase.

Mr. Ray Remler, who lives on South Street, also spoke against this sign.

Mr. Remler noted that signs can advertise large businesses without harm to surrounding property, as in the case of 7 Corners - where the signs erected are in good taste and not objectionable in any way. This sign will be higher than the building and will therefore shine into their homes, Mr. Remler told the Board, and would be objectionable. He suggested that

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NEW CASES - Ctd.

9-Ctd.

there is no topographical condition which would necessitate this large sign. Mr. Howard Marks of 509 South Street also objected, stating that he could foresee a sign-competition was being set up - to see who could get the largest sign. If one large sign is granted, another large one must be granted. The area could be swamped with over-sized signs. Also, Mr. Marks continued, the height of this sign concerned him as it would illuminate the residential area unnecessarily. He thought this would be depreciating to residential property.

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There were 12 persons present in opposition.

Mr. Holse suggested that - in the face of this opposition - it might be wise to re-design the sign. However, he stated that the sign as requested was needed for proper advertising of the business.

Mrs. Henderson stated that she objected to any pylon on Route #50 below Seven Corners - she recalled her opposition to other similar signs. Therefore, Mrs. Henderson moved to deny the case because it is grossly in excess of the requirements of the Ordinance.

Seconded, Mr. T. Barnes

Carried, unanimously.

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DEFERRED CASES:

FRANCIS J. & GOLDA REED, to permit division of lot with less area than allowed by the Ordinance, on west side Route #7 - 2300 feet south of Route #694. Providence District. (Agricultural).

Mr. John Rust represented the applicant.

The septic fields are working satisfactorily, Mr. Rust told the Board, however, there was no original percolation test on this property, as that was not required by the County when the houses were built.

Mr. T. Barnes moved to grant the application because it does not appear that it would adversely affect the health or welfare of people living or residing in the neighborhood. These are old houses which have been in existence for many years (six and eleven years) in this same condition and it would work a hardship on the applicant if he were unable to see one of the houses.

Seconded, Mr. J. B. Smith

Carried, unanimously.

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2-

NATIONAL SIGN COMPANY, to permit erection of three signs with larger area than allowed by the Ordinance, (163 sq. ft.), N. E. corner of South Street and Annandale Road, Rt. #649, Falls Church Dist. (General Business).

Mr. Kinder represented the applicant.

Mr. Mooreland told the Board that the applicant had agreed to take the neon from around the pylon, which would render the background of the sign not

## DEFERRED CASES - Ctd.

2-Ctd.

subject to being counted as part of the square footage of the sign area. It would then be necessary, Mr. Mooreland continued to count only the area of the letters. This would amount to 60 square feet - which would come within the Ordinance requirements. This has been done in the case of the Safeway, Mr. Mooreland continued. While in his own opinion this would come within the Ordinance, Mr. Mooreland asked that the Board pass on this manner of figuring the square footage before he issued the permit. The one sign will not exceed the 60 square feet, and the total of the other two signs will amount to only  $3/4$  square feet above the 120 square feet. Mr. Kinder thought that by reducing the space between "Ice" and "Cream" the total square footage could come within the 120 square feet.

Mr. David Carpenter, attorney for the company, told the Board that since these are neighborhood stores - they wish to get on with the people in the area who will be their customers, and that while they use this large size sign in other places they will be willing to reduce the sign area as suggested by Mr. Mooreland in order to meet objections.

The Chairman asked for opposition.

Mr. Farnum Johnson, Vice President of the Sleepy Hollow Citizens' Assn. spoke in opposition - representing that Association.

Mr. Johnson questioned if this is within the Ordinance. The fact that the case is still before the Board would indicate a doubt in the minds of both the applicant and Mr. Mooreland, Mr. Johnson continued. The Ordinance says 'sign' and not the lettering is to be counted in the square footage. In his opinion the back of the sign should be considered a part of the sign whether or not it has the border of neon lights. The area of the letters 7 and 11 is only about  $1/3$  of the actual sign, which is put up, Mr. Johnson contended. It therefore does not come within the Ordinance.

As to good public relations, Mr. Johnson continued, he had with him a petition with 53 names opposing this sign, which shows the feeling of people in the area. If you allow one store to exceed the requirements of the Ordinance, Mr. Johnson went on, it becomes an economic necessity for others to ask the same thing. Mr. Johnson pointed to other stores in the area which have been operating successfully for a number of years with signs which conform to the Ordinance requirements. He thought it unfair to these stores to allow this large sign area. This sign would be a detriment to residential property in the area - it would be disturbing and a nuisance.

Mr. Mooreland called attention of the Board to past cases where they had granted large signs on the basis of area in the lettering. It was his understanding, Mr. Mooreland continued, that the Board had made that interpretation of the sign area and he had thought it would stand in this case. If the Board established that policy, Mrs. Henderson stated that she was not on the Board at that time - and she did not agree with it. She read the definition of a sign from the Ordinance: "Any rigid or semi-rigid material.....primarily or principally for the purpose of furnishing a

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DEFERRED CASES - Ctd.

2-Ctd.

background or base or support upon which an advertisement may be posted or displayed....."

Mr. Mooreland asked how the Board would figure a sign which is on the face of a building - would you consider the entire side of the building to be sign background? He asked the Board to set a policy regarding this which he could follow.

Mr. Carpenter stated that they have relied upon the Ordinance - the building permit was obtained which included the pylon structure as a part of the building. He had thought that they were complying with the Ordinance and with the established policy of the Board.

Mr. Johnson suggested that since this is a neighborhood store - and it is not in competition with the Safeway - he could see no need for granting a sign comparable to the large super markets. This type of store will only supplement the large stores - it is to be open early and late and a large over-sized sign would be incompatible with the character of the store and the neighborhood. The only hardship he could see, Mr. Johnson continued, is on the sign company. The owners of the store most certainly would not suffer since this is a community business catering to people in the area who would be very well aware of the store without this obnoxious type of advertising. He asked that the application as requested be refused.

Mr. Kinder again stressed the fact that the building permit including the construction of the pylon has been issued, and in his opinion the sign on the pylon is within the requirements of the Ordinance, and there is no need for a variance.

Mr. V. W. Smith questioned the interpretation of the Ordinance which would figure the lettering only. He suggested reviewing the minutes of the Safeway case - which Mr. Mooreland had stated allowed the pylon sign the area of which was based on the lettering only. Mr. V. W. Smith said he did recall that the sign on Peoples Drug Store (on the face of the building) was computed on the basis of the letters - but he felt that not a parallel case.

Mr. Smith read the definition of a sign referring particularly to the phrase ".....shall also include any part of any advertisement recognizable as such." He could not see that the pylon was an integral part of the building and suggested that any pylon built as this is would be immediately recognizable as a sign and not part of the building structure.

The pylon will be there - Mr. Kinder noted - and it would be a little strange to say they could not put a sign on it.

Mr. J. B. Smith moved to defer the case for further study - defer until October 8.

Seconded, Mr. T. Barnes

Mr. Carpenter said they would withdraw the application for variance - therefore this would be a case for interpretation of the Ordinance rather than a request for variance. They intend to comply with the Ordinance, Mr. Carpenter stated.

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## DEFERRED CASES - Ctd.

2-Ctd. Mr. Johnson asked that the Board take action on the case, as a means of forestalling the erection of the sign. The sign if erected as planned would be illegal, Mr. Johnson contended, and he did not think the citizens in this area should be placed in the position of having to take legal action to prohibit it.

Mr. Kinder contended that no variance is pending - that the sign complies, however, they would like a decision on that before withdrawing the application. Therefore, Mr. Kinder withdrew the request for withdrawal of the case.

The motion carried - unanimously.

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3- NATIONAL SIGN COMPANY, to permit erection of three signs with larger area than allowed by the Ordinance, (163 sq. ft.) Part Lot 502, Block 5, Woodley North, north side of Arlington Boulevard, 160 feet east of Graham Road, Falls Church District. (General Business).

The motion to defer until October 8th, applies to this case also.

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4- MARY VAVALA, to permit extension of trailer court from 36 to 42 units, Lot 18, Evergreen Farm, (Gum Springs Trailer Court), Mt. Vernon Dist. (General Business).

Mr. Dulaney represented the applicant.

Mrs. Vavala was present also.

Mr. Dulaney presented a letter from the State Highway Department (signed by Mr. Talbott) stating that the entrance to this trailer park meets the Department's requirements. Inspections have been made on this, Mr. Dulaney said, and approved.

Also the letter from Dr. Kennedy, dated October 2, 1956 was read stating that inspection was made and this trailer park would meet the Health Department's requirements when proper sewer and water connections have been made. Both connections have been made.

Both letters are on file with this case.

Mr. V. W. Smith asked if this complied with the new trailer park ordinance?

Mr. Dulaney answered that - he thought it did - they have made many improvements in an effort to comply. They had increased space between trailers and made other changes which will bring this Park up to presently required standards.

Mr. Mooreland said he thought this did not conform in all respects, but that the applicant is allowed under the ordinance to continue without 100% compliance when the Park has been in operation before adoption of the Ordinance. He noted, however, that the applicant must construct the driveways according to standards within 30 months.

Mrs. Vavala said she had been unable to put on the black top because of sewer and water ditches which had made it necessary to tear up the streets but that this would be done as soon as possible.

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DEFERRED CASES - Ctd.

4-Ctd.

Mr. V. W. Smith called attention to the permanent buildings shown on the plat - the cottages. If the Board approves the plat they would be approving those buildings as they are, Mr. V. W. Smith noted. He thought those buildings should be excluded from the granting of the balance of the Park, the Board had no right to approve permanent dwelling on this size lots. These cottages are used for living quarters, Mrs. Vavala told the Board, and there is an apartment in the wash house. They plan to build an additional wash house.

The plat showed 41 lots.

Mr. V. W. Smith thought the cottages should be left non-conforming so they could not be replaced if they were destroyed.

Mrs. Vavala said all additions to the trailers have been removed except one.

Mr. T. Barnes moved to grant the application in accordance with the new Trailer Park Ordinance adopted by the Board of Supervisors, effective July 24, 1957, except the buildings designated as cottages on the plat by W. N. Ridgeway, dated March 15, 1956 - those buildings are to remain as non-conforming.

This motion would indicate, Mrs. Henderson noted, that Mrs. Vavala conforms to the new ordinance in all instances - and it is obvious that she does not since this is an old trailer park. Mrs. Henderson thought perhaps the Board should know wherein this Park does not conform, and it should be so stated in the motion. Mrs. Henderson questioned if the lot sizes and percentage of the various lot sizes conform, etc.....

Mr. Mooreland noted that Mrs. Vavala could continue in her present status if she completes the roads within 30 months.

Mr. V. W. Smith suggested sending this plat to the various agencies concerned and for them to determine wherein she does not comply, then this Board could exclude those parts that do not conform to the ordinance.

Mr. Mooreland objected strenuously to this delay, charging the Board with holding up trailer parks unnecessarily. It is only the roads which have a date schedule for conformance, Mr. Mooreland continued, and the applicant has 2-1/2 years to accomplish that.

Mr. V. W. Smith noted that Dr. Kennedy's letter of approval was dated October 1956, long before the ordinance was adopted. He thought it possible some minor revisions could be made which would be of advantage to the applicant as well as to the County.

It was agreed to remove the phrase from the motion "in accordance with the new Trailer Park Ordinance".

Mr. J. B. Smith seconded the motion with this omission.

Carried, unanimously.

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The meeting adjourned

*Verlin W. Smith*  
Verlin W. Smith, Chairman

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The regular meeting of the Fairfax County Board of Zoning Appeals was held Tuesday, October 8, 1957 at 10:00 o'clock a.m. in the Board Room of the Fairfax County Courthouse with all members present. Mr. V. W. Smith, Chairman, presiding.

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The meeting was opened with a prayer by Mr. J. B. Smith

Mr. V. W. Smith called attention to the LOTTIE N. PICKERAL case, scheduled at 11:40, which was deferred for an opinion from the Commonwealth's Attorney - which opinion has not yet been received. He questioned the Board if they wished to act without this opinion, and if not, there was no point in keeping the case on the agenda. Mrs. Pickeral was present.

It was brought out that the Board has granted similar cases in the past, but the Commonwealth's Attorney had questioned their authority to do so and the Board had asked the Commonwealth's Attorney for his opinion as to the jurisdiction of the Board. Mr. V. W. Smith said in his opinion the Board should not act without the opinion of the Commonwealth's Attorney. The Board agreed - however, no official action could be taken until the time scheduled for the hearing arrived.

DEFERRED CASES:

- 1- BRYAN H. HELLER, to permit enclosure of porch within 40 feet of Route #50 and within 9 feet of Route #608, at S. W. corner of Route #50 and Route #608 Centreville District. (Rural Business).

Mr. Hansbarger represented the applicant. Mr. Hansbarger told the Board that he had tried to reach Mr. Simpson of the State Highway Department to determine whether or not this building is located within the State's right of way plan, but had so far been unable to do so. He has been told that it is within the right of way, Mr. Hansbarger explained - but he has also been told that it is not. Therefore, Mr. Hansbarger asked if the case could be put at the bottom of the list - and in the meantime he would continue the effort to contact someone in the Highway Department who can give him definite information.

The case was deferred temporarily, and placed at the bottom of the list.

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- 2- CITIES SERVICE OIL COMPANY, to permit erection of a sign with larger area than allowed by the Ordinance. (90 sq. ft.), Parcel C, Fenwick Park, (2000 Lee Highway), Falls Church District. (General Business).

Mr. Holse from Jack Stone Company represented the applicant. This was deferred for new plans.

This sign will replace the sign formerly granted and which was never put up. Mr. Holse told the Board. It is a different sign. The existing sign on the building contains 28 sq. ft. The total area of this sign will be 86 sq.ft. making a total sign area of 114 sq.ft., which comes within the Ordinance requirements. The one sign, however, will be in excess of the allowed 60 sq. ft. area for one sign.

DEFERRED CASES - Ctd.

2-ctd.

Mrs. Henderson asked if the arrows on the low part of the sign are necessary. While they would like to retain the arrows, Mr. Holse said, they could be removed without detracting from the effectiveness of the sign.

The other signs now on the property will be removed, Mr. Holse told the Board - except the sign on the building.

Mr. J. B. Smith moved to grant the sign which is located 40 feet from the Highway, with the understanding that the other signs on the property be removed, except the sign on the building. This is granted because it does not appear to be objectionable and is in conformity with similar signs granted by this Board.

Seconded, Mr. T. Barnes

Mr. Lamond amended the motion to state that the arrow on the low part of the sign be removed. Mr. Smith and Mr. Barnes accepted the amendment.

Motion carried, unanimously.

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NEW CASES:

1-

RAYMOND R. WAPLE, to permit operation of a recreation area, including swimming pool, bath house, snack bar and picnic area on approximately 20 acres of land, on south side of Route #664, Waple's Mill Road, adjacent to Difficult Run on the west, Centreville District. (Agriculture).

The Chairman read the following letter addressed to the Board of Zoning Appeals from Mr. Ted R. Strom, spokesman for a majority of the property owners in the immediate vicinity of the Waple property - setting forth reasons why this case should be deferred:

"October 4, 1957

Gentlemen:

We respectfully request a 30 day continuance in the above captioned matter and as reasons therefor submit the following facts:

1. Mr. Floyd Dominy who owns approximately 80 acres in the immediately affected area is away on business. He will not return for at least several weeks. He desires to be heard in opposition to the Waple project.
2. Mr. Walter Weber who owns approximately 80 acres just across the road from the proposed Waple project is away on business. He will not return for at least several weeks. He desires to be heard in opposition to the Waple project.
3. Sufficient facts are not yet available to the Board to enable it to reach an intelligent and just decision.
4. Because of the nature of the Waple project, its long lasting and far reaching effect on the area, its families and children, the possible health hazard, property devaluation and traffic congestion and accidents, and many other undesirable consequences of the Waple project, there should in no event be any hasty action or decision by this Board of Zoning Appeals.
5. It is submitted a 30 day continuance will in no event do any harm to the applicant Mr. Raymond Waple or to his project.

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NEW CASES - Ctd.

1-Ctd.

6. An additional 30 days time is required to serve the ends of justice in order that the full scope and impact of the Waple project may be developed and studied.

Respectfully,

/s/ Ted R. Strom  
Spokesman for a majority of the  
property owners"

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If the property has been properly posted ~~posted~~, Mr. Lamond observed, if it has been advertised according to law and people in the area notified by the applicant of the date, time and place of hearing - it would seem not unreasonable that the people who found it necessary to be out of town at this time should have someone present to present their objections. He felt it not proper to defer the case.

Mr. Mooreland said all notifications had been taken care of - posting, advertising and notification to adjoining and nearby property owners.

Mr. Waple questioned what could be gained by a delay. He thought those present could take care of the opposition - he requested the Board to hear the case as scheduled.

Mr. V. W. Smith ruled that in keeping with the Ordinance, since all preliminary requirements have been met, he felt that it was proper to go ahead with the hearing - and asked for presentation of the case.

Mr. Strom noted for the record that he and his group took exception to this ruling. He felt that they could show sufficient evidence that the Board does not have sufficient evidence to adequately pass on this case.

Mr. Lamond moved that the case be heard as scheduled.

Seconded, Mr. J. B. Smith

Carried, unanimously.

Mr. Waple presented evidence of his having notified five people in the immediate area - two of whom are adjoining property owners.

Mr. Strom inquired, what is the relationship between these people notified and Mr. Waple? That, the Chairman answered, is not a case in point. The notification is to adjoining and nearby property owners regardless of whom they may be.

Mr. Waple gave a brief outline of the background of his family in this area stating that his father and grandfather had owned this property before him - the land having been in his family for over 100 years. Mr. Waple himself was born here and it now is his permanent home. His family at one time owned approximately 500 acres in this area.

About four years ago he started planning some kind of recreation in this area for children and young people, Mr. Waple told the Board. When they were children they had had a swimming pool on this property and young people from all over the neighborhood came there to swim. His father realized in the early days - the need for youth-recreation and encouraged it on their farm. He could have ridden into this permit on the coat-tails of the Joe Young case, Mr. Waple explained, had he wished - but he has preferred to

NEW CASES - Ctd.

1-Ctd.

play fair with the neighbors in order not to cause any hard feelings. He had asked no one to come to this hearing in his behalf, Mr. Waple continued, but he wished to answer any questions and to assure his neighbors of his good intentions in this development.

This area is about 1700 feet from Waple's Mill, Mr. Waple pointed out, it includes about 20 acres - 8 of which are part of the Fairfax Farms Sub-division. This area - the lots in Fairfax Farms - will be used exclusively as a picnic ground.

Mr. Waple said he had attendad a meeting of the Fairfax Farms Citizens' Association, and asked if they wanted an outlet through their subdivision to Route #50. He had received no answer from them.

This project will be conducted at the upper end of his meadow, Mr. Waple went on to explain, he and his sister live on the old home place. They both expect to spend the balance of their lives there. They have no desire to do anything to the property which would be depreciating nor which would create a nuisance to anyone.

He could have put 14 homes on the property in front of the Dominys, Mr. Waple told the Board, but instead he put two. They have a nice little village around here, Mr. Waple went on, and he wished sincerely to keep it so.

Mr. McHugh has stated in his master plan that the flood plains in the County should be used for recreational purposes. This property is low - it is not practical to use it for cattle now because of the hazard to children in the adjoining subdivision - he therefore felt that it is well adapted to recreational use.

Mr. Lamond noted that Mr. Waple is doing this himself. It is not a club nor a membership group. It will be open to Churches, Sunday School picnics, Chamber of Commerce, and Scouts - at a price they can afford. There are very few such places in the Metropolitan Area, Mr. Lamond pointed out, and such places are badly needed. This is a beautiful spot, Mr. Lamond continued, it has natural wooded buffers and in his opinion it lends itself very well to this use.

Mrs. Henderson asked Mr. Waple if this would be a commercial venture. The answer was "yes". Mr. Waple said he would charge a nominal fee.

Mr. John W. Brookfield spoke in favor of the project - stating that the Park Authority had discussed this ground as a potential park development. He had viewed the property and thought it was very well suited for County Park use - but at that time no money was available for purchase of land for park purposes. However, he thought the proposed use an excellent one.

The Chairman asked for opposition.

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October 8, 1957

NEW CASES - Ctd.

1-Ctd. Mr. Ted R. Strom represented a group living in the immediate area who objected to this case. He stated that he had discussed the various facets of this case with people in the area and all agreed that certain elements were of great concern to nearby residents: the interest of property owners are involved; interests of the County as a whole; the interests of the County and State (Health Department) and the interests of the owners and patrons of this project. The people in this area are fearful of many things with regard to this project, Mr. Strom continued. They see this use as having a far reaching affect and impact upon the community. They are not satisfied that the requirements of the Health Department can be met, they see a dangerous and hazardous project invading their neighborhood, which could create nuisances and destroy the daily comforts of people in the area.

The people feel that granting this permit would interfere with the orderly residential development of the community. They also have a great fear that the development will interfere with the natural water supply of the area. They fear that this will not lend itself to the best economic uses of the limited land in the County - but rather that economic values of their property will be materially affected adversely.

This community has already developed into a substantial residential area, Mr. Strom continued, the pattern is set for the future. This use is not compatible with this pattern and this is not a proper location for a project of this type. They have made a thorough canvas of the area, Mr. Strom went on, and discovered that about 90 percent of the property owners and people living in the area are opposed to this project. They found no desire nor need for this development among the people they contacted.

This project, developed to the full scope of its possibilities, will most certainly change the character of the area, Mr. Strom argued, it will require a great deal of water (and Mr. Strom said he did not believe sufficient water was available). This could lower the water supply for all in the area. Mr. Strom asked the Board to consider especially certain services and facilities this would require once it is in operation. There is no sanitary sewer in this area, and none is planned for the foreseeable future. Difficult Run floods its banks and is often out of control. The affect of that on sanitation and health should be considered, Mr. Strom urged the Board. Also there is no public water supply in the area and no plans for one. Policing facilities will be necessary, also fire protection, the latter could not function adequately from the presently located buildings.

Mr. Strom made two requests of the Board - that the members view the property, and also that they particularly observe the roads leading to this project - note the narrow, curved, hilly roads, the shoulders and the narrow bridges. These are the roads over which traffic would be carried to the site.

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NEW CARES - Ctd.

1-Ctd. The people also think it would be difficult to control the parking - even though a parking lot is established. People will inadvertently park along the highways and in private lanes and driveways, Mr. Strom contended. How can Mr. Waple be sure this will remain under his control, Mr. Strom asked, no mortal being could give that assurance. The property could be sold - or any number of other contingencies prevent Mr. Waple from carrying out this project himself.

The people in the area object to the injection of a commercial project in their area, Mr. Strom continued, if it were community sponsored or requested, if it were needed and wanted in the neighborhood it should be considered in that light - but this is a purely commercial enterprise - open to the public, which people in the area feel is completely unwanted. Surely there must be other places suitable for such an enterprise - it was suggested.

It was Mr. Lamond's opinion that this must necessarily be a commercial project in order to have complete control of it and to keep people from swarming over the place unrestricted.

Mr. Lamond thought the project would fill a great need in the County. He called attention to the private swimming clubs to which certain ones belong and to the Citizens Associations pools - both of which serve a fine purpose - but by their very nature, many are excluded. This would provide a swimming pool for families who do not belong to a club or to an Association.

Mr. Lamond also noted that many of the objectors in this case (and he had noted the same thing in other cases) were new-comers in the County, who would appear to want to choke progress or would favor restricting one from getting the full use of his ground. Mr. Lamond thought an old resident of the County whose family had lived in the County for three generations - had paid taxes and had contributed to the growth and development of the County had a prior claim, which should be recognized.

Mr. Strom asked the Board if they wished to go into that - he could show that these were not 'new-comers' who are protesting this use - that he had a complete run-down on length of property ownership of the objectors - but it would take up a considerable amount of time. However, he would give the Board that information if they wished to have it.

The Chairman stated that the prior claims of old residents in the County as against claims of new-comers was something of a new concept to him. He did not recall the Board ever having considered cases with that in mind, nor had length of residence ever been injected into the administration of the Zoning Ordinance.

Mr. Lamond requested that the Board not pursue the length of property ownership angle.

The invasion of this commercial enterprise was again discussed. Mr. V. W. Smith read from Section 6-4 (page 75) of the Ordinance - with amendment, under which the case could be granted - which states in part that the granting

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NEW CASES - Ctd.

1-Ctd.

of the application will not materially affect adversely either the health or safety of persons working or residing in the area, etc.... and that the location of such use will neither immediately nor ultimately affect adversely the use or development of neighboring property in accordance with the zoning regulations and map...etc.... Mr. V. W. Smith suggested that the granting or refusal of this case should follow closely the dictates of the Ordinance.

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These are the very things he has been asking the Board to consider, Mr. Strom recalled - the health, safety, and the affect upon the community. He has asked the Board to personally inspect the roads and bridges from the standpoint of safety.

The Board members (with the exception of Mrs. Henderson) stated that they knew this property well, and were familiar with the conditions surrounding it.

In view of the fact that she was not entirely familiar with this neighborhood, Mrs. Henderson asked that the homes in the area be located on the map. This was done, indicating that the Embrys home is the nearest to Mr. Waple having a common boundary line. The location of homes of the objectors ranged from 200 yards distant. The people in the area own from 1/2 acre to 20 acres, and some having considerably larger tracts.

Mr. Basil Long spoke in opposition, representing the community of Fairfax Farms. Mr. Long questioned the accuracy of Mr. Waple's statement - that he was greatly interested in the welfare of the children in the neighborhood - recalling an incident where Mr. Waple had prevented a group of Camp Fire Girls from trespassing on his property.

Mr. Long stated that Mr. Waple had volunteered to put an entrance through his property, adjoining Fairfax Farms leading out to Pine Street, if the Fairfax Farms Community Association wished that entrance. They do not want it, Mr. Long emphatically stated - however, he assumed they were powerless to prevent it if Mr. Waple wished to put this entrance in. This was considered at their Association meeting of September 20th, Mr. Long stated, and a Resolution was passed unanimously against the roadway.

Mr. Long also presented a petition from Fairfax Farms with 58 signatures representing 35 homes - opposing this commercial use or the commercial entrance or exit through any part of the land contained within the boundaries of Fairfax Farms subdivision. The petition asked that the application be disapproved.

Mr. Long's prepared statement, which is on file in the records of this case, gave a brief resume of the establishment of this subdivision - as a semi-rural, small-scale family farming development. He quoted the building restrictions, the cost restrictions and restrictions designed to protect the subdivision from commercial ventures and to maintain it as a residential area.

NEW CASES - Ctd.

1-Ctd.

The Citizens Association was formed to protect orderly growth in the community, property values, and to promote the general welfare. They have worked diligently to maintain and improve the community, Mr. Long went on, they have acquired such things as good school bus service, street lights, street signs, school shelters, trash collection, etc..... They supported the Master Plan which they thought would assure protection for residential areas. Now comes this commercial venture, Mr. Long continued, which they believe will impair the orderly growth of the County and will make their homes practically untenable with a direct threat to health and safety of families in the community.

This project includes Lots 61 and 62 of Fairfax Farms subdivision to be used as a picnic area, Mr. Long noted, and they believe this use will be detrimental because the use of these lots for this purpose would be an entering wedge and further commercial encroachments could result. It would be noisy and could create a general nuisance to the area. It would cause a serious traffic hazard to bring cars from this commercial enterprise through a subdivision. The streets are narrow, rural, secondary roads of gravel construction with blind curves, which are designed to carry only a limited amount of traffic.

The Association asked that the Board disapprove that part of Mr. Waple's proposal which would permit commercialization of any of the land within Fairfax Farms. They specifically opposed the picnic area and the public entrance through lots 61 and 62.

Mrs. Embry told the Board of their efforts over a period of seven years in establishing a home for their children - and now after all this time and considerable effort their home is almost ready for occupancy, and they are faced with this commercialization of the adjoining property, which she thought would be detrimental to their land. They have 20 acres. Mrs. Embry considered that this use would limit the agricultural use of their property. It would not be possible to continue raising cattle. Any advantages to come from this project, Mrs. Embry continued, would be out-weighed by the disadvantages.

Mrs. Weber objected for reasons stated. She identified her home as being very close to the Waple boundary line. They wish to maintain the rural atmosphere of their community, Mrs. Weber told the Board. This will depreciate property values, it will cause a traffic hazard, the noise would be obnoxious and such a project will tend to cause people in the area to lose respect for their quiet attractive community. Timberlake (which they opposed also) is only two miles away, Mrs. Weber continued, she felt that this project was not needed in the area.

About 18 people were present in opposition.

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OCTOBER 6, 1971

## NEW CASES - Ctd.

1-Ctd. Mr. Waple told the Board that he had discussed what he had in mind to develop here with Mr. Embry, and had understood that Mr. Embry did not object. He was surprised to see him here - apparently in the opposition camp - or was he? He was uncertain just how Mr. Embry stood. It was partly because of the Embry's that he could no longer raise cattle on his property, Mr. Waple explained. The Embry's are in the business of raising collies and collies have a habit of chasing cows.

In answer to Mrs. Henderson's question as to the capacity planned, and if this would be conducted on a club or membership basis, Mr. Waple said he planned no club nor membership restrictions, and he has not limited the capacity. "This will be for the children on the other side of the fence", Mr. Waple answered - "the children who cannot get to Middleburg (the only other similar project in the area) and whose parents do not belong to a swimming club nor to a citizens association pool group." There will be no profit on the picnic area, Mr. Waple continued, in fact this project is not planned to produce a living for himself and his family, but rather he thought of it more as a memorial to his family, and it is his sincere desire to make it a credit to the County.

There are two streams through his property and nine springs, Mr. Waple told the Board - he did not think there would be a lack of water.

Mr. Waple referred to a statement made earlier in the hearing that he did not have the interests of the children at heart as he had told a group of Girl Scouts not to trespass on his property. He did that, Mr. Waple explained for fear some of them might fall into the Creek or the pond.

When the pool is drained the water will be turned back into the Creek, Mr. Waple went on, he will have the approval of the Health Department for percolation test, and will necessarily conform to the new swimming pool ordinance and all requirements of the County.

Mrs. Embry asked that it be clearly understood that she was not objecting to this use on any personal grounds - nor to what Mr. Waple might do, but she did object to what the future might bring. If this is ever sold or enlarged it could get completely out of control. Mr. Waple has been a very fine neighbor, Mrs. Embry told the Board, he has been kind to her children, their children have gone to school together - but she thought this use could result in something which might be detrimental to the neighborhood and she thought Mr. Waple should consider how the people in the area feel about it.

Mrs. Butts asked the Board members if they had ever been to Timberlake? None had. It was suggested that this was not a comparable project.

Mrs. Henderson thought the Board should see the results of a percolation test before taking action - also Mrs. Henderson said she would like to view the property. Therefore, Mrs. Henderson moved to defer the case until Nov. 12th to view the property, and for the applicant to present to the Board

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NEW CASES - Ctd.

1-Ctd.

a letter from the Health Department stating whether or not this use is feasible on this property. Mrs. Henderson said she saw no point in granting a use permit if the land cannot be used for the proposed development. If the applicant cannot meet the Health requirements, Mr. Lamond pointed out, he cannot obtain the permit. He saw no reason not to grant the use, if the Board so desires, contingent upon approval of the Health Department. Mr. V. W. Smith recalled that Doctor Kennedy had asked the Board not to grant these or similar uses until the percolation test has been made - he would rather review the Health conditions before any action is taken by the Board. Therefore, Mr. V. W. Smith thought the Board should follow this procedure.

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Also, it is a protection to the Board, Mrs. Henderson continued, to know if the property meets the requirements. However, Mr. Lamond recalled that the Board had in many other cases granted permits subject to approval of the Health Department and other County agencies.

Mr. V. W. Smith quoted from the Ordinance: powers relative to exceptions, etc..... ".....the Board is empowered to grant requests for exceptions when in the judgement of the Board such exception shall be found to be in harmony with the general purpose and intent of this Chapter and zoning map and will not tend to affect adversely the use of neighboring property..." These are the things, Mr. V. W. Smith continued, that must be considered in the decision on this case.

Some kind of septic or sand filtering system will work, Mr. Waple explained, he was very sure of that - a system which would meet all requirements of the Health Department.

There was no second to Mrs. Henderson's motion.

Mr. Lamond moved that the application be granted to the applicant only (as a protection against the property being sold and the use therefore transferred) and that the granting be contingent upon the applicant getting the necessary permits to operate this use and to his meeting the requirements of the Health Department and other pertinent Ordinances, particularly that the applicant conform to the swimming pool ordinance. This is granted as per plat presented with the case, dated Sept. 6, 1957, plat prepared by Carpenter and Cobb, indicating improvements on the property, but that the acreage shown on the plat be amended to read 20 acres only.

It was added to the motion that a through street which would connect the property to be used for this purpose with Pine Street, be eliminated.

Seconded, Mr. T. Barnes

Mr. V. W. Smith said that, in his opinion, an opening through Pine Street would greatly reduce the traffic hazard.

NEW CASES - Ctd.

1-Ctd. Mr. V. W. Smith asked Mr. Embry if he was objecting to this use - as his position was not clear to the Board. Mr. Embry stated that if this project would have the adverse affects upon traffic and surrounding property he would be oppos@d to it - but he was unsure just what the results of the use would be. Mr. Embry said he wished to remain neutral.

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Mr. Lamond stated that, in his opinion, this property was not only well suited for this type of use but better suited for that than any other use - that he knew the property well and felt the project would serve a great need in the County.

Mr. T. Barnes spoke of the well known juvenile delinquency - which is on the increase - partly because children have no place to go - he thought this a fine gesture toward helping to correct the delinquency situation.

Mr. V. W. Smith said he lived about 3/4 of a mile from Timberlake and they had found it most annoying - (however, Mr. V. W. Smith said he wished this to be no reflection upon Mr. Waple) but he did think it would be difficult to sell property in the vicinity of such a project, and that it would depress property values. This has proved to be true in the case of Timberlake, Mr. V. W. Smith said.

For the motion: J. B. Smith, T. Barnes, A. S. Lamond

Against: Mr. V. W. Smith and Mrs. Henderson - Mrs. Henderson stating that she had no objection as such - but she thought the Board should have more information before acting upon the application.

Motion carried. (This motion was corrected on November 26, 1957 by a majority vote. See Pgs. 321-22-23 for motion as finally passed.)

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2- JOHN MARSHALL, to permit dwelling as erected to remain 37.4 feet of the street property line and 13.8 feet of the side property line, Lot 2, Section 1, Cedar Heights, Mason District. (Suburban Res.-2)

Mr. Marshall showed 'by map) the house locations on Lebanon Drive. It was evident from the plat that this house was misplaced on the lot - tilted a slight bit to cause this encroachment both on front setback and the side. Had the house been located parallel with the lot line the setbacks would have conformed. Mr. Marshall said he did not know of this error until the house was built. It was discovered simply by sighting from the other houses. The setbacks were checked when the house came out of the ground - checked from the contractors stakes - which were no doubt incorrect.

There were no objections from the area.

Mr. Lamond observed that this appeared to be an honest mistake and the variances were very small - therefore he moved to grant the application since the violation affects only one corner of the building both on the front and on the side.

Seconded, J. B. Smith

Carried, unanimously.

//

NEW CASES - Ctd.

3-

SOLANGE BINDA, to permit teaching of dancing in dwelling, Lot 195, Section 4, Woodley (933 Graham Road), Falls Church Dist. (Sub. Res.-I).

Mrs. Binda recalled that the Board had granted her a permit for a nursery school about 2-1/2 years ago. The school was not a success - so she started teaching ballet. She now wishes to continue the school on the dance-school basis. Classes are conducted in her basement. She now has about 65 pupils - approximately 8 to a class. This school has been in operation for about one year. During last year she had 25 or 30 pupils, but recently the group has expanded.

There were no objections from the area.

Mrs. Binda presented a statement from adjoining neighbors saying they do not object to the school.

Since this has been in operation for a year, and there have been no objections from the area - it must not be considered detrimental to the neighborhood, nor to adjoining property owners, Mrs. Henderson noted.

Therefore, Mrs. Henderson moved to grant the application to the applicant only.

Seconded, Mr. J. B. Smith

Carried, unanimously.

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4-

I. HENRY SCHWARTZ, to permit dwelling to remain as erected within 49.4 ft. of the street property line, Lot 35, Section 1, Gunston Heights (S.E. corner of Dolly Drive and Madison Drive), Mt. Vernon District. (Agriculture).

Mr. J. P. Strauss represented the applicant.

This was a mistake in house location, Mr. Strauss stated - probably caused by an error in the original setback survey. This is the first mistake of this kind which this builder has made - it is a small encroachment and does not adversely affect the neighborhood.

Mr. Lamond moved to grant the application because of the fact that it is a small variance which does not adversely affect neighboring property.

Seconded, Mr. T. Barnes

Carried, unanimously.

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5-

CATON A. HALL, to permit addition to utility shed as erected to remain within 9' 6" of the side property line, Lot 23, Section 1, Fairfield, Lee District. (Sub. Res.-2).

Mr. Hall said he did not know it was required to get a permit for a utility shed - it is a very small building, costing about \$20.00 - which he is building himself. It is about half completed. The variance is only six inches. The adjoining property owner has no objection to the violation.

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## NEW CASES - Ctd.

5-Ctd.

Mrs. Henderson asked how big an addition to a utility shed could be - was there a coverage restriction. Mr. Mooreland said - "no" - but it must be reasonable. This will be about 14 x 8 feet - an 8 foot extension on the rear.

Mr. J. B. Smith moved to grant the application, as it affects only one corner of the building, and does not appear to adversely affect the neighborhood.

Seconded, Mr. T. Barnes

Carried, unanimously.

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6-

BARCROFT WOODS, INC., to permit erection of sign on property other than the use, (32 sq. ft. area), S.W. corner of Valley Brook Drive and Sleepy Hollow Road, Falls Church Dist. (Rural Res-I).

Mr. Burch Millsap represented the applicant.

This sign would be erected 11 feet from the right of way of Sleepy Hollow Road, Mr. Millsap told the Board. The applicant needs this sign to point the way to the location of the houses he has for sale, Mr. Millsap continued, since the houses in this subdivision are not located on a highly traveled road. They need this sign only until the houses are sold. They have about 50 or 60 houses to sell, and would be willing to take a limited time permit if the Board should wish to grant it that way - and if necessary to come back for extension if the houses do not sell within that time.

This is the fifth case the Board has handled with a request to advertise off the use, Mrs. Henderson recalled, all of which have been denied. She did not think it reasonable to grant this.

Since the property to be sold is several blocks away from the main highway, Mr. Millsap stated, it is necessary in order to give the traveling public and prospective purchasers some indication of where the property is located. This would not be permanent, Mr. Millsap continued, this corner is low and wooded - the sign would not create a hazard of any kind - he felt it was a reasonable request - for a limited time and asked the Board to grant the application.

The Chairman asked for opposition.

Mr. Robert Cotton, President of the Greater Homes Run Park Association, and Mrs. Van Evra objected. Mr. Cotton stated that this sign is an abomination to the neighborhood - it is in poor taste and is depreciating to a beautiful area. The sign has been in place for six months without a permit from the County and without authority from the owner of the land. It is violating all rules and the people in the area are actively opposed to it remaining on this property. Mr. Cotton read the following statement covering the objections of the community, and presented a petition with 72 signatures - representing 43 homes:

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6-Ctd.

"October 8, 1957

Board of Zoning Appeals  
Fairfax County Courthouse Re: Application of Barcroft Woods, Inc.  
Fairfax County, Virginia

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Gentlemen:

The Greater Holmes Run Park Citizens' Association and the members thereof object to and oppose the application of Barcroft Woods, Inc. for authority to continue in existence a commercial sign of excessive size at the intersection of Sleepy Hollow Road and Valley Brook Drive in the Falls Church Magisterial District of Fairfax County.

The aforesaid sign, which was executed in exceedingly poor taste and which was placed in the present location without authority of the landowner, is thoroughly incompatible with the residential area in which it is located. Sleepy Hollow Road and Valley Brook Drive are areas of scenic beauty which can only be marred to the detriment of the entire community through the erection of eyesores such as the one protested herein.

The members of the Association who reside in the immediate area of said sign have petitioned that the application of Barcroft Woods, Inc. be denied. Said petitions are attached to this letter in support of the Association's contention that granting of the said application would seriously detract from and impair the fine residential qualities of the neighborhood.

Wherefore, it is urged that the application be denied.

Sincerely,

/s/ Robert C. Cotton, Jr., President  
GREATER HOLMES RUN PARK CITIZENS' ASSN."

Mrs. Van Evra agreed with the statements made by Mr. Cotton. She has had many calls from people in the area regarding this sign, Mrs. Van Evra told the Board - people who thought it was entirely out of keeping with the area and who have asked that the owner of the sign comply with regulations. She took this up with Mr. Mooreland, Mrs. Van Evra went on, and Mr. Mooreland had instructed Mr. Pomponio to remove the sign. The sign was not taken down but Mr. Pomponio made the application to the Board of Zoning Appeals. The applicant had this right, Mr. Mooreland told the Board. Once he had told them to take the sign down - if an application is made to the Board - he is unable to force removal of the sign until an answer is given by the Board. Mrs. Henderson moved to deny the case because the sign is not on the property being advertised for sale. The sign shall be removed by October 14th.

Seconded, Mr. Lamond

Carried, unanimously.

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7-

MRS. ESTHER NAVE, to permit dwelling as erected to remain within 3.2 feet of the rear property line, Lot 19, Section 2, Mosscrest, Providence District, (Rural Res.-2)

Mr. E. R. Johnson represented the applicant. When Mrs. Nave applied for her original permit to cover the extra room on this house she went to the Building Inspectors office and they drew the plat which showed the house to be properly located from the rear lot line. Later the inspections revealed that the building was 3.2 feet from the rear line. When this was discovered

NEW CASES - Ctd.

7-Ctd. the foundation was in, but the structure not completed. Since the room is added to the front of the house, it does not change the setback which is in violation. The two property owners to the north and to the south do not object to this violation, nor to Mrs. Nave completing the room. This is a rented house, Mr. Johnson explained, and the tenants are wanting more room. Mr. Johnson said, in his opinion, this falls within the discretion of the Board to grant - since it is an exception<sup>al</sup> situation and a hardship would result to the applicant in the refusal of the ease.

The original part of the house was built before the Ordinance, Mr. Johnson told the Board, 12 or 15 years ago - the addition of this room will not adversely affect anyone - it does not change the relationship between the existing house and the neighbors. When the house was built it met requirements. This would give the applicant the opportunity to get full use of her land, Mr. Johnson continued.

Mrs. Henderson asked when the house was built. Mr. Johnson thought in 1946 or 1947. Mr. Mooreland said his office has no record of this building. He suggested that the house might have been built before the subdivision ordinance - when his office did not make a check of the building permit locations.

It was also questioned if this house had been included in the subdivision.

Mr. Mooreland showed one permit which indicated that the house was located about 50 feet off of Dawson Street - which was an incorrect location.

Mr. Johnson thought the new restrictions and the 'red tape' might have confused Mrs. Nave. She evidently started with a wrong plat but it was not discovered and no application was made to come before the Board to correct that original error.

Mrs. Henderson asked how close the house on the lot adjoining was to the rear of this building. Mr. Johnson did not know - he thought that house was built on acreage.

This little house could have been put up as a temporary structure, Mr. Mooreland explained, and later used as a home, then rented. It is low cost - the sale price was in the neighborhood of \$9,000.

Mrs. Henderson asked if the applicant could purchase a strip from the adjoining property which is in acreage - to make this conform. Mr. Johnson said that Mrs. Nave did talk with the adjoining property owner trying to make an exchange of property - but for some reason - this angle was not pursued. He thought it would probably cost more than Mrs. Nave was able to handle.

She now has more property than she needs and it would not appear practical to acquire more. Mr. Johnson thought Mrs. Nave had been disturbed by the regulations in the County - she is new here and not accustomed to the necessary procedures in these things. As soon as she realized that this building was in violation, Mrs. Nave stopped construction on this addition.

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NEW CASES - Ctd.

7-Ctd. If this is granted, Mrs. Henderson noted, it would take the building out of the non-conforming status.

The Board is not being asked to grant the extension, Mr. Mooreland noted - the Board cannot do that - it is the house only which is in violation. The Board cannot grant an extension to a non-conforming building, Mr. Mooreland continued, a non-conforming use may be extended to an additional part of the house - but the building cannot be added to.

Again it was asked how this violation of the house setback occurred. That happened before Mrs. Nave bought the property, Mr. Johnson informed the Board - she did not even know it was in violation when she bought the property about two or three years ago, although she had the title searched. Since so many things remained unanswered, it was suggested that the case be deferred for Mrs. Nave to be present. (Mr. Johnson had stated that Mrs. Nave was ill today).

Mr. J. B. Smith moved to defer the case for 30 days - until November 12th.

Seconded, Mrs. Henderson

Carried, unanimously.

Mrs. Henderson suggested that the Board be informed when this land was subdivided and if this house was put up before or after the subdivision of the land - and also for the applicant to inquire about purchasing more land to make the house conform.

// DEFERRED CASES:

3- The LOTTIE N. PICKERAL case was again discussed - Mr. V. W. Smith explaining to several who were present, waiting for this hearing, that the Board had decided not to hear the case until a letter from Mr. Fitzgerald is received by the Board giving an opinion on the Board's jurisdiction in this. In view of this, Mrs. Pickeral had left the building.

Several women present, who were objecting, asked that the case be heard - explaining that they did have serious objection to this beauty shop operation and they had talked with Mrs. Pickeral, giving her their reasons for their objections. Still, she persisted in this attempt to have the shop. The women said they disliked to oppose her and had nothing against Mrs. Pickeral personally, but they thought such a business was out of keeping with the area and they would like to be heard in opposition.

The Board was still of the opinion that it should not act without the opinion of the Commonwealth's Attorney. If this is to be considered as a home occupation, Mr. Mooreland noted, he could grant a permit without approval of the Board - if not - it is something that should be decided by the Commonwealth's Attorney - whether or not the Board has the jurisdiction to handle the case. Under any circumstances, the Board did not think it fair to hear the case without Mrs. Pickeral being present.

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DEFERRED: - Ctd.

3-Ctd. LOTTIE N. PICKERAL case - ctd.

Mr. Lamond moved to defer the case until October 22nd - pending the opinion of the Commonwealth's Attorney.

Seconded, Mr. T. Barnes

Carried, unanimously.

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8- JOHN BOLDOG, to permit conversion of existing building into four (4) additional units to motel, south side of Route #50 opposite intersection with Route #665, (Chilla Villa Motel), Providence District. (Rural Business).

When this application was granted, Mr. Mooreland told the Board, it included double the number of units now on the property. However, the units were shown in a single building - not in different units. This application is actually carrying out the intent of the original plan.

Mr. Boldog said he purchased this property a short time ago. The business has increased and he wishes to convert the existing building into four units. The neighbors have no objections. He has sufficient room for parking and can meet all County requirements.

Mr. Lamond moved to grant the application, provided the applicant conforms to all pertaining County regulations. This is granted as per plat presented with the case dated September 14, 1957 - prepared by Joseph Berry.

Seconded, J. B. Smith

Carried, unanimously.

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DEFERRED CASES:

4- NATIONAL SIGN COMPANY, to permit erection of three signs with larger area than allowed by the Ordinance, (163 sq. ft.), N.E. corner of South Street and Annandale Road, Route #649, Falls Church Dist. (General Business).

Mr. Kinder represented the applicant. This was deferred, Mr. Kinder recalled, for decision by the Board on interpretation of the Ordinance - should the entire sign area be computed - or could the area be computed on the basis of the letters only.

Mr. Kinder pointed out that the matter of trade-marking had become increasingly important to the store since two of this same size and type signs were recently okayed by the Arlington County Board. Those signs include the illuminated border.

Mr. V. W. Smith told Mr. Kinder that the Board had met and agreed that the definition of a sign in the Ordinance would not permit computation of the letters only. Mr. Smith read the definition of a sign from the Ordinance, ".....Any writing, printing, etc.....which is posted or displayed outdoors on real property.....the term shall also include any part of any advertisement recognizable as such."

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DEFERRED CASES - Ctd.

4-ctd. In the Safeway case, Mr. Kinder recalled, the sign was computed on the basis of the letters only.

Mr. V. W. Smith said that was not his impression from re-reading the minutes. The motion, made by Judge Hamel, considered the size of the building and the property, the topography and the setback of the building.

Still, Mr. Kinder insisted, the Board computed only the letters. If the Board should chose to consider the entire structure in this case it would place the Board members in the position of interpreting the Ordinance one way at one time, and of putting an entirely different construction on it in another case. These are both chain food stores, Mr. Kinder continued catering largely to the same people and in his opinion the Board should indicate equal confidence in each chain by applying the same sign requirements. If the sign background was not counted in one instance - then it should not be considered in this - a similar case.

Mr. Lamond stated that the Board considered each case on its own merits - however, he thought this sign request was not too far out of line for these stores, and since Arlington County has gone along with this same size sign he thought it would be logical and fair to grant this.

Whether or not the base of the pylon is a functional part of the building was discussed, Mr. Kinder contending that it is, that the foundation for the sign runs to the roof of the building and is an integral part of the structure, and a part of the architectural design. The building permit has been granted, Mr. Kinder recalled, including this portion of the pylon as a structural part of the building. The fact of a similar case where the Board has figured the sign area on the basis of the lettering only, Mr. Kinder, noted, would make it appear logical to grant this on the same basis. He asked the Board to be consistent with decisions of past cases.

Mr. V. W. Smith suggested that even if the Board had computed the sign area as Mr. Kinder insists it did, several new members have come on the Board since the Safeway case was decided and he felt these members were not bound by decisions of the former members and should be free to handle each case on its own merits.

Mrs. Henderson thought the Robert Hall and Kinney Shoe Store cases more parallel to this than the Safeway. She recalled that the Board had computed the entire sign area on those cases.

Mrs. Henderson asked Mr. Kinder if he had made an effort to contact the Company, requesting a reduction of the sign area. Mr. Kinder answered that he had - he talked with the President of the Company, and he felt strongly that their trade-mark must be identical in order that the store be immediately identified. They asked him to do everything he could to prevent the reduction of this sign.

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## DEFERRED CASES - Ctd.

4-Ctd. These stores are not in competition with super markets like the Safeway, Mrs. Henderson noted, they take up where those stores leave off. That is true, Mr. Kinder agreed, but these stores all deal in groceries - they all sell basically the same products, and each is hoping for business. The hours are different in that these stores depend upon early and late trade - but they also hope people will not stay away when the other stores are open. Their prices are a very little higher than the super markets. Mr. Farnum Johnson, Vice President of the Sleepy Hollow Citizens' Association appeared in opposition, stating that this Association has gone on record in opposition to these signs.

There has been an increasing pressure to bring business closer and closer to residential property, Mr. Johnson stated, and while they have realized that this is business zon@d property, they would like the Board to require the applicant to operate under the sign regulations as spelled out in the Ordinance. Mr. Johnson said that in his understanding of the Ordinance there was no question but what the sign area should include the background structure. (Mr. Johnson quoted from the sign definition in the Ordinance). Mr. Johnson also noted that Mr. Kinder himself had referred to the pylon as "the sign" indicating that he did consider the entire structure to be a part of the sign.

Mr. Johnson contended that the applicant would suffer no hardship if this over-sized sign area is refused. This is a neighborhood store, Mr. Johnson pointed out, and he could see no reason why a neighborhood store from out of State should be allowed a larger sign than a local neighborhood store which is operating successfully in this area. He asked the Board to refuse this case on the basis of the fact that it is a gross variance from the Ordinance - it is not needed, and there is no hardship implied.

Mr. Kinder said he actually did not refer to the pylon as "the sign" - at least if he did so it was an inadvertent error.

"Out-of-State" people often provide valuable services, Mr. Kinder observed, and in time they too become "home folks". All of them are from some place, Mr. Kinder continued, or at least our forefathers were - but these people are here to stay, Mr. Kinder went on, and he believed the County welcomes and encourages people to come here and establish themselves in business.

Mr. Barnes recalled that the Board of Supervisors has recently employed an expert for the sole purpose of bringing business into the County. The Board should not make it difficult for business to come into the County, Mr. Barnes continued.

Mr. Johnson said there was no question about the County welcoming good business - but, Mr. Johnson continued, these business firms should be restricted to the same conditions as any other business already operating.

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DEFERRED CASES - Ctd.

4-Ctd.

This application includes three signs, Mrs. Henderson noted. She recalled to Mr. Kinder that he had offered to do away with the pole sign if the roof pylon is granted.

But by removing the illuminated border around the building pylon, the total sign area would come within the Ordinance requirements, Mr. Kinder contended - if the letters are squared out - this of course resting upon the Board's interpretation of the Ordinance.

The Board has decided, Mrs. Henderson recalled, that it is necessary in accordance with the Ordinance, to figure all of the sign area.

If this is considered on the basis as suggested by Mr. Kinder, Mr. Lamond questioned if the Board had not made a hasty decision.

In their decision, Mr. V. W. Smith stated, the Safeway sign was not considered a parallel case.

Mr. Lamond moved that the proposition proposed - as presented, be approved and that the applicant be granted a permit with the understanding that the illumination around the pylon sign on the building be omitted (the illuminated tubing).

Seconded, Mr. Barnes

For the motion: Messrs. Lamond, T. Barnes and J. B. Smith

Against the motion: Mr. V. W. Smith, and Mrs. Henderson

Mrs. Henderson voted "no" because she did not consider the pylon sign as granted to be compatible with a sign as defined in the Ordinance, and because no evidence of hardship has been shown which would justify granting the application.

Motion carried.

5-

Mr. Lamond noted that this same motion would apply to the following case: NATIONAL SIGN COMPANY, to permit erection of three signs with larger area than allowed by the Ordinance, (163 sq. ft.), part Lot 502, Block 5, Woodley North, north side of Arlington Blvd., 160 feet east of Graham Road, Falls Church, District. (General Business).

As stated above, Mr. Lamond noted that the same motion would apply to this case as the one proceeding it.

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1-

BRYAN H. HELLER, to permit enclosure of porch within 40 feet of Route #50 and within 9 feet of Route #608, at S. W. corner of Route #50 and Route #608 Centreville District. (Rural Business).

Mr. Hansbarger presented a statement of notification to the adjoining property owners, and a petition with 148 signatures asking that the applicant be allowed to improve his store.

This was deferred, Mr. Hansbarger recalled, to get definite information regarding the highway right of way at this point. Mr. Mooreland has plans, Mr. Hansbarger explained, which would indicate that the highway right of way

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DEFERRED CASES - Ctd.

1-Ctd. will run through Mr. Heller's store, but it would appear that sometimes lawyers can't read plans..... He checked with the people who do the title work for the Highway Department in the area, Mr. Hansbarger went on, and their plans show no acquisition on the Heller property. It was noted that they are acquiring property up to Heller on both sides, but Mr. Ross - Right of Way Engineer for the State - told him that they do intend to acquire right of way through the Heller property - when and if the highway is widened. They acquired this right of way along the highway in 1943, Mr. Ross told Mr. Hansbarger, but have acquired none since that time. They have plans now for an 80 foot right of way up to the Heller property.

The request for this enclosure would be unreasonable in most cases, Mr. Hansbarger suggested, but not in the Heller matter, as he is in a Rural Business zone, and this business is not operating as a non-conforming use. All Mr. Heller is asking, Mr. Hansbarger went on, is to enclose the porch which is already on the building. There is no other spot on the property where he can put any kind of an addition without creating a violation. This is an old store, something over 56 years old, the building is crowded and obsolete. The purpose of the non-conforming clause in the Ordinance is to in time get rid of all these old buildings. Mr. Hansbarger called attention to the fact that practically all the buildings in this area are old and too close to the highway. In time they will all be either discontinued or moved to the proper setback. Some have already been moved back by the Highway Department.

Mr. Hansbarger said he asked Mr. Ross if they would move this store - when the widening is done - and Mr. Ross had said - no - the store was too old. It would appear likely that the store will be either wiped out or some other use made of this property. All Mr. Heller wants is to enclose this porch for storage space for supplies and equipment. These things are on the porch now, the enclosure would not change the situation in any degree. It would not be creating a new violation.

Mr. Hansbarger had asked Mr. Ross when the road would be widened on the Heller side. Mr. Ross answered that all the widening proposed now is for a four-lane highway. The first two lanes will be on the north side of the highway - Heller is on the south side.

The fact of this being a traffic hazard was brought out at previous hearings on this case, Mr. Hansbarger recalled. This building actually does not cause the traffic hazard at this intersection, Mr. Hansbarger pointed out. The traffic coming from Kamp Washington making a left turn into Route #608 is difficult because of the hill which the motorist cannot see over. The Highway Department will put in an island, when they complete this intersection, which will take care of the traffic and visibility.

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DEFERRED CASES - Ctd.

1-Ctd.

The store itself is not in the way of traffic, and the porch does not cross the entire front of the building which would not change the encroachment at the corner of the building. The porch cannot even be seen by traffic approaching on Route #608.

Practically all of these old businesses in the County are right on the highway, Mr. Hansbarger pointed out, that is a natural condition.

Mr. Ross told him that the highway would not be widened before two years, Mr. Hansbarger said, and in that time the store probably will have served its purpose. The County will no doubt have no difficulty in getting rid of this old business - but in the meantime - Mr. Heller has a good little country store, but like all country stores it is inadequate and this small enclosure will give him the small extra space he needs.

Mr. V. W. Smith stated that the only clause in the Ordinance under which this could be granted is the hardship clause - he quoted from the Ordinance ".....the Board shall have power to grant a variance from such strict application of such regulation, so as to relieve such difficulties or hardships, provided such relief may be granted without substantial detriment to the public good and without impairing the general purpose and intent of the Zoning Map, etc.....".

Mrs. Henderson recalled that Mr. Heller had asked for this enclosure in order to install a large plate glass window.....

Mr. Hansbarger read a letter from Mr. Heller stating that if this is granted and the right of way is later sold to the Highway Department, the value of this addition will not be taken into consideration in the sale price. However, Mr. Hansbarger withdrew the letter.

Mr. Lamond moved to grant the variance to enclose the porch as it will not, in his opinion, adversely affect the community. This is granted under Section 6-12-3 of the Ordinance.

Seconded, Mr. T. Barnes

Mrs. Henderson questioned the applicability of this paragraph - which states that a non-conforming use may be extended throughout the building.

Mr. V. W. Smith thought the application could be granted only under the hardship clause. This is an old established business, Mr. V. W. Smith contended, it is too close to the road and it cannot expand in any other way. The question is, will it be detrimental to the public good. This is a hazardous corner, Mr. V. W. Smith went on, one of the worst in the County. Cars park perpendicular in to the store and back out into the street. This has created a serious problem from the standpoint of traffic.

It was noted, however, that the porch did not affect that problem, as it already exists.

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DEFERRED CASES - Ctd.

1-Ctd. Mr. Hansbarger pointed out that in coming up Route #608 the driver sees only the corner of the store which is already existing - the porch is hidden by the corner of the building and the enclosure would have no affect on visibility.

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For the motion: Messrs. Lamond, J. B. Smith and T. Barnes

Against the motion: Mrs. Henderson

Mr. V. W. Smith refrained from voting.

Motion carried.

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POLICY

Mr. Mooreland asked the Board if they would set a definite POLICY whereby he would know whether or not to take into consideration the entire sign area in cases similar to the National Sign Company.

Mr. V. W. Smith said in his opinion the only answer is that the Board must go by the Ordinance. The Board may have been wrong in the past in some cases - but he felt that such misinterpretation should be corrected in the future. If people are unhappy over that - their recourse is to the Board of Supervisors - to request a change in the Ordinance.

It was agreed that the entire sign structure must be computed for sign area.

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The meeting adjourned

*Verlin W. Smith*  
Verlin W. Smith, Chairman

The regular meeting of the Fairfax County Board of Zoning Appeals was held, Tuesday, October 22, 1957 at 10 o'clock a.m. in the Board Room of the Fairfax County Courthouse with all members present, except Mr. J. B. Smith. Mr. Verlin W. Smith, Chairman, presiding.

The meeting was opened with a prayer by Mr. Verlin W. Smith

NEW CASES:

- 1- NATIONAL MEMORIAL PARK, INC., to permit extension of cemetery, Sec. 6-5 (a) Subsection 1 on property as listed, formerly Boggs Tract - 13.27 acres, formerly May Tract - 2 acres, formerly Homer Tract - 2.45 acres, formerly Whitmer Tract - 6.76 acres, on west side of Route 704, Hollywood Road, 2200 feet north of Routes 29 and 211, Providence District. (Sub. Res.-Class 2). Mr. Hardee Chambliss represented the applicant, locating the parcels to be added to the cemetery and presenting his letters of notification to adjoining and nearby property owners.

This is a total of 24.48 acres extension. It was noted that the largest of the three tracts proposed for cemetery use (the Boggs Tract) adjoins the King David cemetery area. The Homer and May Tracts adjoin the Boggs Tract. The Whitmer Tract also adjoins the King David cemetery area. The three property owners, Lewis, Gaskins, and Murray who are the owners most affected and who adjoin the May, Homer, Boggs, and Whitmer have been notified of this hearing and they have voiced no objection.

The National Memorial Cemetery was established in 1933, Mr. Chambliss recalled. There were 96 acres in the original cemetery. The owners of this project are very proud of the development, Mr. Chambliss continued, the landscaping and the layout plan of the entire park is outstanding and the sculptoring, which has been done by an internationally known artist has received national awards. This is the only commercial enterprise in the Washington Metropolitan Area which is listed in the tourist guide. The Cemetery has never been considered a detriment to surrounding areas - in fact - in his opinion, Mr. Chambliss continued, it has been an asset to the County in every way.

The new section will contain less costly lots than the other areas, however, it will still be carried out in the same manner with careful and attractive landscaping. There is a considerable amount of engineering work to be done in these areas which will take about two years to complete.

Mr. Marlow, from the Cemetery Corporation, located the extensions with relation to the King David lots and the entrance from Lee Highway.

It was brought out that there is only one house which might be considered to be affected by this extension - the Gaskins house. Mr. Marlow said he knew of no planned subdivision in the immediate area.

Mr. Chambliss pointed out that Hollywood Road separates the King David area from the balance of the cemetery. He also noted that the Board had not considered that the King David extension would adversely affect neighboring property.

NEW CASES - Ctd.

1-Ctd. To get from the chapel to this property, which would be across Hollywood Road, Mr. Marlow said they have planned a traffic circle on the road coming from the highway. This would simplify the traffic situation. The only house on the east west leg of Hollywood road is the Smith house.

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Mr. Marlow noted that they have surrounded all of their property with an evergreen hedge - they will do the same with this extension property.

There were no objections from the area.

Mr. Lamond moved to grant the application, as it does not appear that it will adversely affect neighboring property.

Seconded, Mr. T. Barnes

Carried, unanimously.

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X ROSE HILL WOMEN'S CLUB, to permit operation of a kindergarten in Franconia Baptist Church, on north side of Route #644, approximately 100 feet west of Route #613, Lee District. (Suburban Residence-Class 2).

Mrs. R. Stone represented the applicant. Doctor Bishop, Pastor of the Church was also present. This will be a cooperative project, Mrs. Stone told the Board, non-profit. They plan to employ one paid teacher and will have not more than 20 children. The school will operate from 9:00 until 12:00 noon in the mornings. The Sunday School consists of two rooms, which they will use; they have tables and chairs and small equipment for young children.

They have two baths which are near the Sunday School rooms.

The Church building was located with regard to the Shirley Highway, and Rose Hill Subdivision.

The Church yard will provide sufficient parking and playground area in back of the Church building. The Church is set back<sup>a</sup>/considerable distance from the roadway. They will have no outside equipment for the children - therefore the outside play will be limited.

The mothers in the area will help the paid teacher.

This building meets all fire regulations.

Mr. Mooreland said he thought this a logical use - he could not grant it because it is not operated by the Church.

There were no objections from the area.

Mr. T. Barnes moved to grant the application because it does not appear that it would adversely affect neighboring property.

Seconded, Mr. Lamond

Carried, unanimously.

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3- NORMAN T. FOWLKES, JR., to permit erection of an addition to dwelling within 5.6 feet of the side property line, Lot 139, Section 3, Broyhill Crest, (2506 Coker Place), Falls Church District. (Suburban Res.-Class 2).

Mr. Fowlkes showed a plat of his property indicating all the adjoining lots. His property is on a cul-de-sac, his side yard, on which the variance is requested, abutts the rear line of lots which face on Valleycrest Boulevard.

NEW CASES - Ctd.

3-Ctd.

His lot has a very peculiar shape - it is very long and narrow adjoining seven or eight different lots.

While the back yard is very long he cannot put an addition at the rear of his house because he has a reinforced concrete slab and porch which would be difficult to remove. This addition would serve as his dining room immediately adjoining the kitchen. The house sets on a slight knoll, Mr. Fowlkes explained, and the lot is largely wooded. There is a retaining wall on the property next door along the edge of a terrace. Between his line and the terrace are large trees. He did not think this addition would in any way adversely affect this neighbor. There is a considerable distance between this addition and the rear of the house on the adjoining lot.

Mr. Mooreland told the Board that this section was developed under the old suburban zoning which requires a 15 foot setback. This lot is very irregular, Mr. Mooreland noted, completely unlike other lots in the section. Something over 500 houses have been built in Broyhill Crest - with very few variances requested.

While all the setbacks are the same in this subdivision, Mr. Fowlkes said, this side on which he is asking the variance, adjoins the rear line of the lot immediately opposite, therefore, this would be a long distance from the house itself.

It was suggested that this be put on the rear at the side of the concrete slab - but Mr. Fowlkes said it would be necessary to change the roof line and the space would be too small for a dining room. It is only nine feet from the porch (the concrete slab) to the end of the house.

Mr. V. W. Smith suggested running the dining room out from the house - lengthwise of the lot. That probably could be done, Mr. Fowlkes answered, but it would destroy the design of the house as it would have to have a flat roof. Since it would be unattractive he thought it would actually affect the neighborhood adversely. He noted that all the adjoining property owners had signed statements that they do not object to the addition as planned.

It was noted that people on Valley Brook Boulevard do not have carports nor garages - but they do have driveways.

There were no objections from the area.

If this is granted - it was suggested it could result in a rash of similar requests - and that the Board would have no reason to refuse them.

Mr. Fowlkes thought the shape of his lot and the fact that the lots on the side where he is requesting the variance are the rear lines, made his case different - and gave the Board a special reason to grant. The lots which back up to this property are all wooded, Mr. Fowlkes noted - he thought the addition on the rear would depreciate his own property and that of others in the area.

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NEW CASES - Ctd.

3-Ctd. Mrs. Henderson stated that since there is an alternate location for this addition and this is a large variance from the Ordinance and similar situations could develop in other instances - therefore, she would move to deny the application.

Seconded, Mr. T. Barnes

Mr. Fowlkes again urged the Board to consider the fact that this is an unusual lot and the conditions are different from all other lots in the area.

Mr. V. W. Smith told Mr. Fowlkes that he was sincerely sympathetic, but the Board has an Ordinance under which they must operate and this could be granted only under the hardship clause. There is no topographic condition, which would preclude building in an alternate location, Mr. Smith continued, and this is a 60% variance - he therefore could not see how the Board could grant the request.

Mr. Lamond suggested viewing the property.

For the motion: Mrs. Henderson, T. Barnes and V. W. Smith

Mr. Lamond voted "no" as he thought the Board should view the property. He thought since each case must stand on its own merits - the Board might feel differently upon seeing the property.

Motion carried to deny.

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4- IRVING D. BERGER & GARFIELD I. KASS, TRUSTEE, to permit erection of a store building within 15 feet of property line of Leesburg Pike, Seven Corners Shopping Center, Mason District. (General Business).

Mr. Berger represented the applicant. Mr. Berger explained that they had bought property adjoining the Seven Corners Shopping Center to the south expecting to put up a building which would house a bank, post office, and offices, which is badly needed to complete the shopping center requirements. They obtained a charter for the bank and the permit for the post office. By the time these two permits were granted the money market became so tight that they could not get financing for the building. Therefore, the plan for this building was abandoned. But they began thinking of other things and decided that the bank and the post office are the most needed. After many weeks of study they came up with the plan that they would pave the 4-1/2 acres which they had bought for the building - use it for additional parking (this will take care of about 500 or 600 cars) and they would locate the bank and post office where they would interfere the least with the existing parking and where they would also be near the existing shopping center buildings. They wished to cut down the parking area as little as possible. They have now planned the location where they think it is good from all standpoints - along Route #7 against the highest point in the bank, in the parking lot which is in front of Garfinckels. They will build into the bank along Route #7 - back to a point 15 feet from the right of way of Route #7. This will be a one story building to take care of just the bank and post office. This building can be served by the mail trucks at a drive-in window. This is a unique

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NEW CASES - Ctd.

4-Ctd.

situation, Mr. Berger continued, it will not be detrimental to any other property owner, the homes across Route #7 cannot see the building - they will be very high and their view would not be obscured by the building - they would look over it into the shopping center area, and it will not affect the character of the shopping center - also it will most certainly be desirable for patrons of the shopping center.

Mr. Groff, who appeared before the Board with Mr. Berger, explained that visibility from the Route #7 entrance into the shopping center to Seven Corners is not in the least obscured by this building.

Mr. Lamond asked what would happen if the Highway Department widened Route #7? They checked with the Highway Department, Mr. Groff said, and were told that Route #7 was widened about three years ago and they have no plans for further widening. This building would be 16 feet from the right of way, which would allow for further widening if and when it is necessary. Mr. Groff noted that the building would be located 31 feet from the pavement on Route #7. Mr. Groff also noted that only one corner of the building will be under the bank - most of it will be out in the parking lot. This parking lot is the least used of their parking space, Mr. Groff noted.

(The question of using the parking lot across Arlington Boulevard was discussed).

There were no objections from the area.

Mrs. Henderson questioned some of the people notified - Mr. Groff answering Mrs. Henderson's question stated that they had gotten the names of nearby and adjoining property owners from the Assessor's Office.

The building will be 240 feet by 50 feet and by submerging a part of the building into the bank it will save 45 parking spaces, Mr. Berger stated. However, it was noted that they are getting between 500 and 600 parking spaces on the newly acquired property to the south.

Mr. V. W. Smith suggested that this area could be used for parking space in the rear, if the building were put out into the parking lot and the excavation into the bank reinforced with a retaining wall to make a rear parking lot. The number of parking spaces they would get would not justify the expense, Mr. Berger answered, the cost would be prohibitive.

A building located out in the center of a parking space takes up much more space than if it is to one side, as it is planned here, Mr. Berger continued. Then the only reason for this request is to save 45 parking spaces, Mrs. Henderson questioned? The answer was "yes".

Mr. Lamond stated that in view of the fact that Mr. Berger has indicated that this particular parking area is the least desirable of the parking areas in the Seven Corners Shopping Center, and he is trying to save 45 parking spaces within this area - does not appear to be sufficient reason to encroach upon the building setback line to this extent - therefore, Mr. Lamond moved to deny the case. This is denied under Section 6-12-g of the Ordinance.

Seconded, Mrs. Henderson

Carried, unanimously.

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## NEW CASES - Ctd.

5- MRS. AUDREY B. WAY, to permit a nursery school and a kindergarten in present dwelling, Lot 136, Section 3, Springvale, Mason District. (Rural Res. Class-2).

This will be a small nursery school, Mrs. Way told the Board - having about 12 children. The school will be conducted on the ground floor. The building has been inspected by the Fire Marshall and the few suggested changes will be made. The room to be used is 18 x 20 feet. It is not yet completed. This is actually a daylight basement with above ground windows and an outside entrance on the basement level. There is a large play area. They have a septic field and well water. The water was tested about one month ago and was found to be satisfactory - Mrs. Way stating that she had the okayed report from Richmond. The Health Department has also inspected and okayed the septic. The school will operate from nine to noon in the morning. Robin Road on which this house faces, is only two blocks long and will not extend beyond Keene Mill Road, as it runs into a developed lot immediately as it intersects with Keene Mill Road. The entrance to the nursery room will be on the opposite side from the driveway - there is a walkway to the entrance steps which lead to a small patio - the school is entered from the patio.

Mr. Lamond moved to grant the application provided it meets the necessary requirements of the Health Department and other applicable agencies of the County - the Fire Marshall, etc - and provided that the permit is issued to Mrs. Audrey B. Way only.

Seconded, Mr. T. Barnes

For the motion: Mrs. Henderson, Mr. Lamond, Mr. Barnes

Mr. V. W. Smith voted "no" - as he questioned if 26,000 square feet is sufficient area in which to conduct this school. He thought it would be difficult to control a school on this small area and questioned if it is proper to locate any school on such a small site.

Motion carried.

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JAMES C. ROBERTS, JR., to permit conversion of existing carport to recreation room within 12 feet of the side property line, Lot 153, Section 2, Loisdale Estates (7713 Layton Drive) Lee District. (Sub. Res.-Class 2)

Mr. Roberts explained his reasons for needing this addition. He has four children, and a three bedroom house - which is not enough. There is a concrete slab on the south side of his house, which has been used for the carport. This he would want to enclose with jalousies for a children's play room.

Mrs. Henderson asked how many houses in Loisdale might be in the same situation as this one. Mr. Roberts answered - about 40 - but that most of them have basements - probably 15 or 20 do not have basements.

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NEW CASES - Ctd.

6-Ctd.

Mr. Roberts said he could put on an addition in another location - to the rear for example - but it would be considerably more expensive - this would cost only about \$800 - whereas an entirely new room would run at least \$2500. He has owned this house for one year, Mr. Roberts told the Board, and the salesperson told him this carport could be enclosed, and he could come within 10 feet of the side line.

Mrs. Henderson noted that financial considerations could not be taken into account by the Board - the applicant must show a hardship which is caused by the land or the Ordinance.

In the re-write of the Ordinance, Mr. Mooreland stated, that he intends to suggest a 12 foot setback instead of 12 foot 5 inches. If the Ordinance is re-written as he suggests - this would come within requirements.

It was suggested that the applicant wait for the new Ordinance - defer the case for several months.

Mr. Lamond moved to defer the case for three months.

Seconded, Mr. T. Barnes.

Mr. Mooreland suggested that that was holding out a hope to the applicant which might not be fair. If there is no change in the Ordinance the Board may not grant the variance. Both Rose Hill and Loisdale have this same situation, Mr. Mooreland continued. He thought the Board had no authority to grant the variance under the present Ordinance.

Mr. Lamond added to his motion that the case be deferred no longer than 90 days - and that it may come up sooner if the Ordinance is completed before the 90 days. Agreed to by Mr. Barnes.

For the motion: Mrs. Henderson, Mr. Lamond, Mr. T. Barnes

Mr. V. W. Smith voted "no" - Mr. Smith thought the policy of the Board should be made at this time, rather than to hold out hope to the applicant when the case could be turned down.

Motion carried.

Mr. V. W. Smith suggested that Mr. Roberts and others in a similar position come before the Board of Supervisors at the time the Ordinance is discussed and if this change is not in the Ordinance - suggest that it be included.

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7-

CITIES SERVICE OIL COMPANY, to permit erection and operation of a service station, on south side of Route #244, 900 feet west of Evergreen Lane, adjacent to east side of Harris Plumbing Shop, Mason District. (Gen.Bus.)

Mr. Beall represented the applicant. The plan for layout of this service station has been integrated with the overall Michael shopping center development, Mr. Beall told the Board. There is an existing Esso station on the other corner of Michael's property. Mr. Beall showed a plan of the Michael property with relation to the service station planned. They will use brick which will match the Michael buildings and the ultimate affect will give a unified impression.

NEW CASES - Ctd.

7-Ctd. They have observed the required 35 foot setback for the pump islands and the building will be back 100 feet. Sewer and water connections have been worked out to use existing facilities. Their station will be in line with the existing station, which will allow for future widening of Columbia Pike when and if it becomes necessary.

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There were no objections from the area.

Mrs. Henderson moved to grant the application because from the presentation it seems to conform to the requirements of Section 6-16 of the Ordinance. This is granted as per plat dated September 27, 1957 prepared by Engineering Department of Cities Service Oil Company.

Seconded, Mr. T. Barnes

Carried, unanimously.

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8- CHARLES C. CLARK, JR., to permit dwelling as erected to remain within 39.7 feet of the Street property line, Lot 5A, Hoge's Addition to Apple Grove, Providence District. (Rural Residence-Class 2).

Mr. James Whytock represented the applicant. As shown on the plat, the house was located too close to Fletcher Street - .3' on one corner and .2' on the other. It was originally planned to face the house toward Fletcher Street, and locate the septic field in the rear and on the side, but the Health Department would not okay the field in that location and required them to change the field to the rear of the house. The permit was issued for the septic field to be located 10 feet from the property line ~~and 10 feet from the property line~~ and 10 feet from the house. There is a ridge across the lot in the spot where the house was to be located - a ridge sufficiently steep to allow for a day-light basement. The plan showed that the house would be 40 feet from Watson Street and a considerable distance farther from Fletcher Street. However, when the footings were poured evidently the contractor made the mistake in the setback location, or the bricklayer got out of line. The final house location plat showed these errors.

Mrs. Henderson noticed that the house location plat and the septic permit were dated in 1956.

Mr. Mooreland said he did not know how this occurred - they made rechecks on various cases and found this. The delay was no doubt in his office.

There were no objections from the area.

Mr. Lamond stated that in view of the topography of the property and the slight variance he would move that the application be granted.

Seconded, Mr. T. Barnes

Carried, unanimously.

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NEW CASES - Ctd.

9- HOMER S. WILLIE, to permit erection and operation of a repair garage, on the northwest side of Route #123, approximately 150 feet south of the Town of Vienna Town Limits, Providence District. (Rural Business).

Mr. Willie located the property and presented his proof of notification of adjoining property owners.

This will involve enclosing the grease rack which is attached to the service station on his property, Mr. Willie explained, and the repair garage will be operated in this new structure. The addition will be 18 x 27 feet - masonry construction - with 12" wall - steel reinforced. This station and the garage will be leased. The gas pumps will be set back more than 25 feet from the highway right of way. Mr. Willie understood that there will be no storage or wrecked vehicles on the property - as stated in Section 6-16 of the Ordinance.

Mr. T. Barnes moved to grant the application as per plat prepared by Joseph Berry, dated October 2, 1957 and this is granted under Section 6-16 of the Ordinance.

Seconded, Mr. Lamond

Carried, unanimously.

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10- DONALD P. SAUNDERS, to permit division of lot with less area and less street frontage than allowed by the Ordinance, northwest corner of Vale Street and Park Street, Lot 98, Section 1, Pinecrest, Mason District. (Rural Residence Class 1).

This case was withdrawn by the applicant.

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11- MT. VERNON BANK, to permit erection of a sign with larger area than allowed by the Ordinance, (109 sq.ft.) at 905 Leesburg Pike on Leesburg Pike west of Bailey's Cross Roads, Mason District. (General Business).

The applicant asked to have this deferred until November 12, 1957.

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12- LURIA BROTHERS, to permit dwelling to remain as erected with 37 feet of Shelby Lane, Lot 11, Shreveewood Subdivision, Providence District. (Sub. Res. Class 2).

Mr. William Kelly represented the applicant. The plat showed that the house was set at an angle in such a way as to make this one corner violate the setback. It was probably a mistake which occurred during grading and the first construction, Mr. Kelly said. Shelby Lane is a very short street and will not be continued north, Mr. Kelly told the Board, as Route #88 will be located along the northerly side of this subdivision about 100 feet from the side lot line of Lot 11. The land between the right of way of Route #88 and Lot 11 is in flood plain and could never be used for development - therefore this street will never become a through street. No turn around is required. Mr. Kenny told the Board when a street is less than 250 feet long. The variance is about 3 feet.

NEW CASES - Ctd.

12-Ctd There were no objections from the area.

Mrs. Henderson moved to grant the application because the structure is located in such a way that the very angle of the house does not adversely affect the neighborhood, and this does not adversely affect the community because only one corner of the dwelling is in violation.

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Seconded, Mr. T. Barnes

For the Motion: Mrs. Henderson, Mr. Lamond, Mr. T. Barnes

Mr. V. W. Smith voted "no"

Motion carried.

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13- C. H. FUGATE, to permit erection of pump island within 25 feet of the right of way line of Route #644, at the southeast corner of Route #644 and Route #789, Lee District. (Rural Business).

This case was deferred to November 12, 1957.

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Mr. Mooreland asked the Board to give him a ruling on the following: A certain lot is zoned for general business uses - the house on the property is located too close to the street right of way. What does the Board think of granting a business use in this house, which although it is in business zoning is in violation of the setback. In this case there are three lots involved - located in McLean. Mr. Mooreland recalled the building which the Board allowed to be used for two Doctors offices. That lot was rezoned - also the lot across the street is zoned for business. On one of the lots the garage is used for a real estate office - two rooms of the dwelling are used for an antique shop - now they wish to use the balance of the building for an animal hospital. Mr. Mooreland questioned - what uses can be granted here - this is a non-conforming location which is business zoned. Does the Board feel that any type of business could go in general business zoning if sufficient parking is available?

Mr. Lamond thought it was all right to grant any type of business which would normally be allowed in a general business zoned area, as long as the applicant has adequate parking.

Mr. Mooreland thought the type of business should be limited. The Board agreed to defer further discussion until later in the day.

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DEFERRED CASES:

1- LOTTIE N. PICKERAL, to permit operation of a beauty shop in residence, Lot 504, Block F, Courtland Park, (710 Maple Street), Mason District. (Suburban Residence).

Mr. Mooreland read the following letter from the Commonwealth's Attorney regarding the granting of a beauty shop:

DEFERRED CASES - Ctd.

1-Ctd.

TO: The Board of Zoning Appeals October 21, 1957  
 FROM: Mr. Robert C. Fitzgerald  
 Commonwealth's Attorney  
 RE: The use of part of a dwelling by the resident thereof for the purposes served by a beauty shop.

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The problem presented here gives rise to two questions:  
 1. Does the Board of Zoning Appeals have the authority to grant use permits for such use in a residential or agricultural zone?

2. Can such use be classed as a customary home occupation?

The answer to question No. 1, is in my opinion that the Board of Zoning Appeals does not have authority under the ordinance to grant a use permit for such use.

In answer to question No. 2, I advise that from a legal standpoint the Board of Zoning Appeals can arrive at the conclusion and interpret the phrase "customary home occupation" as used in Paragraph 3, Section 6-4, as including the use concerned. In the nearest case in point, the court held that such use was allowable under the Zoning Ordinance that allowed 'home occupations incidental to the use as a residence'. Under the terms of our ordinance such use is required to be incidental to the use as a residence.

Respectfully submitted,

/s/ Robert C. Fitzgerald  
 Commonwealth's Attorney"

Mr. Fitzgerald had told Mr. Mooreland that the cases he referred to in his letter were in New Jersey - there is nothing in Virginia jurisdiction on this. The cases he had read showed about 50 - 50 regarding a "home occupation". However, the New Jersey case is the nearest in point, Mr. Fitzgerald had said, and the Ordinance under which this case was decided is more nearly like the Fairfax Ordinance than the others which he investigated. It is still up to the Board, Mr. Mooreland continued, to determine if an individual in a home can have a chair to use for beauty parlor services to people in the community.

Mrs. Henderson thought it would not be customary that a home would have beauty parlor equipment - but it would be customary for a home to have a stove and a sewing machine. That type of equipment could be used in a home occupation, Mrs. Henderson continued. The determination of a home occupation would appear to rest on the type of equipment which is normally to be found in a house - which would not include beauty parlor machinery. Mrs. Pickeral said the only equipment she had was a dryer.

Mr. Mooreland cautioned the Board that they had no authority to grant this if it is not a home occupation - but if the Board ruled that it is a home occupation - he could issue the permit without further handling by the Board.

Mr. Hayes, representing opposition to this use, asked to speak.

Mr. V. W. Smith recalled that at the original hearing there was no opposition present - only a letter asking that the application be refused and a petition was filed with the Board.

DEFERRED CASES - Ctd.

1-Ctd. All the Board can hear at this time, Mr. Mooreland suggested, is evidence on the Board's interpretation of the Ordinance - whether or not this is a home occupation.

Mr. Lamond stated that in view of the opinion of the Commonwealth's Attorney as given in his letter, he would move that the permit be denied, as he felt there was no just reason to grant this use in a residential zone.

Seconded, Mrs. Henderson

In view of the history of actions of the Board in similar cases - where beauty shops have been granted, Mr. V. W. Smith suggested that the Board refund Mrs. Pickeral's filing fee in this case.

This Board cannot refund money, Mr. Mooreland pointed out - only the Board of Supervisors can do that. The Board will refund only in case of erroneous advertising or some mistake on the part of the County. Mrs. Pickeral understood the situation surrounding such cases when she filed, Mr. Mooreland continued, and he thought there was no possibility of the Board making this refund.

Mr. V. W. Smith questioned the motion - stating that in his opinion it was an about face on the part of the Board, which may be misunderstood.

This is the same thing as the antique shop - Mrs. Henderson stated - which the Board had decided they have no authority to grant. The Board agreed, Mrs. Henderson went on, that if one has a few extra antiques in his home which are saleable - that would be all right - but the Board did establish the policy that the sale of antiques - as a shop could not be granted.

Motion carried.

Mr. V. W. Smith not voting. (?)

POLICY Mr. Mooreland asked the Board what their interpretation of the Ordinance is - in this regard - he asked for a statement of policy by motion.

Mr. Lamond moved that Mr. Mooreland be instructed that it is the thinking of the Board that the operation of a beauty shop in a home (located in a residentially zoned area) would not be considered a home occupation.

Mr. V. W. Smith read the following letter from Mr. Schumann - giving Mr. Pomeroy's definition of a "Home Occupation".:

October 18, 1957

TO: Members of the Board of Zoning Appeals  
FROM: H. F. Schumann, Jr., Director of Planning

As suggested by some members of the County Board of Zoning Appeals at lunch on the date of your last meeting, October 8, 1957, I am enclosing you copy of definition of 'Home Occupation' - which Mr. Hugh Pomeroy intends to recommend to the County be included as a part of the new Zoning Ordinance.

This definition is one which some members of the Board thought would be pertinent to the Beauty Shop application now pending before the Board of Zoning Appeals.

/s/ H. F. Schumann, Jr.,  
Director of Planning  
FAIRFAX COUNTY PLANNING OFFICE"

1-Ctd.

POLICY

DEFINITION:

"Home Occupation": Any use customarily conducted entirely within a dwelling and carried on solely by the inhabitants thereof, in connection with which there is no display visible from outside the building other than an identification sign conforming with the provisions of Section \_\_\_\_\_, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. The conducting of a clinic, hospital, barber shop, beauty parlor, tea room or restaurant, gift shop, antique shop, animal hospital, or any use similar to any of the foregoing shall not be deemed to be a home occupation."

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Mr. Lamond re-stated his motion: That Mr. Mooreland be instructed that in the opinion of the Board of Appeals, the operation of a Beauty Shop in a private home (located in a residential district) is not considered to be a home occupation.

Seconded, Mrs. Henderson

Mr. V. W. Smith suggested that this be referred to the Planning Commission since it is the responsibility of the Commission to draft an Ordinance and amendments thereto.

Mr. Mooreland answered this by saying that this is not an amendment to the Ordinance - it is an interpretation of the Ordinance - which is the responsibility of this Board.

Mr. V. W. Smith recalled that it was Mr. Brookfield who, when he was on the Planning Commission and the Board of Zoning Appeals, interpreted the operation of a beauty shop as a home occupation. To the contrary, Mr. Mooreland answered, Mr. Brookfield evidently did not consider a beauty shop a home occupation - but rather he considered it a special exception - otherwise it would not have had to come before the Board. Had it been considered a home occupation he, Mr. Mooreland, would have issued the permit in his office without a Board hearing.

Mr. V. W. Smith explained his position on this by stating that he was not in favor of these businesses going into a residential area except in certain cases where he could visualize a need and where it might not be objectionable. Where a large acreage is involved, Mr. V. W. Smith continued, and perhaps a widow who needed to supplement her income had the equipment so she could conduct a small beauty parlor - employing no outside help - and there was no objection from the neighborhood - perhaps the people in the area were wanting this service - it could be that this would not be objectionable, and would be fair for the Board to grant. Mr. V. W. Smith thought the circumstances should govern each case.

Vote on Mr. Lamond's motion:

For: Mrs. Henderson, Mr. Lamond, Mr. Barnes

Mr. V. W. Smith refrained from voting, stating that he thought this matter deserved more study.

Motion carried.

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Mr. Lamond stated that he would like to bring the motion on the WAPLE CASE requesting a recreational area on October 8th, to the attention of the Board. In making the motion it was his understanding, Mr. Lamond explained, that the granting would be to the Waple family, however, in the minutes it is recorded to the applicant only. It would hardly be fair, Mr. Lamond stated, if this project goes ahead and the applicant spends a large sum in its development - and should Mr. Waple become unable to continue operation - that the recreational area could not be continued by his immediate family.

Mr. Lamond, therefore, moved that the motion be changed to grant the application to the Waple family.

Seconded, Mr. T. Barnes

Mr. V. W. Smith assured Mr. Lamond that in case of a large investment of this kind - no court would terminate the business in case of Mr. Waple's death or incapacity. He felt that the business would be transferred as a part of the estate to Mr. Waple's family. Otherwise it would be an economic injustice to the Waples. However, as a protection, Mr. Lamond asked that the change in the motion be made.

For the motion: Messrs. Lamond and Barnes

Against the motion: Mrs. Henderson and Mr. V. W. Smith - both of whom had voted against the original motion.

Tie vote.

Mr. Lamond said he would bring this up at a later date when the full Board was present.

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The Board again discussed the granting of a beauty parlor in a residential area - Mr. V. W. Smith stating that he felt that the circumstances surrounding individual cases could justify such a granting. No further action was taken.

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Mr. V. W. Smith read a letter from Mrs. Esther Nave relative to her deferred case, which is on the November 12th docket.

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The meeting adjourned

*Verlin W. Smith*  
Verlin W. Smith, Chairman

The regular meeting of the Fairfax County Board of Zoning Appeals was held Tuesday, November 12, 1957 at 10 o'clock a.m., in the Board Room of the Fairfax County Courthouse, with all members present: Mr. Verlin W. Smith, Chairman, presiding.

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The meeting was opened with a prayer by Mr. J. B. Smith

DEFERRED CASES:

DOROTHY MURPHY, to permit operation of a nursery, kindergarten and first grade, Lot 52, Section 1, Fairfax Acres. Providence Dist. (Rural Residence)

Mrs. Murphy told the Board that she is now operating a nursery school in Jefferson Village - in a room which was built by the management. She has bought out her partner and now wishes to operate in her home. Hill Street, on which her home faces, is a dead end street, Mrs. Murphy told the Board, it could therefore not create a traffic hazard. Her school will be divided into two groups - the kindergarten in the morning from 9 to 12 and the first grade in the afternoon for three hours. The school was previously operated as a nursery school, Mrs. Murphy continued, but she will discontinue the younger children - having only the two groups. She plans to have from 15 to 20 children in each group. They own lots 52, 53 and 54 which will allow something over three acres for play area. They also own lots 49 and 50 - which, however, will not be used for the school.

The Fire Marshall has not yet okayed the building - it is cinderblock construction for the first floor - which area will be used for the school. The second story is asbestos shingle.

Mrs. Murphy located her home - which is about two blocks from the Jermantown School - her neighbor immediately across the street has no objection, as evidenced by the notification to property owners in the area.

Mrs. Henderson questioned the size of the septic field - which was probably not designed for two baths - one of which will be used for the school. Mrs. Murphy noted that in a school of this type - which is purely educational - the septic will not be over-taxed as it would be with smaller children, as there will be no washing (they will have no sleeping periods) nor cooking. The septic field is large - it runs from lot 52 to lot 53 - which will also be used for play yards.

Mr. T. Barnes moved to grant the application, subject to approval of the Fire Marshall and the Health Officer, and other agencies of the County pertaining to this type of use.

Seconded, J. B. Smith

For the motion: Barnes, J. B. Smith, Lamond, and Mrs. Henderson

Mr. V. W. Smith refrained from voting as he thought a school of this type should have a larger area. Such a school could easily become larger - and over-load the lot.

Mrs. Murphy noted that they do plan to use Lot 53 - although the use of that lot has not been applied for in the application.

## DEFERRED CASES - Ctd.

1-ctd. Mr. Barnes added to his motion that the school be granted on Lots 52 and 53, and that the use be granted for 40 pupils.

Mr. J. B. Smith agreed to the addition.

Mrs. Murphy said they have tried to buy lot 51, but litigation has held that up.

Mr. V. Smith then changed his vote - and the motion was carried unanimously.

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2- MRS. ESTHER NAVE, to permit dwelling as erected to remain within 3.2 feet of the rear property line, Lot 19, Section 2, Mosscrest, Providence District. (Rural Residence-Class 2).

Neither Mrs. Nave nor her attorney were present, as Mrs. Nave's letters had stated that it was impossible for her to appear at this hearing as she has no transportation - and she is no longer able to employ an attorney.

Two letters from Mrs. Nave were read - indicating that she did not know when the original house was built, she bought it three years ago. Mrs. Nave said she thought the house was built, however, after the property was subdivided. She has been unable to purchase property from the neighbor adjoining to make the house conform to setback regulations.

The letters do not explain why the building permit to add the room showed that the house was not in violation of any setback, Mrs. Henderson noted.

Mrs. Nave was at a loss to explain that when she was in his office, Mr. Mooreland told the Board. Someone drew the plat for her, and the plat showed no violation.

Mrs. Henderson was of the opinion that since the house is very close to the line (the plat shows approximately 3 feet) the Board has no authority to grant the addition.

Mr. Barnes expressed sympathy for Mrs. Nave, since she is a widow - with probably very little to live on - and the difficulties she has experienced have confused and upset her, and since there are no objections from the area, it would appear that it would not be out of line for the Board to stretch a point and grant this addition.

Mrs. Henderson moved to defer the case to view the property and the situation on the lot. Deferred until November 26th.

Seconded, J. B. Smith

Carried, unanimously.

The Board asked Mr. Mooreland to check on the first assessment date on this house. Mr. Mooreland returned from the Assessor's office with the information that this is assessed as vacant property - they have no record of a house having been built upon the property.

Mr. Lamond asked the Board to discuss the FOWLKES CASE - stating that Mr. Fowlkes had misunderstood the vote on the motion on his case at the last meeting. Mr. V. W. Smith suggested that this be taken up at the end of the meeting, since he had a letter from Mr. Fowlkes which he would like to have read and have discussed.

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DEFERRED CASES - Ctd.

3-

MT. VERNON BANK, to permit erection of a sign with larger area than allowed by the Ordinance, (109 sq. ft.) at 905 Leesburg Pike, on Leesburg Pike west of Bailey's Cross Roads, Mason District. (General Business). Mr. Wells from Service Neon Sign Co. represented the applicant. Mr. Gallo was also present. The sign will have a 15 ft setback from the right of way of Leesburg Pike,

Mr. Wells pointed out. It is not objectionable to adjacent property - there is business in the immediate area, the A. & P. across the street and a filling station on the corner - and Mr. Wells continued, the sign conforms to similar businesses in other areas. The sign is simple and attractive, Mr. Wells pointed out - it merely displays their name as a means of identification, with a direction arrow.

Mrs. Henderson called attention to the fact that the A. & P. across the street did not ask for a variance. Mrs. Wells noted that that area was divided to allow for two signs. Mr. Wells again pointed to the good design of this sign and assured the Board that it would in no way adversely affect the community nor would it adversely affect the health or safety of people working or residing in the neighborhood.

Mrs. Henderson thought a sign could be attractive and well designed without being over-sized. Why not have the same type sign, Mrs. Henderson asked, only smaller - to conform to requirements? The need for identification governs the size of the sign, Mr. Wells answered. A sign must be large enough to be effective. It must show people - quickly - what is here and where to turn. Mrs. Henderson suggested that a bank does not operate on a transient basis, that people using banks go there with a definite purpose in mind - they usually know where they are going. There is no topographic condition here, Mrs. Henderson continued - and therefore no hardship involved.

Mr. Wells recalled the statements he had frequently made before the Board - that the sign ordinance is obsolete - and that he had offered many times to work with the County to help work out a reasonable ordinance, but had never been asked to present his suggestions - however, the ordinance is in many cases too rigid for modern competition. This is not a larger sign than banks are using in other parts of the country, Mr. Wells went on, he felt that he was offering a sign which is in the line of progress and which is generally accepted as reasonable.

Mr. Lamond agreed that this sign is similar to signs on banks in Alexandria, which have been well accepted. He thought this sign very appropriate for the bank.

Mrs. Henderson asked what size signs the other Mt. Vernon Branch Banks have? They are smaller, Mr. Rickard from the Mt. Vernon Bank, answered, but the situation in each case is different. Either there is nothing to obscure the bank from the traveling public, or the bank is situated to be in plain view. This building is set back farther from Route #7 than the building on the adjoining lot, and the trees form a barrier to view. This is especially noticeable in going south on Route #7. People travel beyond the speed limit

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DEFERRED CASES - Ctd.

3-Ctd. and could easily pass the bank before seeing the sign if it were smaller - whereas this size sign could be easily visible from all directions.

Mr. Wells told of one of their signs which was erected in Washington, D. C. which is 108 square feet - their ordinance would allow 100 square feet.

However, the 108 square feet was approved by the Fine Arts Commission.

Mr. Rickard said it had been shown in other areas where the smaller signs are used that people actually do not know of a newly established branch bank and have gone off to other areas to bank - simply because it has not been called to their attention that a bank is near them. He felt that this size sign was necessary to adequately serve their purposes.

There were no objections from the area.

Mr. Lamond moved to grant the application because it will not interfere with the health, safety, or welfare of people in the neighborhood.

Mr. V. W. Smith said he did not believe the Board could grant this sign under the "health, safety, or welfare" clause - but that it must be granted under the hardship clause.

Mr. Lamond changed his motion to grant because the building sits back off the street and is not readily visible to the public traveling on Rt. #7, therefore creating a hardship because of the setback.

Seconded, T. Barnes

For the motion: Lamond, J. B. Smith, and T. Barnes

Mrs. Henderson voted "no" - and Mr. V. W. Smith refrained from voting because if this situation is the fault of the sign ordinance the Board of Zoning Appeals is not empowered to continue amending the ordinance, and he could see no undue hardship on the applicant caused by the ordinance, but if the hardship does exist and is the fault of the ordinance - the ordinance should be corrected.

Mr. Lamond added to his motion that the case be granted in accordance with the plat presented with the case prepared by Walter L. Phillips, dated September 17, 1957, revised October 8, 1957 - which shows the sign to be set back 15 feet from the property line. This addition was accepted by those voting for the motion.

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4- C. H. FUGATE, to permit erection of pump island within 25 feet of the right of way line of Route #644, at the S. E. corner of Route #644 and Route #789 Lee District/ (Rural Business).

Mr. W. B. Hawke and Mr. Owens from the Texas Company represented the applicant, who was ill and unable to be present.

This is a plan to modernize the layout of the pump islands on this property. Mr. Hawke explained, to take care of a safety hazard. The pump island which they propose to remove is angled in front of the building and immediately in front of one of the service bays. This has caused a hazard to the flow of traffic in and out and to the cars being serviced at the bay. By re-locating the one island to within 25 ft. of the front property line it will

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NEW CASES - Ctd.

4-Ctd.

leave free ingress and egress for the bay and the other existing pump island will not be crowded. They think it will also serve to increase business. It will make a more attractive arrangement - as it is, the yard has a cluttered look.

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This business is under a term lease to the Texas Company.

Mr. Owens noted that there are two other businesses in this building - a luncheonette and a trucker's office - both of which generate a considerable amount of traffic. This change will allow better parking space for them. It was shown to be about 25 ft. between the existing pump island and the proposed location for the other pump island.

There were no objections from the area.

Mr. Mooreland told the Board that the Highway Department has stated that there are no plans for the widening of Franconia Road.

Mr. Lamond stated that in view of the fact that there is no immediate plan for the widening of Franconia Road, he would move to grant the application with the pump island to be located not closer than 25 feet from the right of way of Franconia Road. This is granted as per plat submitted with the case - plat prepared by Merlin F. McLaughlin, and dated October 3, 1957.

Seconded, J. B. Smith

It was noted that Franconia Road is 50 feet wide at this point.

Mr. V. W. Smith suggested that the setback should be the same as the filling station across the street - the "Amoco" station.

Mr. Mooreland said he did not know off-hand what setback had been granted on that case - but that could be determined at the time the permit is issued on this case.

The question was asked - how two additional businesses happen to be on this property? Mrs. Fugate said this filling station has been in operation for about eleven years - she did not know about the other businesses, but thought they were included in the original application. They have been operating for a long time also.

Mr. Lamond added to his motion that the case be granted with the same setback as the "Amoco" station across Franconia Road. Mr. J. B. Smith accepted the addition.

The motion carried unanimously.

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NEW CASES:

1-

J. M. BUTLER, to permit open porch to remain as erected within 5 feet of the side property line, Lot 61, Section 3, Fairchester, (306 Fairchester Dr.) Providence District. (Suburban Residence-Class 2).

Mr. Harris represented the applicant.

When Mr. Butler bought this house, Mr. Harris told the Board, all the houses in the subdivision except two (one of which was this house) had open porches. Mr. Butler contracted with the Webster Company to have a porch added to his house. This was done - the Company obtained the permit, which showed that

NEW CASES - Ctd.

1-Ctd. the porch was 10 feet from the side line. It was not known until the final survey was made that the porch was in violation. No one in the neighborhood objects, Mr. Harris assured the Board, and it would be a hardship for Mr. Butler to remove the porch now. This was done with no intention to evade the ordinance, Mr. Harris said, it was an error probably caused by the builder using the wrong scale. Mr. Harris noted that the porch is 8-1/2 ft. from the side line in front and 5 ft. in the rear. He could see no objection to the addition.

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Mr. Mooreland recalled that the representative of the Webster Company had come to his office with the plat showing the porch too close to the line. He was told that it could not be built in such a location. The man went away and returned shortly with another plat showing the porch 10 ft. from the side line. This was Mr. Burgess who handled the contract for Mr. Butler. In answer to questions from the Board, Mr. Butler said he had not yet paid the Company for the job.

Mr. Harris said the plat first submitted to Mr. Mooreland's office was taken from the subdivision plat, which had the wrong scaling on the porch. Mr. Mooreland said the plat submitted to him was obviously wrong - he did not know where it came from, but when Mr. Burgess came back he told the girl in his office that the scaling was wrong and the plat he presented was correct. He was given the permit.

The Board questioned the integrity of the Webster Company and Mr. Burgess. He was not subjected to pressure at any time, Mr. Butler informed the Board. He had talked this over with Mr. Burgess - Mr. Burgess had said he had had some difficulty with the plat, but he thought it could be worked out. Mr. Butler said he did not feel that this was a "gip" company - as Mr. Burgess had made him feel all along that the job must be satisfactory and he did not get the impression that Mr. Burgess was trying to push anything irregular on him. Mr. Burgess was dumbfounded when he heard of the error - and was unable to understand how it happened. The man appeared to be perfectly honest. His own feeling, Mr. Butler said, was just that it was an inadvertent mistake.

(It was noted that the plat from which Mr. Burgess worked was not the certified plat submitted with this case by Patton and Kelly - which was made after the porch was completed).

Neither the Webster Company nor Mr. Burgess had anything to gain by carrying this through in an irregular manner, Mr. Harris contended, the job has not been paid for and will not be paid for until it is completed satisfactorily.

Mr. Butler is satisfied with the porch and there are no objections from adjoining property owners, nor from people in the immediate area, Mr. Harris continued. Mr. Harris said he had known of other jobs done by this company and had never known of complaints against them. He thought them a reputable

NEW CASES - Ctd.

1-Ctd.

outfit. If this is not granted - it will be a hardship on both Mr. Butler and the Company.

If Mr. Butler was told that the plat was incorrect, Mr. Barnes stated, it would seem that he would be especially careful to be sure it was corrected.

He felt that Mr. Burgess had been negligent.

Mr. Harris stated that it was written in the contract that the addition to the house must conform to zoning requirements - he did not think Mr. Burgess would do anything deliberately which would jeopardize the contract. To refuse the case, Mr. Harris continued, would penalize a legitimate company who has made an error - and also would penalize Mr. Butler, the innocent party.

Mrs. Henderson suggested that Mr. Burgess should appear before the Board. She, therefore, moved to defer the case until November 26th in order that the Board may discuss this with Mr. Burgess.

Seconded, Mr. T. Barnes

Carried, unanimously.

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2-

MT. VERNON OPEN AIR THEATRE, to permit erection of a sign with larger area than allowed by the Ordinance, (309.34 sq. ft.) Lots 20, 21, 22, 23, 24 and part of Lots 26, 27, 28 and 29, Evergreen Farms, Lee District.

Mr. Adolph Nethen from the Claude Neon Sign Company represented the applicant.

This type of sign is in keeping with the kind of business it is advertising. Mr. Nethen told the Board. The type of theatre and the fluctuating attraction panel are immediately visible to the traveling public. The theatre now has one sign on the north wall of the screen tower, but there is no sign visible coming from the south. This sign will be double faced, which will give quick visibility from both directions.

The lettering on the attraction panel is standard - used throughout the country on open air theatres, Mr. Nethen explained, and the identification sign - while it is large - it is in character with the business. Mr. Nethen pointed out that this is a new type of sign having no direct illumination. While the sign is immediately readable - it has an indistinct quality which softens the lighting and is pleasing and attractive. There are very few similar signs in the State.

The screen tower is large and is set back a considerable distance from the right of way, Mr. Nethen pointed out, therefore this sign will not appear excessive in size.

This theatre has been in operation for 16 or 17 years, Mr. Nethen continued they have made very few changes - other than the size of the screen tower which was necessary to keep up with changing times.

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NEW CASES - Ctd.

2-Ctd. There were no objections from the area.

Mrs. Henderson asked if the applicant would take down all the other signs on the property if this is granted. Mr. Nethen hesitated.....

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Mr. Lamond thought this a good approach to the problem - to grant one large sign which would adequately meet the needs of the applicant - and remove the other smaller and less effective signs.

It was noted that this sign actually contains all the advertising that the theatre requires - the name and the attraction.

The granting of sign area - based upon frontage was discussed.

Mr. V. W. Smith noticed that the driveway between the exit and entrance has been cut off by this sign. He suggested that the connection between the two driveways might better be left open.

Mr. Nethen answered that in some places that connection was not allowed. He thought it could be hazardous because of the possibility of cutting in and out through the traffic.

Mr. Lamond suggested that this sign might be placed directly on the screen tower, instead of near the entrance-way. That would be a traffic hazard,

Mr. Nethen replied, as the visibility would be reduced to a 45% angle - and people driving by would have to turn to see the sign. That type of sign has never proved satisfactory, Mr. Nethen continued. If the sign is near the street - the driving public can see the sign far enough in advance of the entrance to slow up for entry or to read the attraction panel.

Mr. Lamond moved to grant the application, provided the other means of identification and signs are removed from the screen tower and the property. This is granted as per plat presented with the case prepared by Wesley N. Ridgeway, dated October 10, 1957, which shows the sign to be placed 8 feet from the property line.

Seconded, Mr. T. Barnes

Carried - all voting for the motion except Mr. V. W. Smith, who voted "no". Motion carried.

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3- JOHN T. MOFFATT, to permit enclosure of porch within 10 feet of side property line, Lot 19A, Section 1, Broyhill Park (1628 Hickory Hill Road), Falls Church District. (Suburban Residence).

Mr. Varnan represented the applicant.

The applicant originally got a permit for an open porch on the side of the house, Mr. Varnan told the Board, then they adopted a child and enclosed the porch with storm doors to create another room. They were told that would bring the building too close to the side line; therefore this application. The enclosure is completed. Mr. Varnan said they did not know this was in violation - he has built homes in the County for a number of years - he now has about 17 projects going. He has requested very few variances.

There were no objections from the area.

Mrs. Henderson asked how far the house on the adjoining lot is located from

NEW CASES - Ctd.

3-Ctd.

that side line. It is 14.5 feet, Mr. Varnan answered. These people do not object to this violation. There is no garage on the adjoining property. Mr. V. W. Smith recalled that Mr. Mooreland had stated that this would be permitted under the new writing of the ordinance.

In view of that fact, Mr. Lamond suggested that the Board should think in terms of the new regulations - therefore, he moved to grant the application.

Seconded, Mr. T. Barnes

For the motion: Lamond and Barnes

Against: Henderson, J. B. Smith, V. W. Smith

Case denied.

Mrs. Henderson moved to deny the case because there has been no evidence of hardship shown - as required under Section 6-12-2

Seconded, J. B. Smith

For the motion: J. B. Smith, Mrs. Henderson, and V. W. Smith

Against: Lamond and T. Barnes

Motion carried.

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4-

JACK COOPERSMITH, to permit erection of two (2) pump islands within 25 feet of the street property lines, northeast corner of Kings Highway, Rt. 633, and Telegraph Road, Rt. 611. Lee District. (Rural Business).

Mr. Coopersmith recalled that this filling station was granted to him in April of '57 - with no reference to setback, as they had thought the property could be used without a setback variance. Since their plans have been more carefully worked out - they find it necessary to have the 25 ft. setback from both Kings Highway and Telegraph Road.

The change in their plans will be aesthetically advantageous to the County, Mr. Hannevell from Esso Oil Company told the Board. They will use the ground to a better advantage and the station will be better planned from the standpoint of space and entrances. This will be a modern attractive station. The building will be located 60 feet back from the right of way lines and the pump islands will be well centered on the property.

At the time of making the original application, Mr. Hannevell continued, they did not know what the Highway Department intended to do with these roads. It is now planned that Telegraph Road will have a 60 foot right of way and Kings Highway will have a 30 foot width.

Mr. Lamond moved to grant the application with the pump islands permitted not closer than 25 feet from the property line. This is granted in accordance with surveyors plat by Herman L. Courson, dated October 23, 1957 - submitted with the case.

Mr. V. W. Smith suggested that the setback should be from the proposed new right of way line which would be 7 feet in addition to the present right of way.

Mr. Lamond re-stated his motion that the application be granted provided the 25 foot setback for the pump islands is measured from the 7 foot strip

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## NEW CASES - Ctd.

4-Ctd. proposed to be taken by the Highway Department - or 32 feet from the present right of way of both King's Highway and Telegraph Road.

Seconded, Mrs. Henderson

Motion carried, unanimously.

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5- WOODLAWN WATER COMPANY, to permit erection of water storage tank, Lots 1 and 2, Section 1, Colonial Acres, Mt. Vernon District. (Rural Res.-Class 1) Mr. Henry Crockett represented the company. Mr. Martin, President of the Woodlawn Water Company, was also present.

The purpose of this request, Mr. Martin told the Board, is for reserve storage purposes and for fire protection for the immediate area. In a large part of this area the lines are small, Mr. Martin continued, but if this tank is installed it could be used in case of necessity. If the summer is dry - this storage tank will assure adequate supply for customers. The tank as proposed would be 45 feet in diameter and 100 feet high.

There were no objections from the area.

Mr. Mooreland called attention to the fact that there are four applications from this Company for storage tanks. These tanks have been approved by the Board of Supervisors. (It was noted that approval of the Board of Supervisors is the same kind of approval as required on a sewage disposal plant - a utility use is necessarily approved by the Board.)

Mr. Lamond suggested that the Board should require - or the applicant should agree to a certain amount of landscaping - as a tank 100 feet high can become depreciating to nearby property. He suggested grass and shrubbery planting. Mr. Crockett answered that they have plans to grade the surrounding area, and they wish to make it attractive. The construction shed which is now on the property will be taken down and the tank area will be fenced.

Mr. Lamond suggested that tall trees would help to break the 100 foot height of the tank.

Mrs. Henderson asked how this would aid in fire protection, and what about fire plugs?

Mr. Crockett answered that the tank would be connected with the main line - and the 100 foot height would assure a good gravity flow. They are on the way to more complete fire protection, Mr. Martin stated, and are putting in fire plugs as they can afford them. There is one hydrant about one block from this tank, which would have direct access through the main line.

Mr. Lamond moved to grant the application with the provision that it be fenced and properly landscaped - and that, particularly, fast growing trees be planted which would hide the tank as much as possible.

Seconded, T. Barnes

Carried, unanimously.

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NEW CASES - Ctd.

6- WOODLAWN WATER COMPANY, INC., to permit erection of a water storage tank, at dead end of Woodlawn Drive, Section 2, Woodlawn Acres, Lee District. (Suburban Residence-Class 3).

Mr. Crockett and Mr. Martin again supported the case.

This tank will be 35 feet high and 28 feet in diameter. This tank is also requested for fire protection and storage purposes, Mr. Crockett told the Board. The well is on this lot - accessible to the tank. They have seven wells, Mr. Crockett told the Board - ranging from 340 feet to 600 feet deep.

The Chairman asked for opposition:

Mrs. Bibber represented a group in opposition. Mrs. Bibber asked - what safeguard will the Company provide for their children; will they have a ladder on the tank? Mrs. Bibber also stated that the people in the area were not notified of this hearing. They learned of it only the day before the hearing. The notice which was finally put on the property did not state if this is to be a tank or a tower.

Mr. Martin answered that they would have a ladder on the tank - but it would be high on the tank, and would have to be pulled down in order to use it.

Mrs. Hall stated that she was handed a letter of notification this morning and she refused the letter.

Mr. Crockett said there had been a change in the route numbers in this area and they had had difficulty in notifying people by mail, therefore, they had served some of the people via the Sheriff.

The opposition admitted that the property was posted but - not so people could see it. However, Mrs. Hall did see the sign.

Mrs. Bibber explained that they were also concerned about the upkeep of this ground. Now it is over-grown with weeds, the workmen eat their lunches here and throw refuse around. They had asked that this be stopped - but it continues. However, Mrs. Bibber said the people do realize the necessity for fire protection. She asked when they would have adequate fire plugs?

Mr. Martin answered - as soon as the revenue warrants that expense.

It was noted that there is now a fire plug in front of the school, which is 1/2 mile from the homes around this proposed tank.

Mrs. Bibber asked if this would put an additional cost on their water bills?

Mr. V. W. Smith noted that water rates are controlled by the State Corporation Commission. However, Mr. Martin said they do not anticipate an increase.

Mrs. Bibber asked what affect the granting of this would have on the future zoning in the area? That Mr. V. W. Smith answered is up to the Board of Supervisors - as this Board has no control over zoning.

Mrs. Bibber asked why this was not put into a commercial area - since there is a great deal of commercial property available?

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NEW CASES - Ctd.

6-Ctd. They have tried to spot these tanks in each immediate area where the tank is needed, Mr. Martin answered. This will give more pressure to the area - which is especially needed in summertime.

Mrs. Bibber asked about the future of water companies in the County?

Mr. V. W. Smith recalled to Mrs. Bibber that the County is considering an integrated system for the entire County - that, however, Mr. V. W. Smith continued, is not the concern of this Board.

Mrs. Bibber objected again because the people in the area did not have sufficient advance notice of this application. She presented an opposing petition containing 37 names.

Mrs. Hall complained that this will depreciate their property. She pointed to the location of the tank which is in the center of the cul-de-sac around which nine homes are located. These homes will face the tank.

Mr. Lamond agreed that this installation would be depreciating to property in the immediate area.

The well house is in the center of the open area now; that will be taken down, Mr. Bartin explained, and a small cover put over the well, and the tank erected.

After examining the letters of notification, the Board agreed that the applicants had met that requirement insofar as it was possible.

Mr. Crockett said they would fence the tank area, and plant trees as a shield. The ladder will be too high for children to use it.

The storage tank in the middle of the cul-de-sac area, Mr. Barnes thought a very depreciating thing to adjoining property. He insisted that the area be put in grass and well planted with screening trees and that it be maintained in an attractive manner.

Mrs. Henderson suggested delaying putting in the tank until the Company is ready to put in the fire hydrants - thinking this might have less opposition from those in the area.

If we have a dry summer this coming year, Mr. Martin stated, they would need the tank. They are trying to anticipate the needs of next year.

Mr. Lamond suggested deferring the case to view the property and for the Company to look for perhaps a better location for the tank. He thought a spot back of these houses would be better, no doubt some other vacant lot could be used.

This location was set up for the well long before any of these people bought in this tract, Mr. Martin explained, it was marked "well lot" on the subdivision plat. He felt that it was not new to anyone. They are merely trying to improve their service, Mr. Martin continued, but if the people don't want that improvement - they would withdraw the case. If the tank is not put in - this area will not have the service furnished to other areas in the subdivision. It will also delay adequate fire protection.

Both Mr. Martin and Mr. Crockett agreed to withdraw the case.

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NEW CASES - Ctd.

7-

WOODLAWN WATER COMPANY, INC., to permit erection of a water storage tank Lot 16, Block 6, Hybla Valley Farms, Mt. Vernon District. (Sub. Res.-3) Mr. Crockett and Mr. Martin again represented the company. This is requested for the same purpose, Mr. Martin told the Board - storage and for better fire protection. The tank will be 35 feet high and 28 feet in diameter.

It was noted that construction must be started on these tanks within six months - as the permit is granted for that period only. However, a building permit and preliminary work, it was agreed, would hold the permit until they can complete construction.

Mr. Lamond suggested again that this property be planted with evergreen trees and should be fenced and well maintained.

Mr. Martin answered that they intended to do that. They plan to have a six foot fence with barbed wire at the top - bringing the fence to about seven feet high.

Mr. Lamond moved to grant the application with the understanding that it will be properly fenced and landscaped and that all the trees presently on the property be retained for screening purposes - as a protection to property owners in the area.

Seconded, T. Barnes

Mr. Lamond added to his motion that it also be understood that the property will be properly maintained.

Motion carried, unanimously.

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8-

WOODLAWN WATER COMPANY, INC., to permit erection of a water storage tank, Lot 9, Section 4, Sunny View, Mt. Vernon Dist. (Suburban Res.-Class 2)

Mr. Martin and Mr. Crockett again represented the Company. This is a request for the same thing - a storage tank which will enable them to give better fire protection.

This tank will be installed next month, Mr. Martin told the Board, if it is approved.

There were no objections from the area.

This lot was set aside as a "well lot" by the subdivider, Mr. Martin explained.

Mr. Lamond moved to grant the application, provided the lot is landscaped, planted with screening trees, and that it be well maintained.

Seconded, T. Barnes

Carried, unanimously.

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NEW CASES - Ctd.

9- DWIGHT H. DODD, to permit erection and operation of a private school, Lot 2 Mari-Dale Subdivision, Mason District. (Rural Residence-Class 1).

The case of Dwight H. Dodd to permit operation of private school on Lot 2, Mari-Dale subdivision had been withdrawn by the applicant.

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10- JONES & OLIVER, to permit dwelling to remain as erected 39.1 feet of the street property line, Lot 510, Block 3A, Section 5, Glen Forest, Mason Dist. (Suburban Residence-Class 2).

Mr. Carl Hellwig represented the applicant. This is an error of 9/10 of a foot, Mr. Hellwig noted. He could not say how it happened. One small portion of the house - the "L" offset - is in violation. The other setbacks are well beyond the required limits of the Ordinance. The house is completed. This was discovered when the final survey was made.

There were no objections from the area.

This is a large, fairly level, lot, Mr. Hellwig stated. The house is set back far enough that it would not cause anything of a traffic hazard. The first five sections of this subdivision are completed and this section is about 70% completed. About 53 houses have been erected.

Mr. Lamond moved to grant the application because this is a slight variance and will not adversely affect the neighboring property owners.

Seconded, J. B. Smith

For the motion: Lamond, Barnes, J. B. Smith

Mrs. Henderson and V. W. Smith refrained from voting.

Motion carried.

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11- DWIGHT H. DODD, to permit erection and operation of a private school, southwest corner of Sleepy Hollow Road, Route 613 and Valley Brook Drive, Falls Church District. (Rural Residence-Class 1).

Mr. Hansbarger represented the applicant. This will be a school for kindergarten and first grade, Mr. Hansbarger told the Board. He located the property and presented the letters of notification to property owners in the immediate area. Mr. Joe Chambliss owns the property to the rear, Mr. Hansbarger noted, and the property is bounded on two sides by streets.

Mr. Hansbarger located the property with relation to the Sleepy Hollow School, the Brooks recreational area and other private schools in the area. The recreational area is to the south, and Sleepy Hollow school to the north - about one mile distant - both are in a residential area, which is allowed by the Ordinance. There is also a private school in the Mari-Dale Subdivision, Mr. Hansbarger said.

Mr. Hansbarger showed a plat of the subdivision which indicated that this lot is "not included" in the subdivision. The plat was plainly marked and it was obvious that people buying in this area were aware of that at the time of purchase, Mr. Hansbarger noted.

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NEW CASES - Ctd.

11-Ctd.

Mr. Hansbarger showed an incomplete plan of the proposed building - however, the building will be shown in detail when the applicant applies for a building permit. The building will comply with all County requirements - today Mr. Hansbarger continued - only the use of the land is in question.

Mr. Hansbarger called attention to the fact that the Ordinance allows - without special permit from this Board - both public and parochial schools in a residential area - with permit from the Board of Zoning Appeals. Since this is permitted, Mr. Hansbarger said he had searched for some kind of standards governing private schools, which might guide the Board. He talked with the State, but found that since this is a school for kindergarten and first grade - it comes under the category of an educational institution, and therefore is not licensed by the State. The State regulations apply only to nursery schools.

However, Mr. Hansbarger continued, he did locate - in Dr. Kennedy's office an Ordinance proposed for the County governing nursery schools. These requirements, as proposed for a County Ordinance, are more rigid than the State requirements for nursery schools as to space, sanitary facilities, and play area. The proposed school will equal or exceed that Ordinance drafted for County use - which Ordinance, however, was not adopted.

The lot contains 23,000 sq. ft., Mr. Hansbarger noted, and they plan a building with approximately 2000 sq. ft. The building will provide more than the required space per child, as shown in both the State regulations on nursery schools and in the Ordinance once proposed for the County. If they have 50 children - allowing 100 sq. ft. of play yard per child - a total of 5000 sq. ft. - they still have 16,000 sq. ft. of area. This will more than take care of the parking space for ten cars. They plan approximately six teachers. They will still have in excess of 10,000 sq. ft. area after providing ample parking space.

The question was asked - why choose this particular piece of land which is surrounded by a good residential development?

Because this is a very logical place, Mr. Hansbarger answered. There is already one private school in the immediate area in Mari-Dale Subdivision that operates from a private home and there are other proposed private schools for this area. The public school is not far from this location. Most of the private schools operate from private homes, Mr. Hansbarger continued, but this is the first school in the area designed primarily for school purposes only. Mr. Hansbarger introduced Mr. Dodd, who will own the school, and Mrs. Witt who will operate the school. Mr. Hansbarger suggested that the school will be well operated and managed under the guidance of these two people - who are especially well qualified for this work.

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NEW CASES:

11-Ctd. As to why they propose to locate this school in a residential area - Mr. Hansbarger answered that it is not logical to locate a private school in a poor area where people obviously could not afford to send their children, to a private school. This is an area of people with substantial means who would naturally be potential patrons of the school - the school will be near which would mean there would be no transportation problem. This is a permitted use in such an area, Mr. Hansbarger concluded, it is an area wherein schools are already established and it would appear a logical request.

The Chairman asked for opposition.

Mrs. Van Evra thought this was an extravagant request on only 1/2 acre of ground. She presented an opposing petition with 108 names of people in the immediate neighborhood. The petition gave the following reasons for opposition: People in the area do not like a commercial venture in a residential neighborhood. They object to the unattended building, it would be an open invitation to vandalism. The lot is located at the intersection of two heavily traveled roads - creating a hazard to the children and it would create a traffic hazard to the motorist. They believe this would interfere with the natural drainage of the area.

Mrs. Witt had stated, Mrs. Van Evra continued, that they would not have parking at the school - that children must be let out of the cars on the highway. That too would cause a traffic hazard.

There is a stream in the middle of this lot, Mrs. Van Evra pointed out, and it is very possible the construction of the building would interfere with the natural drainage - that would present further problems for the area.

(It was noted that Mr. Green, who owns property immediately adjoining Mr. Turner, who adjoins Mr. Chambliss, was not notified of this hearing.)

Mr. Green, who lives at 203 Devon Drive, noted that the plan calls for three classrooms - which would appear that the applicant expects a large enrollment. He questioned the space for so many children. This is a quiet residential area, Mr. Green continued, a school at this location would be noisy and disturbing. He also objected to a commercial activity here.

However, Mr. Green admitted that this would be the least objectionable commercial activity - but, he insisted, still it is objectionable.

The building planned is for a school only, Mr. Green continued. Therefore, if the school failed, there is a strong possibility that the building would be converted for some other commercial purpose. He did not think a school was needed in the area. Mr. Green asked - what would happen to the lot next to this property - no one would want a home adjoining a play ground.

Mr. Green noted that the old construction shack which has been on this property for some time has been the object of considerable vandalism during the past few years. Within three years the police have been called many times to stop destruction of the building. This unattended building could be subject to the same situation. It should be protected - and the only way to do that would be by an 8 foot anchor fence, which would be out of character with the neighborhood.

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NEW CASES - Ctd.

11-Ctd.

Mr. Robert Cotton, Jr., President of the Greater Holmes Run Citizens' Assn. stated that he was not the official representative of that body - as they had not held a meeting - but he was appearing as an individual in opposition. Mr. Cotton thought this not the type of operation suitable for this area. It is surrounded by from \$30,000 to \$50,000 homes. He asked the Board to consider carefully if such an area was a logical place to locate a commercial venture. There is need for schools, Mr. Cotton continued, but that need should not be taken care of in a residential area. The Sleepy Hollow school is one mile from this area. The lot proposed to be used is surrounded on three sides by residential property, and on one side by the swimming pool club which was installed without authority of this Board. That too is objectionable.

Mrs. Van Evra noted that the application in this case was made out in the name of Mr. Dodd, but signed by Mr. Chambliss - Agent - and noted on the folder is the fact that Mrs. Witt will operate the school. She asked to have this clarified - to whom will the application be granted.

The Chairman answered - to the applicant - Mr. Dodd.

Mr. Lamb who lives across Sleepy Hollow Road questioned his ability to sell his property at a normal price with a school across the street. While he does not particularly mind the noise from the school - other people might think it objectionable and it could be difficult to sell his home to advantage.

Mr. Hansbarger asked Mr. Lamb his occupation. Mr. Lamb answered - that he is a builder.

Mr. Hansbarger recalled that this project had been called a commercial operation - that, Mr. Hansbarger said he did not agree with. This is no more commercial than the public school or any other private school in this neighborhood. The people who prepared the Zoning Ordinance apparently did not consider this a commercial operation, Mr. Hansbarger pointed out, as it is a permitted use in a residential neighborhood.

As to the adjoining property - Mr. Hansbarger noted that Mr. Chambliss and all the adjoining property to this lot are in Holmes Run Park Subdivision, the covenants of which state that all lots shall be used for residential purposes only. (Mr. Hansbarger read the Covenants). These covenants run with the land until January 1, 1967, and thereafter they can be extended for periods of ten years unless within three months of the expiration date of a ten year period, the majority of the owners shall by writing - modify the covenants. Therefore, Mr. Hansbarger contended, the owners have complete control over what is done with these lots.

The people operating the school intend to make some profit, Mr. Hansbarger admitted, but it is actually very like a home occupation - and it would in no way open the area for other commercial ventures.

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## NEW CASES - Ctd.

11-Ctd.

As to the safety of the children - the Board may consider that - but, Mr. Hansbarger continued, it is up to the operators of the school to provide for the safety and welfare of the children while they are in school - which they have every intention of doing. They could fence the property with an attractive fence - if it appears desirable. Most public schools are in an area where safety conditions are about comparable to this.

As to vandalism - this Board is not a police department, the Board has no concern with that. A certain amount of vandalism could happen any place, Mr. Hansbarger argued.

Regarding the traffic hazard - any form of living presents a traffic hazard to people, Mr. Hansbarger pointed out. It is dangerous for anyone to drive in any congested area - just the fact of being people and pursuing a normal life presents hazards.

As to drainage, Mr. Hansbarger continued, the laws are well enough established to control this, and it would not be possible to construct a building without proper supervision of any problem that might arise.

Mr. Hansbarger noted that Mr. Green had admitted that a school was the least objectionable of any activity which would be permitted in this area. But, Mr. Hansbarger added, anything would be objectionable to some people.

The covenants take care of any type of building around the school property. This school is being designed particularly for a private school, the specifications will comply with the area and this is an area where one could reasonably expect children to come to the school. The need is here and this will lessen the load on the publicly taxed schools.

On the plat of the subdivision it is clearly shown that this lot was intended to be for some purpose other than a home. Perhaps the subdivider had some future plans for this lot. The people buying in this area knew this lot was not a part of the neighborhood - in that it is not included in the subdivision.

Since both public and private schools are permitted in a residential area - Mr. Hansbarger said he could see no reason for refusing this request.

Mr. Lamond asked about the flood plain - is this in flood plain area?

If it is, Mr. Hansbarger answered, they could not build on this lot. That, however, must be determined. If Mr. Croy's or Mr. Mooreland's office say this is a flood plain, the applicant cannot get a building permit.

Mr. Dodd explained that the main stream runs between this lot and the Chambliss lot, and he thought any run-off could be diverted into the stream.

Mrs. Henderson suggested that a considerable amount of filling would be necessary - which might create an overloading of the stream.

Mr. Dodd answered that the filling would bring the ground area above the street, and the drainage could be diverted into the stream without difficulty.

The lot floods to some extent now, Mr. Dodd continued, but he thought proper filling would divert the water with a natural runoff which would actually benefit the area.

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NEW CASES - Ctd.

11-Ctd.

Mrs. Henderson suggested viewing the property - if the land cannot be used because of the flood plain, Mrs. Henderson continued, she thought the Board should know that before making a decision on the case.

Mrs. Henderson asked if Mr. Dodd would own the school? The answer was "yes". They could have as many as 50 children with the present plans, Mr. Dodd explained, but they do not expect that number immediately.

Mr. Hansbarger explained that the kindergarten and first grade would be held in two sessions - kindergarten in the morning and first grade in the afternoon. They will serve no meals.

Mrs. Henderson suggested that the plan presented could be converted to a home. The plans shown are not necessarily final, Mr. Hansbarger noted.

Mr. Turner discussed the traffic on Sleepy Hollow Road - stating that he had sat on his porch many times and watched teenagers drive up and down the roadway at a terrific rate of speed. He had reported this to the police but by time they arrived the youngsters had disappeared. He thought this hazardous to small children who would go to this school.

It is noted that the Highway Department plan to widen Sleepy Hollow Road, perhaps they will take as much as 15 feet on each side. Also the blind curve at the junction of Sleepy Hollow Road and Valley Brook Drive was noted as a hazard.

Mr. Lamond said he would like to see the property, and he thought it necessary to have complete information about the flood plain, he therefore moved, to defer the case to view the property and for information regarding the flood plain. Deferred to November 26.

Seconded, Mrs. Henderson

Carried, unanimously.

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The Chairman read the following letter from Mr. NORMAN T. FOWLKES, JR.:

"On October 22, 1957 the Board of Zoning Appeals had a public hearing on my application for a variance from the strict application of the zoning regulation, and, according to a notice of October 31, 1957, I was informed that the application had been denied.

Although I appeared before the Board at the hearing, I was not aware that final action was taken at that time. It was my understanding, based upon a recommendation of a board member, that an on-the-site inspection would be made before final action would be taken on the application. I have now been informed that such an inspection was not favorably considered.

During the discussion of the case at the Board meeting, several questions were raised concerning the need for expanding the dwelling into the side yard rather than to rear of the building. I have an open porch on the back of the house which is not adaptable to enclosing and it is so situated that sufficient space is not available on the back of the dwelling for the needed room. As generally agreed at the hearing, the foregoing is hard to appreciate without a visual inspection.

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"As the Board does not see fit to make an on-the-site inspection, it would be appreciated if the case be again considered by the Board in order that I may present further evidence of the existing conditions as well as may be depicted by photographs and sketches.

Further consideration by the Board will be greatly appreciated.

Very truly yours,

/s/ Norman T. Fowlkes, Jr."

The Board agreed to view the property and take action on this letter at the next meeting.

Mr. Mooreland's office was instructed not to send notice of deferred meetings to applicants on the same form as the original notification of a hearing date - as that form contains the request to notify five property owners in the immediate vicinity of the date and time of hearing. The Board did not consider it necessary for people to notify the property owners of a deferred hearing date. It was agreed, however, that in case of a re-hearing such re-notification should be required.

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The Board agreed to have only one meeting during December - December 10th since the regular meeting would fall on December 24th. However, if in the judgement of Mr. Mooreland, an emergency situation arises whereby to hold over a case would work a special hardship, Mr. Mooreland would set up a second meeting in December.

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Mr. Mooreland read the following letter from Mr. Rex E. Bond, Mayor of the Town of Occoquan:

" November 7, 1957

The Graham-Virginia Quarries are now operating a quarry across the Occoquan Creek in Fairfax County facing the Town of Occoquan.

At the October Town Council Meeting a sizable number of citizens appeared before the Council and expressed opposition to this operation. The Council saw fit to adopt a resolution to oppose the manner of operation of the Graham-Virginia Quarries.

Since that time we have had a meeting with the parties involved and have been given every indication that they will improve upon the situation.

The public safety chairman has asked that I correspond with you and request that if and when a request comes to your office from the Graham-Virginia Quarries for an additional tract of ground to be included in their use permit, or when their present use permit covering the present property expires, we be so notified.

Sincerely,

/s/ Rex E. Bond, Mayor, Town of Occoquan"

Mr. Mooreland told of an incident whereby a flying rock could very easily have seriously hurt a woman driving along the highway during the time of blasting. However, he noted that people have flagrantly disregarded the red flag blasting warnings.

No action was taken on the letter.

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The meeting was adjourned

Verlin W. Smith, Chairman

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The regular meeting of the Fairfax County Board of Zoning Appeals was held Tuesday, November 26, 1957 at 10 o'clock a.m. in the Board Room of the Fairfax Courthouse with all members present: Mr. Verlin W. Smith, Chairman, presiding.

307

The meeting was opened with a prayer by Mr. J. B. Smith

NEW CASES:

- 1- DAVID H. SCULL, to permit erection of an addition to service station within 19.7 feet of 30 foot easement, part of Lots 5 and 6, D. F. Hannah Subdivision, on south side of Route 236, approximately 100 yards west of Route 649, Falls Church District. (General Business).

Mr. Douglas Adams represented the applicant.

When this came before this Board in February of 1955, Mr. Adams recalled to the Board, the requirement was made that a 35 foot setback be maintained from the easement on the east side of these lots. Business has increased to the extent that the applicant now needs a three bay station - which he cannot have if he continues to maintain the 35 foot setback.

It was thought at one time, Mr. Adams explained, that this easement might become a public road, but that has not come to pass. The right to use the easement as a driveway was given to people in the rear of this property some time ago, but the present owner does not use it as an entry-way, as he has a driveway located elsewhere. The easement now is owned by a number of heirs and only the Sculls have the right to use it - and they do not need it.

The two lots to the rear, Lot 28 and 29, have a driveway on the west side of this property. If those lots are sold it would be necessary to give an easement for entrance. Mr. Cohen, who owns property on the east side of this easement has no objection.

Mr. Burnett, from Sinclair Oil Company, was present. He called attention to the fact that the library and Turnpike Press are in the building on Lots 28 and 29, adjoining. The filling station will lease an area of about 150 x 100 feet.

There were no objections.

Mr. Lamond moved to grant the application because, in his opinion, it will not adversely affect neighboring property.

Seconded, Mr. T. Barnes

Mr. V. W. Smith said he could not vote on this because the plat presented with the case does not show the exact amount of this property to be used for the filling station. Mr. V. W. Smith noted that the plat shows all of lots 5 and 6, but does not indicate the boundary of the filling station property to be placed under lease.

For the motion: Lamond, Barnes, J. B. Smith, Mrs. Henderson

Mr. V. W. Smith refrained from voting

Motion carried to grant.

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NEW CASES - Ctd.

- 2- CITIES SERVICE OIL COMPANY, to permit erection of signs with larger area than allowed by the Ordinance, (136.1 sq. ft.), Lots 28 and 29, Hybla Valley Farms, Mt. Vernon District. (Rural Business).

Mr. Jack Stone represented the Company.

This is the standard type sign used by Cities Service all over the Country, Mr. Stone informed the Board. An example of this sign is on the filling station across from the Anchorage Motel on Route 211. The area figures includes the poles and the lettering. They would have one sign on the building and one on the poles - total area 136.1 square feet.

There were no objections from the area.

Mr. Lamond moved to grant the application, referring to plat submitted with the case, dated July 16, 1957, Cities Service Oil Company -certified by William M. Ubank No. 1408, Plat No. 23-30-12. This is granted, Mr. Lamond continued, because the sign is necessary in conjunction with this business, and it will not adversely affect neighboring property.

Seconded, J. B. Smith

Carried, unanimously.

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- 3- L. R. BROYHILL, to permit dwelling as erected to remain with 38.9 feet of the street property line, Lot 14, Section 2, Lewinsville Heights, Dranesville District. (Suburban Res.-Class II).

The property was staked out for the house location, Mr. Broyhill told the Board, all setbacks were met, however, the purchaser asked that the house be reversed on the property. In doing that - the front "L" projection was not taken into consideration, and the one corner of that projection is in violation. It is not a serious error, Mr. Broyhill declared - in fact it is scarcely noticeable as this house is on a cul-de-sac. While there are no homes on other lots on this cul-de-sac, Mr. Broyhill pointed out, he had notified the contract purchasers of these lots and none of them object.

Mr. T. Barnes moved to grant the application because this is on a cul-de-sac which has a 50 foot radius, and the violation is on only one corner of the building, and it will not adversely affect neighboring property.

It was added to the motion that this is granted as per plat submitted with the application, prepared by Walter Phillips, dated October 14, 1957.

Seconded, Mr. Lamond

Carried, unanimously.

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- 4- GOEFFREY WOODARD, to permit operation of a Pharmacology Laboratory, Lots 60, 61, and 62, Mumford Park, on Floris Road, Route 667, Centreville District. (Agriculture).

Mr. Woodard appeared before the Board to discuss his case. He is now conducting a consulting laboratory service with headquarters in the Town of Herndon, Mr. Woodard explained, and he wishes to use this seven acre tract for the purpose of expanding their laboratory work on larger animals.

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NEW CASES - Ctd.

4-Ctd.

These lots are immediately surrounded by his own property on three sides. The only other property immediately affected would be that of the Bowman brothers across the street - whose property is in large acreage.

However, he has notified five people in the area - none of whom object, Mr. Woodard stated. The road in front of this property apparently disappears a little farther on his property - there is no through traffic.

This is a testing laboratory, Mr. Woodard continued. In the Town of Herndon they work on small animals - mice, chickens, rats and guinea pigs. On this property they plan to use larger animals. These animals are used in conducting tests on drugs, food preservatives, agricultural chemicals, and similar articles - to determine if they are safe for use on humans. This pre-testing must be done before the pharmaceutical houses can launch these drugs on the market. The tests are carried out under contracts with various companies, Mr. Woodard explained, who supply the articles to be tested. This same type of testing is done by the Food and Drug people in the Department of Agriculture and other laboratories. It is a necessary adjunct to modern living.

Mr. V. W. Smith asked Mr. Woodard if he had talked with Dr. Kennedy about this operation - and also, if he knew the type of soil on these lots. Mr. Woodard answered "no" to both questions. However, he has an operating septic field.

The location of this laboratory with relation to other residences was discussed - Mr. Woodard stating that he owns 200 acres surrounding these lots, there is acreage across the street which is wooded and not subject to development at the present time, and no homes are near except his own, which is on the adjoining lot. The proposed building will be about 12 x 24 feet - metal on the outside, fibre glass inside and glass along the front. If they decide to have larger buildings they will probably be constructed of concrete and cinderblock.

Mr. Mooreland noted that these buildings should all be at least 100 feet from all property lines.

This would appear to be an excellent place for such a use, Mr. V. W. Smith stated, especially because of the location and the surrounding development - but he also noted that soil conditions vary in this area, some places are good for septic fields and others are not.

Mr. Barnes called attention to the fact that the applicant could not get a permit for this use if he is unable to meet septic requirements.

Mr. V. W. Smith asked if this case was being heard under the research laboratory (Melpar) amendment? Mr. Mooreland answered "no" - that he had considered this as agricultural use, as it was held in the case of Dr. Hazelton and Dr. Morgan - both of whom were granted laboratories by this Board - but not under the Melpar amendment.

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November 20, 1977

## NEW CASES - Ctd.

4-Ctd. Mr. V. W. Smith asked Mr. Woodard if he considered he was conducting a laboratory for scientific research. Mr. Woodard answered "yes" - biological research.

The Board discussed at length under which part of the Ordinance this case should be heard. Mr. Mooreland contending that it is not a use to be brought under the Melpar amendment because it has nothing to do with manufacturing. It is merely the testing of chemicals. It is classed as a clinical laboratory - biological research, Mr. Mooreland continued, and should be heard under Section 6-4.

Mr. V. W. Smith contended that in his opinion this case could come only under the Melpar amendment, and therefore should comply with that section of the Ordinance. Mr. V. W. Smith quoted the amendment.

Mr. Woodard thought this more nearly related to an agricultural use than to the Melpar type of laboratory, which - if heard under that amendment - would impose such rigid restrictions.

Mrs. Henderson agreed with Mr. V. W. Smith that this case should be heard under the Melpar amendment, but recognized that the case cannot be heard by the Board at this time - without first having a recommendation from the Planning Commission.

Mr. Lamond moved that the Board hear this case - the same as it heard the other similar cases, not as a scientific laboratory. Mr. Lamond thought the fact that this is purely a testing laboratory was a strong case in point. He noted that Melpar does do a considerable amount of manufacturing - the building of models and the like.

It was brought out that the Melpar amendment specifically excludes manufacturing.

Mr. V. W. Smith observed that scientific research and development means all kinds of scientific work - it is a broad term, and it would be difficult to define - but it would not exclude various kinds of research.

Mr. Mooreland contended that this is not research because the research has already been done - this is for testing purposes only. This applicant cannot meet the rigid requirements of the Melpar amendment, Mr. Mooreland went on - the setback, the parking, landscaping, etc.....that part of the amendment was not written for this type of laboratory, Mr. Mooreland insisted.

He thought the Board should encourage business coming into the County.

It was suggested that since it is the function of this Board to interpret the Ordinance - it should be determined by the Board where this case should be heard under the Ordinance.

Mr. Lamond moved that the application be granted as it will not adversely affect neighboring property, nor the welfare of people residing or working in the area. This, Mr. Lamond continued, is granted under the Agricultural clause, Section 6-3.

Seconded, Mr. T. Barnes

310

NEW CASES - Ctd.

4-Ctd.

Mr. V. W. Smith recalled that the Board heard the Hazelton application under the Agricultural clause because the Melpar amendment was not yet written. On the Morgan case, Mr. V. W. Smith stated, perhaps the Board was in error, Now we have an amendment to control these operations, Mr. V. W. Smith continued, and it should be used.

It was agreed, however, that these uses should be clarified in the Pomeroy re-write of the Ordinance.

For the motion: Lamond, J. B. Smith, T. Barnes

Mr. V. W. Smith and Mrs. Henderson voted "no".

The Board discussed the motion further - not entirely satisfied with the motion passed. Mr. Mooreland suggested that the case be granted under the Melpar amendment, and at the same time the Board grant the necessary variance.

Mr. Lamond withdrew his motion. (All agreed to the withdrawal).

It was noted that Mr. Woodard could add to his land to make the buildings conform to the Melpar amendment, however, Mrs. Henderson again recalled the necessity for the recommendation from the Planning Commission.

Mr. Lamond moved to reconsider this case.

Seconded, J. B. Smith

Carried, unanimously.

Mrs. Henderson moved to defer the case to December 10, 1957 for the Planning Commission recommendation.

In order to facilitate Mr. Woodard's handling of contracts for which he needs space immediately, the Board agreed to hold a special meeting on December 2, 1957 immediately after the Planning Commission's recommendation is available.

Mr. J. B. Smith moved to defer the case to December 2, 1957 after the Planning Commission has made its recommendation.

Seconded, Mr. T. Barnes

Carried, unanimously.

It was suggested that the Board could grant variances on the Melpar amendment, if necessary.

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5-

OSWALD C. DOWNS, to permit enclosure of porch for store area within two feet of the street property line, on south side of Route 50, opposite Shear's Garage at Chantilly Estates, Centreville District. (Rural Business)  
Mr. Lewis Leigh represented the applicant.

This building is over 100 years old, Mr. Leigh told the Board, and has been operated as a store most of that time. It was built close to the roadside, like all the old store buildings in early days.

The request today, Mr. Leigh explained, is in the nature of a safety feature. The porch is across the front of the building and people drive up to the porch, park their cars and enter the store from the street. It was noted that the edge of the porch is 2 feet from the street right of way.

311

## NEW CASES - Ctd.

5-Ctd.

This creates a hazard, Mr. Leigh told the Board, of which Mr. Downs has been very conscious for a long time. He has furnished a good parking area on the east side of the building and put up signs to prevent front parking - but people still drive up to the front, park and enter from the street. Mr. Downs uses this porch for display of merchandise and he would like to continue its use. His plan is to enclose the front of the porch, leaving an opening at the end near the side parking area. This would eliminate the front entrance entirely and would give customers no other choice of entry except the side.

Mr. Leigh called attention to the fact that there is a hill to the east of the store. Coming toward the store from the west the driver of a vehicle must watch carefully for cars coming over the hill. This is a safety hazard - a situation which should be cleared up, Mr. Leigh continued, and by forcing people to park on the side it would give a clear view along the highway. Mr. Leigh admitted that he had stopped there many times himself, and parked in front of the store - realizing very well that parking was reserved on the side of the building. By elimination of the front entrance there would be no point in parking along the front - away from the entrance. This enclosure is designed merely to eliminate the front entrance and to still give Mr. Downs the porch space for merchandise, and at the same time remove the safety hazard.

Mrs. Henderson suggested tearing off the porch and building an addition on the rear - since Mr. Downs has a large piece of property. That would do away with his display room, Mr. Leigh answered, which Mr. Downs needs. Mrs. Henderson thought this porch was in itself a safety hazard and that it should come off.

Mr. V. W. Smith told Mr. Downs that in his opinion the parking lot he had put in was a big improvement, but enclosing the porch right on the highway he thought dangerous. Mr. V. W. Smith also noted that the roof hangs over the road like a canopy.

Mr. Downs thought if he tore the porch off that people would park in front more than ever - they would have more room.

The porch is used now for merchandise, Mr. Leigh pointed out, and it can stay there - this enclosure would make very little difference.

Because of the hill - to which Mr. Leigh referred earlier, Mr. V. W. Smith thought the open porch did give some advantage to traffic on the highway but to enclose the porch it would at least to some extent block visibility.

Mr. Downs said the important thing is to keep people from parking in front of his building. Mr. V. W. Smith thought that could very easily be controlled by tearing off the porch and having the solid wall across the front of the building with no door - except at the end of the building. People will not park in front, Mr. V. W. Smith thought unless a door is there.

312

November 26, 1957

NEW CASES - Ctd.

5-Ctd.

There were no objections from the area.

Mrs. Henderson moved to deny the case, because the enclosure of the porch within two feet of Route 50 would create a worse hazard than now exists and under non-conforming uses, Section 6-10, structural additions cannot be made to a non-conforming building.

Seconded, Mr. Lamond

Mr. T. Barnes thought visibility would not be impaired by the enclosure.

Mr. Leigh assured the Board that this application was made with the sincere wish to improve the situation. People in the area realize that this could be an improvement, Mr. Leigh continued, and they are in favor of this application.

It was agreed that additional right of way on Route 50 would probably be taken on the north side of the highway.

For the motion to deny: Mrs. Henderson, V. W. Smith, and A. Slater Lamond

Against the motion: T. Barnes and J. B. Smith

Motion carried to deny.

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6-

DRUG FAIR, INC., to permit erection of one sign with larger area than allowed by the Ordinance, (272 sq. ft.), northwest corner Gallows Road and Columbia Pike, Falls Church District. (General Business.)

Mr. Jack Stone represented the applicant, showing the size and type of the sign proposed. The building has a 90 foot frontage, Mr. Stone stated, the sign is 65.2 feet long.

It was noted that the Board granted a 184 square foot sign on People's Drug Store at Kamp Washington. This request is for 272 square feet.

Mr. Barnes suggested leaving off the words "Coca Cola" at either end of the sign. This would reduce the size of the sign by 43 feet - and would bring the sign area to about 229 square feet.

Mrs. Henderson thought this a gross variance from the Ordinance, and not proportionately related to other similar businesses. She particularly mentioned that the larger sign area was granted at Peoples - but the store had a 165 foot setback and that store is on a very large area.

Mr. Lamond moved to grant the application, except that the Coca Cola signs at either end of the sign both be eliminated, thus reducing the sign by 43 feet. This is granted as per plat presented - with the elimination of the Coca Cola wording at either end of the sign. This is granted as per plat dated September 23, 1957, drawn by Jack Stone, and plat dated June 28, 1957 prepared by James A. McWhorter, Certificate No. 273, because the setback is of sufficient depth to allow this larger sign and the building has considerable width and would therefore need a larger sign to support that width.

Seconded, J. B. Smith

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313

NEW CASES - Ctd.

6-Ctd.

Mrs. Henderson called attention to the fact that the A&P near this store is a larger store, and has not asked for a variance, and it has the same setback.

They will ask the variance, Mr. Stone informed the Board - their case will come up next month.

For the motion: Lamond, J. B. Smith, T. Barnes

Against the motion: Mrs. Henderson and V. W. Smith

Motion carried

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Mr. Stone called attention to the objectors that the letters are against the building, and the letter area only should be considered.

However, Mrs. Henderson noted that this actually is a special sign - it is not actually on the building.

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7-

ALBEMARLE CORPORATION, to permit division of Lot 57A, with less area than allowed by the Ordinance, to permit dwelling as erected to remain on Lot 56A, Springfield Park, Mason District. (Suburban Residence-Class I).

Mr. Michnick represented the applicant.

The size of the corner lot adjoining Lot 56A caused the squeezing of this lot, Mr. Michnick explained. The corner lot is larger than required by the Ordinance, and this lot is a little shy in area. The houses were located with the thought that these two lots had the required width - thus the house on Lot 56A was located too close to the side line. The engineer staked this lot out for a smaller house but in working out the plan the larger house was put on the lot - and it did not fit the stakes. It should have been caught in the beginning, Mr. Michnick went on - but it turned out to be one of those inadvertent mistakes. The carport will be on the other side of the building where it can meet setbacks. The lot is adequate to carry the house, and the house on the adjoining lot is sufficiently far back from the side line to cause no objections.

There were no objections from the area.

Mr. Lamond moved to grant the application because this is a slight variance and it will not adversely affect neighboring property. This variance is granted on the side yard of Lot 56 with the stipulation that the carport will go on the other side of the house. This is granted for a 8.8 foot setback.

Seconded, Mr. T. Barnes

Carried, unanimously.

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314

DEFERRED CASES:

1- MRS. ESTHER NAVE, to permit dwelling as erected to remain within 3.2 feet of the rear property line, Lot 19, Section 2, Mosscrest, Providence Dist. (Rural Residence-Class II).

Mrs. Nave appeared before the Board, explaining that she had been cheated in the purchase of this property - from start to finish.

Mr. V. W. Smith called Mrs. Nave's attention to the fact that the Board was particularly concerned with the question - how the building was located here in the first place - so close to the property line.

Mrs. Nave answered that she did not know - she had unknowingly been dealing with a crook who probably never did get a permit for the house. She bought the house completely ignorant of what had gone on before her purchase. She paid more for the place than she had bargained for, and after she bought she discovered she had to have a new septic field. The seller of the property would do nothing about the septic - so she took him to court and won the case - at least, Mrs. Nave said, she got a favorable decision, but she has never been paid for the septic. She knew nothing of the side lines nor the setbacks, Mrs. Nave continued - she paid for a title search and title insurance, but has never received the insured title. She should have had one acre of ground, but it develops that she has only 1/2 acre. She was cheated from every angle, Mrs. Nave charged, and now she is confronted with this trouble over the small addition which won't hurt anyone, and which she is trying to add to the house simply to provide a house big enough to live in with some degree of comfort.

Mr. V. W. Smith noted that Mrs. Nave had signed the location permit for this addition - which indicated that the house itself was located a considerable distance from the property lines, and not in any way in violation of setbacks. Yes, she signed that - Mrs. Nave admitted - they drew up the plat for her, because she couldn't do it - so she signed. She did not know where the house was except that it was setting on the property. In the end - she got the survey. After dealing with so many crooks she got the survey to help straighten out her violations.

After getting the permit, Mrs. Nave said, she contacted Mr. Moore who started the construction. She thought everything was clear to go ahead and that she had all the ok's and permits necessary. Then came the notice of this violation and she filed this case.

She is renting this house now, Mrs. Nave told the Board, but will live in it herself as soon as she can. Her renter is a carpenter and is doing the work. In this case the encroachment is not against any of the property lines, Mr. Lamond noted, and this would appear to be a case where someone else was at fault in the beginning. Mrs. Nave had no knowledge of the original violation when she bought the place. It would therefore not seem unreasonable to grant this case.

315

## DEFERRED CASES - Ctd.

1-Ctd. It is obvious that the permit was gotten under misrepresentation, Mrs. Handerson stated, or the house would not be located where it is on the plat.

Mrs. Nave said she would swear that she had not knowingly given the man who made the plat false information regarding the location of the house.

Mr. Lamond stated that there appears to have been a misunderstanding in this case, and since the improvement is to be located on the inside where it will not encroach upon the side nor rear property lines, he would move to grant the application.

Seconded, Mr. T. Barnes

For the Motion: Lamond, T. Barnes and J. B. Smith

Against the motion: Mrs. Henderson and V. W. Smith

Motion carried.

Mr. V. W. Smith stated that while he was sympathetic with the applicant, he did not feel that encroachments should be granted which encourage property owners to build anything they please.

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2- J. M. BUTLER, to permit open porch to remain as erected within five feet of the side property line, Lot 61, Section 3, Fairchester, (306 Fairchester Dr.) Providence District. (Suburban Residence-Class II).

Mr. Harris represented the applicant. Also, Mr. Henry Slice from Webster Company was present.

Mr. Slice discussed the case, recalling that Mr. Burgess, who handled this deal, did not advise the Company of the violation. However, when Mr. Burgess knew of the violation he discussed it with Mr. Mooreland. They had no intention of evading the Ordinance, Mr. Slice assured the Board. This company has tried in every way to avoid difficulties with the Codes of various jurisdictions in which they work. Mr. Burgess had a very clean record with them. Mr. Slice continued, up to this time and he could not see where Mr. Burgess could have planned to benefit in any way from a willful misrepresentation. Mr. Burgess, however, is no longer with the company.

Asked what Mr. Burgess had said about this, Mr. Slice stated that he had claimed that the plot plan was drawn from the record. This, Mr. Slice observed, does not agree with the facts. All the man needed to have done was to have followed Mr. Mooreland's advice in the beginning.

It was recalled that Mr. Mooreland had told Mr. Burgess that the porch would have to be 10 feet from the side line. Mr. Burgess went away and came back stating that the subdivision plat was wrong. He went away and came back a third time, Mr. Mooreland continued, with a drawing showing that the addition could be built 10 feet off the line, and that the certified plat of the subdivision was wrong. The person in the Zoning Office who issued the permit relied upon Mr. Burgess rather than on the certified plat. The permit was issued.

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are missing

DEFERRED CASES - Ctd.

2-Ctd.

There were no objections from the area.

Mr. Lamond moved to grant the application because of the irregular shape of the lot (which is considerably wider in the front, narrowing to a very short back line) and it is noted on the plat that the setback at the front corner of the porch is 8.5 feet, and at the rear it is 5 feet - showing the irregularity of the lot. This is granted also because it does not appear that this would adversely affect neighboring property.

Seconded, T. Barnes

For the motion: Lamond and T. Barnes

Mrs. Henderson voted "no" because this is not a hardship created by the Ordinance, and while she felt a sincere sympathy for the applicant's problem, the hardship was self created and not the fault of the Ordinance. The lot is level, Mr. V. W. Smith noted, and there is an alternate location on the property for the porch at the rear of the house. There was a concrete slab there in the first place, which was not in violation if it remains a concrete slab only.

Mr. V. W. Smith read from "A guide for Zoning....." which argued that such a case as this cannot be granted.

Mr. Harris answered Mr. J. B. Smith's question above moving the line to make this conform - saying they could not do that, they have tried.

For the motion: Lamond and T. Barnes

Against the motion: V. W. Smith, J. B. Smith, Mrs. Henderson

Motion lost - therefore the case denied.

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3-

DWIGHT H. DODD, to permit erection and operation of a private school, S.W. corner of Sleepy Hollow Road, Route 613 and Valley Brook Drive, Falls Church District. (Rural Residence-Class I).

Mr. Hansbarger represented the applicant. This case was deferred to determine whether or not the area is in flood plain. The new plats presented by Mr. Hansbarger showed the stream cutting diagonally across the lot immediately through the house location. This would cause a considerable flood plain under the present conditions. The drainage ditch could be relocated and the stream piped - but, according to estimates, this would be prohibitive, Mr. Hansbarger told the Board.

Mr. Lamond moved that, in view of the statement regarding flood plains, the application for a permit to erect and operate a private school be denied.

Seconded, Mrs. Henderson

Carried, unanimously.

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319

The following letter from Mr. Harold Gates of "Lazy Susan Inn" was read by Mr. Mooreland:

"November 21, 1957

Board of Zoning Appeals

320

Gentlemen:

We operate a country inn dining establishment, the 'Lazy Susan Inn' on Route 1 just north of Woodbridge, Virginia.

We have had many requests from our customers to buy the home made relishes, jellies and knick knacks we use for decoration. We thought possibly, we could sell these items under our retail merchants license. To be certain we checked with the zoning administrator, Mr. Mooreland. His ruling was that we could not sell gifts with our present zoning. We would like to appeal this decision.

The articles we would like to handle are harmonious with the colonial Inn type dining room we operate.

Most of the Inns catering to our class of trade, Normandy Farms, Olney Inn, Mrs. K's, Allison Tea House and Collingwood, have a display of this sort for their customers. This would not be a separate business. The gift items would be sold only from our cashiers counter.

I am enclosing literature showing Christmas cards, candies, jellies, and examples of Virginia Handicraft, to give you a general idea of the type things we would like to have available for our customers. This privilege would be an asset to our business, increasing our gross sales, which in turn will increase the taxes we pay on retail sales.

We respectfully request the Board to consider this appeal.

Sincerely yours,

/s/ Harold E. Gates

'Lazy Susan Inn'

Mr. Mooreland said he had told Mr. Gates that he could not carry on the activities proposed in his letter, but also told Mr. Gates that he would bring this to the attention of the Board of Zoning Appeals for their determination - if, with a tea room permit, the operator can carry on sale of various articles.

Mr. Gates also enclosed with his letter lists and advertisements of the various types of gift-articles he wished to stock for sale in his restaurant.

Mr. Mooreland asked the Board how far can one go in the sale of gift articles. This would appear to be a gift shop, Mr. Mooreland continued, a regular retail establishment. In that case the Board agreed that a rezoning would be necessary.

Mr. J. B. Smith noted that many rural restaurants sell quite a variety of small interesting things - things which are in keeping with the area and the type of restaurant. He noted in many places the sale of foods - such as jelly, jams, fancy preserves, rolls, special salad dressing, etc. These things are usually sold only to the eating-customers.

But, Mr. V. W. Smith suggested, this is penalizing the man who is in a legitimate gift-shop business and located in a business zone. This could expand into a large retail establishment, Mr. V. W. Smith continued, in an agricultural zone.

It was agreed that probably the sale of a few things which are made on the premises - articles of food which are used in the dining room - might be considered in the light of a customary home occupation, and therefore permissible to sell to customers coming in to eat. But as in this case - where the man is buying and selling articles - it was branching out too far.

Mrs. Henderson moved that the Board advise Mr. William T. Mooreland that the letter from the Lazy Susan Inn, dated November 21, 1957 be answered, stating that the type of operation proposed to be engaged in is a retail business beyond the scope under which the restaurant is now operating, and to operate in the manner described it would be necessary for the owner of this property to go before the Board of Supervisors for a rezoning.

Seconded, Mr. Lamond

Carried, unanimously.

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The Chairman referred to the letter from MR. NORMAN T. FOWLKES, JR., dated November 8, 1957, which was read at the last meeting and which requested further consideration of his case.

After some discussion of the case, Mr. Lamond moved that a letter be sent to Mr. Fowlkes stating that the Board has seen his property and feels that there are alternate locations for the improvement he has planned - therefore the Board agreed that no change in their motion would be made.

Seconded, Mr. T. Barnes

Carried, unanimously.

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Mr. Lamond asked to speak on the RAYMOND WAPLE application of October 8, 1957 requesting a recreational area on Mr. Waple's property.

The motion as recorded states that the application shall be granted to the "applicant only". Mr. Lamond said it was his intention - and he thought his motion was so stated - that the application would be granted to the "Waple Family" only.

Mr. V. W. Smith read the motion as passed by a majority of the Board members. Both Mr. V. W. Smith and Mrs. Henderson had recorded the motion on their notes - and agreed that the motion was correct. However, Mr. J. B. Smith and Mr. T. Barnes thought they were granting this to the Waple Family..... only.

Mr. Lamond explained that in his opinion, it would be unfair to grant this to Mr. Waple only - it could happen that a large sum of money would be spent on the development of this recreational center and should Mr. Waple die - it would not be possible, under this motion, for his wife or his children to operate the business.

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WAPLE - Ctd.

Mr. V. W. Smith thought that the family is well protected - as he felt that no Court would destroy such an investment by ruling that the heirs could not continue to operate. However, since there was a question, Mr. Lamond suggested that the motion be changed.

The Board requested that Mr. Plummer - or someone from the Commonwealth's Attorney's office be consulted.

Mr. Plummer came to the Board Room. Mr. V. W. Smith asked him if the Board could limit the granting of this kind of application. Mr. Plummer answered that the Board could. Mrs. Henderson noted that the Board has many times granted similar applications to the applicant only. It has also been done in the case of private schools, Mrs. Henderson recalled.

Mrs. Henderson also recalled that Mr. Waple had stated at the hearing that he would hold control of the project and the opposition had stated that no one could make that guarantee.

If the project is sold - it would necessarily come back to the Board, Mr. Lamond stated.

Mr. V. W. Smith thought the smaller projects like beauty parlors and schools which the Board had limited to the applicant only, were all right - but he considered it discrimination to limit a project of this kind which might involve a \$50,000 investment. To stipulate conditions of operation, Mr. V. Smith thought right - but not to limit the individual.

The Flint Hill School was mentioned - that, Mr. Mooreland stated, came back to the Board because of the extension - however, that was granted to Mr. Johnson, the applicant, only.

Mr. V. W. Smith thought the use was the important thing and not the applicant. A project of this kind can be controlled by requirements of operation - which the Board has attached many times to applications, but he felt it unfair to Mr. Waple's family to allow a motion to stand which might jeopardize the continuation of a large scale operation which is meeting the requirements placed on it.

Mr. Waple has said, Mr. Lamond continued, that the motion as passed would do him no good at all.

Mr. Plummer was asked, if the three who voted for the motion wished to change it at this time, could it be done?

Mr. Plummer answered - it is a mistake, and it should be granted to the family - the correction in the minutes could be made.

Mr. Lamond moved that the minutes of October 8, 1957 be clarified to the extent that instead of the application being granted to the "applicant only" the motion read that the application is granted to the "Waple Family".

The motion, therefore, should read:

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WAPLE - Ctd.

That the application be granted to the Waple Family only (as a protection against the property being sold and the use therefore transferred) and that the granting be contingent upon the applicant getting the necessary permits to operate this use and to his meeting the requirements of the Health Dept. and other pertinent Ordinances, particularly that the applicant conform to the Swimming Pool Ordinance. This is granted as per plat presented with the case, dated September 6, 1957, plat prepared by Carpenter and Cobbs, indicating improvements on the property, but that the acreage shown on the plat be amended to read 20 acres only.

It was added to the motion that a through street, which would connect the property to be used for this purpose with Pine Street, be eliminated.

Seconded, Mr. T. Barnes

Mr. V. W. Smith asked - who is the family - does this extend to brothers, etc.....

Mr. Lamond answered that the granting was to the "family" - he did not clarify this further.

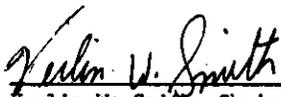
Mr. Lamond, J. B. Smith and T. Barnes voted for the motion.

Mrs. Henderson and V. W. Smith voted "no"

Motion carried.

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The meeting adjourned

  
Verlin W. Smith, Chairman

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December 2, 1957

A special meeting of the Board of Zoning Appeals was held Tuesday night, December 2, 1957 at 8:30 p.m., in the Fairfax Courthouse with the following members present: Mr. V. W. Smith, Mr. A. Slater Lamond, and Mrs. Henderson, Mr. V. W. Smith presiding.

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Meeting called for the purpose of receiving recommendation from the Planning Commission on:

GOEFFREY WOODARD, to permit operation of a Pharmacology Laboratory on Lots 60, 61 and 62, Mumford Park, Centreville District. (Agriculture).

The Planning Commission recommended that this application be granted provided the requirements of the Melpar amendment can be met.

Mr. Woodard stated to the Board members that his plans for development of this property are not yet complete, but that he would submit his plans to the Board before going ahead.

Therefore, the Board took no action and it was agreed that Mr. Woodard would return to the Board of Zoning Appeals on December 10th.

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The meeting adjourned

*V. W. Smith*  
V. W. Smith, Chairman

December 10, 1957

The regular meeting of the Fairfax County Board of Zoning Appeals was held Tuesday, December 10th, 1957 in the Board Room of the Fairfax Courthouse, at 10 o'clock a.m., with all members present, Mr. A. Slater Lamond, presiding.

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The meeting was opened with a prayer by Mr. J. B. Smith

DEFERRED CASES:

THOMAS D. ALWARD, to show cause why the permit granted to you on January 22, 1957, to operate a repair garage, should not be revoked, on south side #244 approximately 1500 feet east of Bailey's Cross Roads, Mason District.

(General Business).

Mr. Mooreland told the Board that since Mr. Gibson is still ill, his office has requested that this application be deferred until some time in February.

Mr. J. B. Smith moved that the application be deferred until February 1958 - the date to be set later in the day by Mr. Hansbarger.

Seconded, Mr. T. Barnes

Carried, unanimously.

Mr. V. W. Smith suggested that Mr. Mooreland itemize his ideas on this after his discussion with the Commonwealth's Attorney. Mr. Mooreland said he would inspect the property again before this comes before the Board.  
(Deferred to February 25, 1958)

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Since it was not yet time for the first scheduled case, the Board took up the case of GOEFFREY WOODARD - requesting the research laboratory and which was taken before the Planning Commission on December 2, 1957 for recommendation.

Mr. V. W. Smith, Mrs. Henderson and Mr. A. Slater Lamond were present at the special meeting held after the Commission's hearing on December 2, 1957.

The Commission recommended that the case be granted provided the applicant comply with the Melpar amendment.

After this recommendation the Board members talked with Mr. Woodard, who stated that he thought the amendment was unduly strict, and questioned whether or not he could comply. However, it was agreed to take the case back to this Board at this time for further consideration. (Mr. Woodard was not present on December 10, 1957 - since he was out of town - but it was said that he would probably have someone present to represent him.)

Mr. Woodard had stated that he was told in the Zoning Office that this would not be heard under the Melpar amendment - but Mr. V. W. Smith contended that in his opinion the Melpar amendment is the only section under which the case can be heard.

Mr. V. W. Smith moved that the case be granted, as shown on plat prepared by Joseph Berry, dated November 2, 1957, provided that any new buildings shall comply strictly with the Zoning Ordinance and that a waiver on the existing buildings be granted for a period of three years, or until such time as a new building is erected on the property, for this use. Upon erection of the new building he will abandon use of these old buildings. This is granted under Section 6-12-g and Section 6-4-a-15-m.

020  
DEFERRED CASES - Ctd.

GOEFFREY WOODARD - Ctd.

Seconded, Mrs. Henderson

Mrs. Henderson stated that in her opinion the major consideration is the front setback. The buildings are situated in such a way that they are well screened by the woods along the roadway, and there is nothing to be adversely affected in this area except Mr. Woodard's own home, which is the only house near.

It was added to the motion that in case any new building is erected on the property - the applicant will leave a buffer of existing trees between the building and the road. (Addition accepted by both Mr. V. W. Smith and Mrs. Henderson).

The motion carried, unanimously.

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NEW CASES:

- 1- HARVEY D. HENSON, to permit carport to remain 9.71 feet from side property line. Lots 9, 10 and 11, Block 7, Groveton Heights, Lee District. (Suburban Residence-Class III).

Mr. Luckett represented the applicant. He had no excuse to offer for this mistake, Mr. Luckett told the Board, it was an error which is unexplained. The carport is within about 3-1/2 inches of the required setback, and it cannot be altered.

This is an old subdivision, Mr. Mooreland noted, and the required 20 foot setback does not apply. The applicant has put the house on three lots. There were no objections from the area.

Mr. Barnes moved to grant the application because this is so small a variance it would not adversely affect the neighborhood.

Seconded, Mr. J. B. Smith

Carried, unanimously.

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- 2- ROBERT F. HULL, to permit erection of storage shed within two feet of side property line, Lot 2, Block 7, Section 6, Holmes Run Acres (2421 Elm St.,) Falls Church District. (Suburban Residence-Class II)

This was built for a storage shed because of lack of room in his one-level home with no basement, Mr. Hull told the Board. The shed could have been located on the opposite side of the house - with plenty of setback - but the ground on that side rises to a height that would make the little shed immediately visible to all the neighborhood. The present location of the shed is low, and it is not seen by anyone except the adjoining neighbor, who does not object to this location. Mr. Hull showed pictures of the buildings indicating the location and the manner in which the shed would be shielded from other homes in the area. It was noted that the shed is behind the carport - therefore barely visible from the street.

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NEW CASES - Ctd.

2-Ctd.

This shed is 12 feet by 8 feet, with a wide roof overhang, which would make the building cover an area of about 15 feet by 16 feet. Mr. Hull also noted that the shed actually is six feet from the line instead of the two feet indicated on the plat.

Mrs. Richard Kraft, who lives at 2419 Elm Street, the immediately adjoining neighbor, told the Board that this building is in no way objectionable to them - it does not block their view, and she thought the best location on the lot.

Mr. Mooreland stated that the new Zoning Ordinance will request that access buildings be located 12 feet behind the rear line of the house. Mr. Mooreland noted that with accessory buildings so close to the main dwelling a request to extend the house to the accessory building is a great temptation to the home owner. If the building is farther from the dwelling it would preclude this. This has been discussed with Mr. Pomeroy, Mr. Mooreland went on, and it is planned that all accessory buildings will be allowed four and two feet from the side or rear lines - as long as they comply with the 12 feet behind the house rear line.

Mr. V. W. Smith thought 15 feet probably a better distance between the house and the accessory building - a distance beyond the normal width of a room would further help to discourage extending the house to the accessory building.

Mr. Hull said he could not go that far behind the rear line of the house because his house is well back on the lot and he would not have room. Also, there are trees at the rear of the lot which would have to be removed, and they would have to dig into the hill at the back of the lot. This shed will be 5 feet behind the house - as planned. There is also a wide overhang on the house roof.

Mr. Hull said he had made no commitments on the construction of the shed. (Mr. Mooreland noted that under the Ordinance the overhang is allowed to a 3 foot width.)

Mrs. Henderson called attention to the fact that if this is granted it would not comply with the proposed Ordinance - nor with the present Ordinance.

Mrs. Kraft again spoke for the applicant - explaining that the location to the rear would be most objectionable to the neighbors - since the ground is high and the little building could be seen from all directions. In the location planned the shed would be shielded by the carport and the fact that it is on low ground would shield it from the neighbors, Mrs. Kraft continued. The roof line of the shed will blend with the roof line of the house and it will not be unattractive.

Mrs. Henderson suggested adding the storage room back of the carport. That would block the passage-way, Mr. Hull answered, and the windows on the side of the house.

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NEW CASES - Ctd.

2-Ctd. This case most certainly has merit, Mr. V. W. Smith stated, but he thought there must be many places in the County with the same problems. There is an alternate location and the reasons for locating the shed as planned do not appear to justify the variance, therefore, Mr. V. W. Smith moved to deny the application - because it does not meet the requirements under Section 6-12-g of the Ordinance.

Seconded, Mrs. Henderson

There is a rise in the ground here, Mr. Lamond recalled, which would make it difficult to locate the shed on any other part of the lot - and the Board has granted cases because of topographic conditions.

For the motion: V. W. Smith, Mrs. Henderson, T. Barnes, J. B. Smith

Mr. Lamond voted "no"

The motion carried to deny.

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3- ROBERT OSHINS, to permit enclosure of porch within 12 feet of the side property line. Lot 75, Section 1, Lake Barcroft (2 Stanford Circle), Mason District. (Suburban Residence-Class III).

Mrs. Oshins appeared before the Board. They have a small screened porch on the side of their house, Mrs. Oshins explained, which was used for the children's open air naps. Now that the children are beyond the day-nap stage they are needing this area for a study room. This room will extend toward the lake and the enclosed porch will make a small passage way to the rear of the house to connect with the little room.

This is a pie-shaped lot, Mrs. Oshins pointed out - a very narrow frontage (50 feet). The lot lines widen out to 190 feet at the lake. The ground is very steep down to the lake - it is impossible to put any kind of an addition on the rear of the house. The house was located as near the front line as possible, leaving a back yard which they found necessary to terrace with a retaining wall.

Last year they contacted the Lake Barcroft people in an attempt to purchase an additional three feet, which would make this conform, but were told that the lot adjoining them on this side was too narrow to allow the three feet to be sold, and still remain a legal lot. (They have the written statement from the Lake Barcroft Company on this, Mrs. Oshins told the Board.)

They will erect a fence along this line in order to screen this addition from the neighboring lot. This adjoining lot is vacant at this time.

There were no objections from the area.

Mrs. Henderson suggested deferring this until the new ordinance is completed - as the legal setback will then be 12 feet, and no variance would be necessary.

Mrs. Oshins stated that they are wanting to go ahead now with the change - if the Board could grant the case at this time.

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NEW CASES - Ctd.

3-Ctd. Mr. Lamond said he could see no point in waiting - the Ordinance still may be a long time in coming.

Mrs. Henderson moved to grant the application because there is no alternate location for any addition on the building, and because of the topography.

This is granted in accordance with the plat presented with the case.

Seconded, Mr. T. Barnes

Carried, unanimously.

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4- CHRISTOPHER J. MURPHY, JR., to permit erection of an addition to dwelling within 12 feet of side property line, Lot 138, Section 2, Lake Barcroft (721 Lakeview Drive), Mason District. (Suburban Residence-Class III).

Dr. Murphy appeared before the Board.

The addition is planned for another bedroom, Dr. Murphy told the Board, which would come within 12 feet of the side line. This addition cannot be located on the opposite side of the house because of the sewer line which runs very close to the house on the carport side. The lot has about a 40% grade to the Lake - leaving a very small area of level buildable land.

There were no objections from the area.

Mr. V. W. Smith moved to grant the application under Section 6-12-g because of topographic conditions, and because the sewer line is in close proximity to the house there is no alternate location, and this will not adversely affect neighboring property.

Seconded, T. Barnes

Carried, unanimously.

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5- ROBERT P. GATEWOOD, to permit fence seven feet high to remain within 22 feet of the street property line, Lot 306, Section 3, Lake Barcroft (600 Lakeview Drive), Mason District. (Suburban Residence-Class III).

He retained an architect to work out his plans for his home and the fence, Mr. Gatewood told the Board, he had no knowledge of the building code and building restrictions. The plans were approved by the Lake Barcroft Assn. and he was unaware of any violation. The fence was put up in good faith - thinking it would be an attractive addition to the property. It was erected at a considerable cost (approximately \$4,000) and there is no hazard to visibility, and it is not in any way objectionable.

The purpose of this fence, Mr. Gatewood explained, was to design a place for his seven children (ranging in ages from 1 to 10) to play without getting out into the street. This project has met with favorable response from neighboring children, Mr. Gatewood continued. It is a good place for them to congregate in restricted play. They dug out a considerable area for the patio and cemented the whole area and have taken care of the drainage. This fence serves as a good windbreak and the coloring makes it an attractive addition to the house. Mr. Gatewood showed pictures of the patio showing the attractive arrangement and the utility of such a yard.

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NEW CASES - Ctd.

5-Ctd. Mr. Gatewood presented a petition from the neighbors, none of whom object to this - the petition stating: that the fence is not objectionable; it enhances the beauty of the home and is in excellent architectural taste; it is in conformity with community standards, adding prestige and dignity to the neighborhood; and to remove the fence or lower it would impair its original beauty and continuity - which would be objectionable to the neighbors. This petition was signed by neighbors most affected.

Also a letter favoring this from Captain Stevens was presented.

Mr. Lamond told the Board that he had seen the property, and he did not think the appearance of the fence detracted from the house - in fact he thought it was very harmonious with the two story house. From the street, it is not noticeable, Mr. Lamond continued, that while the fence is higher than regulations, it looks very attractive.

Mr. Worcester, the adjoining neighbor on one side, thought this fence has a considerable aesthetic value. Because of the contour of the ground and the placement of the fence, a lower fence would be unattractive, Mr. Worcester added. Being an architect by profession, Mr. Worcester expressed the idea that the fence is harmonious with the building and the grounds and is an asset to the neighborhood.

The seven foot height was used especially because of the architectural beauty, and because it is a sufficient height to enclose the children without question, Mr. Gatewood said.

Asked what he would have done about the seven foot fence had he known of the five foot restriction - Mr. Gatewood answered that he would have come to the board for the variance - before he built the fence.

Mr. Lamond again stated that the fence - in his opinion - is attractive. It blends well with the roof line of the house, the color scheme is interesting, and it goes with the topography, Mr. Lamond contended.

Mr. V. W. Smith moved to deny the case because there has been no evidence submitted of undue hardship which is created by the Ordinance. Whatever hardship exists was created by the applicant himself - therefore, the Board has no authority to grant such a variance.

Seconded by Mrs. Henderson, who stated that this is a considerable variance, it is in the front of the house where it should be only 5 feet high and she thought it would not be too difficult to cut the fence down.

Before taking a vote, Mr. Lamond suggested looking at the property. He thought that might change the thinking of the Board, and that it would be more fair to Mr. Gatewood. He, himself, thought the fence did not detract in any way and was not out of keeping with the community.

But, Mr. V. W. Smith objected, there is no evidence that a 5 foot fence would not be as good as a 7 foot fence, <sup>which</sup> he considered would have been equally as acceptable for the purpose.

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NEW CASES - Ctd.

5-Ctd.

Architecturally, Mr. Gatewood thought, the 2 foot reduction would not be in harmony with the design of the fence.

Mr. Gatewood said it would be expensive to change the fence now - he again discussed his plan for an attractively fenced patio which would have utility and beauty; he had tried to create something which would blend with the community - however had he known of the restriction he would have solved his problem in another way.

It was said again that the hardship was not created by the Ordinance, and therefore could not be considered in the motion.

For the Motion: Mrs. Henderson, V. W. Smith

Against the motion: J. B. Smith, T. Barnes, A. S. Lamond

Motion lost.

Mr. J. B. Smith moved to defer the case to view the property - deferred to January 14th, 1958.

Seconded, Mr. T. Barnes

For the motion: J. B. Smith, T. Barnes, A. S. Lamond

Against: Mrs. Henderson and V. W. Smith

Motion carried.

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6-

KENNETH E. BREISCH, to permit erection and operation of a service station with pump islands within 25 feet of the street property line, on south side Route 644, 427 feet east of Route 789, Lots 3 and 4, Hugo Maters Subdivision, Lee District. (Rural Business).

Mr. John Testerman represented the applicant.

The applicant has a contract with one of the major oil companies to construct a filling station, using this property to a depth of 135 feet. Mr. Testerman identified other businesses in the immediate area showing that this is a generally used business area. The original zoning was granted, Mr. Testerman explained, with the understanding that they would create an easement which would handle the drainage on this property. Studies of the drainage needs will be made, Mr. Testerman continued, and the easement will be recorded. That will have to be done and the easement approved by the Public Works Department before they can go ahead with this construction.

Mr. Schumann stated that if the Board felt that this should be approved - it should be approved subject to the approval of the Public Works Department relative to: drainage easement of proper location and width; recordation of such an easement; and subject to whatever installation is necessary to provide adequate drainage facilities.

Mr. Schumann stated also that this reference in the original rezoning to the easement did not refer to the easement on the 135 foot depth only of this property - but to the entire property - as there has been a long standing drainage problem on this property. It was the thought of the Board in the granting of the zoning that the drainage problem would be cleared up.

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## NEW CASES - Ctd.

6-Ctd. Mr. Testerman answered that it was their intention to include the entire tract in the recording of the drainage easement.

Mr. Mooreland said the Board of Supervisors rezoned this land less and except the easement to be put in for drainage. He too stressed the fact that this should be granted, if it is granted, subject to recordation of the easement.

Mr. V. W. Smith moved to defer the case until January 14th, to give the applicant the opportunity to present to the Board a proper easement for drainage - which appears to be a problem on this property. Mr. V. W. Smith thought the Board should know what exists on the property before granting this.

There was no second.

There is a considerable amount of work to be done on this, Mr. Testerman told the Board, they would like to go ahead in their negotiations with the oil company, and they will work out the drainage problem at the same time, without question. He asked the Board not to defer the case, as it would hold them up unnecessarily.

Mrs. Henderson moved to grant the application subject to approval by the Public Works Department for a drainage easement, and subject to compliance with all the requests which the Public Works Department make. This is granted in accordance with the plat presented with the case prepared by J. D. Payne, which shows the location of the building and the pump islands. It is also understood that the entrance will be 30 feet from the proposed 50 foot road (shown on the plat) in accordance with the State Highway requirements, and subject to all provisions of Section 6-16.

Seconded, T. Barnes

Carried, unanimously.

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7- LAKE CRIPPEN, INC., to permit operation of a public recreation area with accessory buildings thereto, and establish an artificial lake, southwest corner of Route 606 and Route 674, Centreville District. (Agriculture).

Mr. William Hansbarger represented the applicant. Mr. Jack Crippen was also present.

Mr. Major, attorney for Mr. Bowman, the adjoining property owner, was present.

Mr. Hansbarger pointed out on the map that a portion of the property across from this area in question is zoned for industrial use - but is not so used. All other surrounding property is residentially zoned.

Also, Mr. Hansbarger pointed out the location of the property with relation to the Potomac River, and other streams indicating that this land is generally low. The soil is not good for anything except grazing, however, it is advantageously located so that a lake could easily be formed along Colvin Run. This will be a recreational area, Mr. Hansbarger continued, with the lake as the central feature - the lake will be stocked. They also

NEW CASES - Ctd.

7-Ctd.

plan for a picnic area, snack bar, bath house, tennis, volley ball, baseball, and a sports area. Above the lake an area is set aside for Boy Scout camping - this would be for Boy Scouts only. The applicant will also make a site available for Easter services - if the Churches in the County so desire. It was noted on the plat that the gas line is considerably east of the dam and lake area, and therefore would not be affected by the flooding to create the lake.

Recreational areas in the County are at a minimum, Mr. Hansbarger observed, there should be more of them. This would not be greatly different from Great Falls, Mr. Hansbarger went on, or any other similar area the County owns. This will be privately owned, therefore, no cost to the County. It will be open to the public. The lake and facilities planned are completely consistent with an agricultural area.

Mr. Hansbarger pointed out the Bowman property, which joins on one side, and the Hunt Club property which is on another side. Mrs. Crippen and Mrs. Hammond, and Mr. Coan are other adjoining owners - none of whom object to this use. However, most of the surrounding property is owned by the Crippen family.

Mr. Hansbarger noted that there is already in existence a road leading off of Route 606, which runs to the Fairfax Hunt Club property, and is used as their entrance. This road could also be used as an entrance to this area. Also a second entrance is shown on the plat, Mr. Hansbarger pointed out, which leads off of Hunter Mill Road. This is a new road which they will construct if the Board wishes them to have the second entrance. There are no objections to the use of either of these entrances, either from the Hunt Club or from Mr. Bowman.

The soil around the lake is especially good for spetic.

Mr. Major stated that the Bowmans had made a private agreement with the applicant with certain restrictions. In consideration of that agreement, Mr. Major said, the Bowman's do not object. (The main points of agreement were that there will be no alcoholic beverages sold on the premises, and there shall be no large sign). They have agreed to three signs, one of which would not be over 30 square feet and the others not over 12 square feet. The extent of the area to be included in this project was discussed - Mr. Crippen indicating the boundaries which would include approximately 80 acres, with a lake area of about 20 acres.

The Board discussed at length the best means of entrance, whether or not the entrance should be restricted to the new road off of Hunter Mill Road or the road leading from Route 606, or if both entrances should be used. Mr. Barnes thought no access should be given to Route 606 which is already hazardous - however, it was noted that this recreational area will be used mostly in summer when the Hunt is not going on.

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NEW CASES - Ctd.

7-Ctd. Mr. V. W. Smith discussed the hazardous condition of both Routes 674 and 606 and also the intersection of Route 606 with Route 7. He thought this use would generate a dangerous traffic condition and would therefore adversely affect the health and welfare of people working or residing in the area. The Board cannot grant this use if it would adversely affect the community, Mr. V. W. Smith continued. This is a commercial swimming pool - a commercial project within a residential area. He suggested that recreational areas should be close to the people it would serve, because of the traffic. Mr. V. W. Smith noted that people could come to this area from all directions - creating a dangerous condition.

Mr. Mooreland suggested putting in the motion that the two roads - the one from Route 606 and the other, a new access road from Route 674 - shall be open to entrance and exit, in order that the traffic may be divided.

Mrs. Henderson thought the Board should have more clear information - that the boundaries should be more clearly defined, what will be in the snack bar, and just where the activities will take place. She also questioned if the agreement between Mr. Bowman and the applicant might have some bearing on the thinking of the Board. The Board did not think that agreement had any bearing.

Mr. Mooreland noted that the operation will not be visible to anyone except to the Hunt Club.

Mr. Crippen said they would sod the parking lot. The area will be closed at evening. This land will probably be divided some day, Mr. Crippen stated, and the lake could then be used for a community project - if this is built into an estate area.

Mrs. Henderson moved to grant the application according to the map presented with the case prepared by Lloyd C. Mayers, dated December 9, 1957, to include approximately 80 acres (a portion of the Myrtle Irene Wheeler Crippen property) subject to all Ordinances which are applicable to this type of operation including the swimming pool ordinance. It is understood that there are to be two access roads - one off of Route 606 which will give access to this property and one of which will be a new access road from Route 674 (Hunter Mill Road) which will be at least 50 feet wide. The lake as shown on the plat is to be approximately 20 acres.

There shall be no operations in this recreational area other than those specified on the plat, viz: tennis, volley ball, baseball, swimming, snack bar, picnicing, Boy Scout camping area, and no objectionable sports shall be carried on, this will also include fishing and boating and a special portion of the lake shall be reserved for swimming - as shown on the plat.

Seconded, Mr. J. B. Smith

For the motion: Mrs. Henderson, J. B. Smith, T. Barnes, A. Slater Lamond.

Mr. V. W. Smith voted "no" - stating that while this is a good place for this kind of project, in his opinion, a hazardous situation is created where there are perhaps 1000 cars coming out on these roads - which are not designed for such traffic. - Motion carried

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Mr. V. W. Smith left the meeting, because of previous commitments.  
NEW CASES - Ctd.

8- WARREN ROBERSON, to permit dwelling to remain within 10 feet of side of lot and to permit two dwellings to remain on lot with less than required area, on west side Route 665, approximately 1500 feet south Route 664, Providence District. (Agriculture).

They first built the small house, Mr. Roberson told the Board, and lived in that for seven or eight years while they built the larger house. Now they live in the new house and rent the smaller one, to help pay off their obligation on the construction of the new building.

In the first place they did not notice that the original house was too close to the line. They staked off an area for each lot - putting up a fence to establish the lines. It was then that Mr. Dimsey from the Zoning Office reported the violation. When they bought this lot, Mr. Roberson continued, it was supposed to be a full acre - but after the survey they found it was only 0.955 acres.

He obtained a permit for the new house, Mr. Roberson told the Board, and it was inspected. The plat showed the old house on the property.

Mr. Raymond Waple verified the statements of Mr. Roberson. He stated that Mr. Roberson had been a very fine neighbor and he was sure that he did not intentionally violate the Ordinance. He considered this a hardship case.

Mr. Maurice Fox also concurred in the statements made. Mr. Roberson has lived here for a long time, Mr. Fox stated, the little house is rented - this is a rural area which will not be adversely affected by this violation, Mr. Fox said, and he thought it would be a great hardship for Mr. Roberson to tear the house down.

There were no objections from the area.

Mrs. Henderson asked Mr. Roberson if he could buy a 10 foot strip from Mr. Morlock, the adjoining neighbor to make this conform? Mr. Roberson answered that he had tried to do that, but while Mr. Morlock did not want to sell - he has no objections to the house so close to his property line. The time may come, Mr. Roberson stated, when Mr. Morlock would sell his property - at which time he would try to purchase a strip from the new owner. Mr. Roberson said he had no desire to sell one of these houses.

This has been here a long time, Mr. T. Barnes observed, this is a rural section and there are no objections from the neighborhood - he could see no reason to refuse this, therefore, Mr. Barnes moved to grant the application because it does not adversely affect the neighboring property. This is a rural area, and there are no objections from the community.

Seconded, J. B. Smith

For the motion: Mr. Barnes, J. B. Smith, A. Slater Lamond

Mrs. Henderson refrained from voting

Motion Carried

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NEW CASES - Ctd.

9- GEORGE E. POWELL, to permit division of lot with less area than allowed by the Ordinance, approximately 1000 feet north of intersection of Route 674, Hunter Mill Road with 50 feet Dedicated Road, Providence District. (Agric.) Mrs. Powell discussed the case with the Board. This tract contains more than four acres, Mrs. Powell explained to the Board, but they wish to sell off one tract, which will have 1.8 acres - which is less than allowed by the Ordinance. This reason for this division is that the contour of the land is such that it gives two very attractive building sites if the line is drawn as shown on the plat. Their private driveway lies between the two tracts - where the natural dividing line runs.

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Asked why not move the driveway to make each tract conform to the two acre requirements, Mrs. Powell answered that the ground is very steep and they have put in a considerable amount of landscaping along the bank. It would be impractical and quite a job to move the driveway because of the grades, and it would cut off a large part of their frontage. It was noted on the plat that both parcels have a good frontage and the houses could be located far apart. This is a rugged piece of land, Mrs. Powell continued, it forms two knolls both of which are natural building sites - the line as they have drawn it is the natural division in order to give privacy to both homes and to use the topography to best advantage.

There were no objections from the area, nor adjoining property owners. This division, Mr. Mooreland stated, is about the most practical that could be worked out to get the best use of the land.

Mr. J. B. Smith moved to grant the application as he could not see where it will affect adversely anyone in the neighborhood, and it is to the advantage of both parcels of property to make this division, and it is shown by the applicant that this is not done for the purpose of avoiding the requirements of the Ordinance.

Seconded, Mr. T. Barnes

Carried, unanimously.

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Mr. Mooreland told the Board that he has a letter from Mr. Martin Dalton on Braddock Road, who operates the Leewood Nursing Home, asking for permission to double the number of patients in his home. He has 20 patients now and wishes to increase to 40. Mr. Dalton has asked if the permit which he now has was granted on the ground or on the building.

Mr. Brookfield was present and stated that this has been a satisfactory nursing home and well run. The house is brick and stone. With the proposed addition Mr. Dalton will not come closer to any of the property lines than required by the Ordinance, and he would meet all safety regulations. The case was granted without limitation as to the number of patients.

MR. MARTIN DALTON (Leewood Nursing Home) - Ctd.

Mr. Mooreland said he did not like to go ahead with this since it is for double the original capacity, without sanction of the Board. Mr. Dalton will have to meet all requirements, Mr. Mooreland noted. This property is now on the sewer line. Mr. Mooreland asked if this should come back to the Board - or should he issue the permit?

The Board agreed that it was all right for Mr. Mooreland to issue the permit.

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Mr. Mooreland announced that a special meeting of the Board would be held on December 23, 1957.

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The meeting adjourned

Verlin W. Smith  
Verlin W. Smith, Chairman

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December 23, 1957

A Special Meeting of the Board of Zoning Appeals was held Monday, December 23, 1957 at 11 o'clock a.m. in the Board Room of the Fairfax Courthouse, with all members present. Mr. Verlin W. Smith presiding.

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The meeting was opened with a prayer by Mr. J. B. Smith

This Special Meeting was called to handle the case of:

MRS. ISABEL WHITE, to permit an addition of 10 units to motel, plus managers and owners units, at southeast corner of U. S. #1 and Church Street, Mt. Vernon District. (Rural Business).

Mr. Norman Bernheimer represented the applicant.

This is a requested addition for 10 units plus the managers quarters and the residence of the owner. Eleven units are now operating on this property.

The plat indicated ten parking spaces for the new units and the ingress and egress as presently used and as approved by the Highway Department - two 25 foot openings to U. S. #1.

This is a generally business area, Mr. Bernheimer pointed out, with the Beacon Hill airport across the street and other operating businesses in the area. An extension of this existing motel is a logical request, Mr. Bernheimer continued. They have employed an architect to draw the plans in keeping with the buildings on the property. It will be attractive and adequate in every way, the Board was told.

Mr. Chase, the architect, was present - also Mr. Warfield, the builder.

Mr. Chase showed the ultimate over all plans of the building, indicating that just the ten units will be constructed at this time. The plans displayed by Mr. Chase showed the contemplated full use of the property. The new construction will be two buildings only, Further carrying out of the plans as shown will necessitate subsequent approval of the Board. This ultimate plan is made so the property can be developed in an attractive, unified manner.

This part of the ultimate development is particularly necessary, Mr. Chase pointed out, as the present motel building is not visible to north bound traffic. The addition of these two new buildings will give full visibility to motorists going both north and south.

There were no objections from the area.

It was noted that the present plan should not be confused with the total plan displayed by Mr. Chase - the present construction includes only those buildings as shown on the plats presented with the case.

Mr. Lamond moved to grant the application for ten additional rooms and ten parking spaces. This construction will also include a managers quarters and the owners residence. This is granted as per plat submitted with the case, prepared by Cecil J. Cross, dated May 2, 1957, and is granted under Section 6-16 of the Ordinance.

MRS. ISABEL WHITE - Ctd.

Seconded, Mr. J. B. Smith

Carried, unanimously.

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The meeting adjourned

*Verlin W. Smith*  
Verlin W. Smith, Chairman

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January 14, 1958

The regular meeting of the Fairfax County Board of Zoning Appeals was held Tuesday, January 14, 1958, at 10 o'clock a.m. in the Board Room of the Fairfax County Courthouse with all members present. Mr. Verlin W. Smith, Chairman, presiding.

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The meeting was opened with a prayer by Mr. J. B. Smith

The Chairman called for election of officers.

Since the term of one of the members will expire in February, Mrs. Henderson moved that the present Chairman be retained until it is known if there will be a change in the Board personnel.

Seconded, Mr. J. B. Smith

All voted for the motion except Mr. V. W. Smith, who voted "no".

Mrs. Henderson nominated Mr. A. Slater Lamond for Vice-Chairman.

Seconded, Mr. J. B. Smith

Carried - all voting for the motion except Mr. Lamond, who voted "no".

Motion carried.

DEFERRED CASES:

ROBERT P. GATEWOOD, to permit fence seven feet high to remain within 22 ft. of the Street property line, Lot 306, Section 3, Lake Barcroft, (600 Lakeview Drive), Mason District. (Suburban Residence Class II).

This case was deferred to view the property. All members had seen the property.

Mr. Lamond moved to grant the applicant permission to allow the fence to remain as erected, as in his opinion it does not adversely affect the health or safety of the neighborhood. Mr. Lamond also stated that he felt that Mr. Gatewood was actually doing a public service by having the recreational area fenced and he believed it was within the jurisdiction of the Board to grant the application.

Seconded, Mr. T. Barnes

Mrs. Henderson agreed that the fence is very attractive, but that it would be just as satisfactory if it were two feet lower. This would be a self-created hardship if Mr. Gatewood were required to lower the fence, Mrs. Henderson said, and she did not think it within the jurisdiction of the Board to grant the variance.

Mr. V. W. Smith agreed.

For the motion: Messrs. Lamond, Barnes, J. B. Smith

Against: Mrs. Henderson and Mr. V. W. Smith

Motion carried.

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NEW CASES:

1- CLARENCE W. GOSNELL, INC., to permit dwelling to remain 39.28 feet from front street, Lot 17, Block 4, Section 3, Waynewood Subdivision, corner of Doyle and Darton Drive, Mt. Vernon District. (Suburban Residence Class II).

Mr. Charles Harnett represented the applicant.

This house is located on the radial curve of the intersection, Mr. Harnett explained, which probably caused the error. All locations are double checked but in this case their Engineer, Mr. Hardy, had been ill and some of his new men handled the work. It probably slipped through without the second check. The variance is small - only eight inches - and it is not noticeable due to the extreme curve - there would be no obstruction to visibility, Mr. Harnett continued. As far as the sight distance is concerned - it conforms to the ordinance, Mr. Harnett pointed out. They have built something over 2000 houses, Mr. Harnett pointed out - with very few errors.

Mr. Hardy had been concerned about the house location here particularly because of the two streets and the curve, and had taken every precaution that the carport, which was not built at the time the house was put up, would conform to requirements. Therefore, the house was pulled as close to this side of the lot as possible to give room on the opposite side for the carport. Apparently they were a little off the radial line when they measured from this side. They did not check again until the final house location survey was made - at which time this violation was discovered. They have just completed 80 houses and there are 506 lots in this subdivision - but their violation record has been practically negligible, Mr. Harnett concluded.

There were no objections from the area.

Mr. T. Barnes moved to grant the application because this is such a small violation which is not noticeable to the naked eye, because of the curve in the roads which come together at this point. This is granted as per plat presented with the case - plat prepared by Raymond A. Koenig, dated Oct. 22, 1957.

Seconded, Mr. Lamond

Carried, unanimously.

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2- ATLANTIC REFINING COMPANY, to permit erection and operation of a service station with pump islands closer to street lines than allowed by the ordinance, north side Route 236, approximately 900 feet west of Evergreen Lane, Mason District. (General Business).

Mr. Wheaton represented the applicant.

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NEW CASES - Ctd.

2-Ctd.

Mr. Wheaton located this property with relation to other business and other filling stations in the area, indicating that it is located about 350 feet east of the Amoco station - toward Alexandria. This is part of the Michael tract immediately adjacent (on the west) to the Bladen property which is residentially zoned. There are no objections from the Bladen owners. Mr. Wheaton discussed the location of businesses along Rt. 236 and the general character of this area - which are not out of keeping with a filling station. Mr. V. W. Smith asked if it is planned to have a service drive along Rt. 236? That, Mr. Mooreland said was not known - it is possible that if they do put in a service drive it would be included within the right of way.

It was noted that a 35 foot access road is shown on the west of this property. Mrs. Henderson called attention to the fact that the pump island is only 14 feet from the edge of this road.

This is a private access road, Mr. Mooreland told the Board, it has not been dedicated and therefore probably would not require the street setback. That, Mr. Mooreland continued, is for interpretation by the Board. This is the main entrance to the Michael property parking lot, Mr. Mooreland explained, from Rt. 236. The service entry road will have a separate entrance - which will lead to the back of the building.

Mr. Lamond suggested that - since this will be a heavily traveled entry road - the pump island should set back 35 feet from the edge of the access road. That could be accomplished, it was noted, by shifting the building to the east to give better maneuverability on the lot. Actually the applicant is using this access road as a public road, Mr. Lamond continued. Being the main entrance to the shopping center this could become a very well traveled throughfare. Even though this road will not be dedicated the complete development of the shopping center could dictate the requirement of perhaps widening of this road, Mr. Lamond continued, and under any circumstances the location of the pump island so close would have a tendency to crowd the entrances to the filling station and slow up entry to the shopping center.

It was brought out that the County does not have control over the street lay-out as located within a shopping center - streets that are not dedicated. The Zoning Office will check for all setbacks and the Highway Department controls the location of entrances - but whether or not this 35 feet of access road into the shopping center is adequate - the Planning Office has no control. However, it was agreed that the Board could determine the location of the setback from this access road.

Mr. Wheaton said they had not discussed the entrance finally with the Highway Department, but they will comply with their requirements and the Highway Department has approved the size of the cut from this 35 foot access road to the highway.

There were no objections from the area.

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NEW CASES - Ctd.

2-Ctd.

Since it appeared obvious that this access road could become a traffic corridor and therefore should be protected, Mr. Lamond moved that a permit be granted to the applicant subject to the pump island at the extreme west end of the property (adjacent to the 35 foot access road) being moved back to a location 25 feet from the west property line of Parcel C - which is the edge of the access road. This is granted as per plat with amended setback from access road - plat prepared by J. D. Payne, Certified Engineer, dated January 7, 1958 - the setback from Rt. 236 will be not less than 25 feet. This is granted under Section 6-16 of the ordinance.

Seconded, J. B. Smith

Carried, unanimously.

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3-

MELPAR, INC., to permit buildings to be used for a laboratory for scientific research and development, Lot 11, Bailey Estate, Mason District. (General Business).

Mr. Gadbois represented the applicant, presenting his proof of notification of property owners in the immediate area, and locating the property.

Mr. Mooreland told the Board that there are three buildings on this property which is zoned business. He issued occupancy permit for the first one of the buildings. After discussion with Mr. Schumann it was determined that the applicant should come before this Board for a permit under the Melpar Amendment - but not, however, restricted to the requirements under that Amendment which apply to an agricultural or residential district. This is merely a request for a permit - to be issued after approval by this Board.

The recommendation from the Planning Commission was read, which states:

".....It is the opinion of the Planning Commission that this would be an appropriate use of the land involved, and it is therefore recommended that the application be granted."

Mr. V. W. Smith questioned the reason for this coming before the Board.

Mr. Schumann traced the reading of and references in the Melpar Amendment - showing that this use is granted only - subject to approval of this Board.

Mrs. Henderson asked that Mr. Gadbois explain - insofar as it is possible - what type of activity will take place on this property. She realized, Mrs. Henderson continued, that much of the work of Melpar is confidential.

They are working on development of the B-58 program - further on that - Mr. Gadbois said he could not discuss; they will use these buildings in the assembly work on air craft simulators (cannot detail this further); office space for engineering and administrative personnel; electronic bench work, testing and assembly.

Mr. Schumann called attention to the fact that these buildings are in place that the property is zoned for general business uses - which would include practically any business without a special permit from this Board.

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January 14, 1970

## NEW CASES - Ctd.

3-Ctd. It was noted that the buildings are well back on the property and each building has approximately 30,000 square feet of parking space.

Mr. V. W. Smith asked if this work would include manufacturing? Mr. Badbois answered that he did not know exactly what the Board would consider manufacturing - but that manufacturing as such in research and development work is difficult to apply. They assemble parts which are not manufactured on the property. After the assembly the articles are tested and torn down and reassembled. This could be called manufacturing of a kind - but certainly they are not operating as a factory. There would be no odors, noise, nor fumes. There were no objections from the area.

Mr. Lamond moved to grant the application as it conforms to the ordinance requirements for a laboratory for scientific research and development and this would appear to be a logical use for this business district. Granted as per plat prepared by Walter Phillips, dated September 26, 1957.

Seconded, Mrs. Henderson

Carried, unanimously.

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4-

IRVIN L. SIEGEL, to permit operation of a Rock Quarry on 45 acres of land, north side of Rt. 790 at junction of Rt. 617, Mason Dist. (Agriculture).

Mr. Andrew W. Clarke represented the applicant.

Mr. Clarke noted that this application is made also in the name of the NORTHERN VIRGINIA CONSTRUCTION COMPANY.

Mr. Clarke located the property, indicating that the military reservation is located to the north, the creek bed of Accotink is to the west, and the service road of the Shirley Highway lies to the east. The cover dirt will first be removed, Mr. Clarke continued, and they will then take out the rock to a certain depth.

It was also pointed out in Mr. Clarke's discussion that the ordinance does not cover a rock quarry in the amendment designed to control gravel pits. The \$1000 bond on gravel pits would require the operator to leave off at a certain grade - which would not apply in the case of a rock quarry - the \$1000 required would not restore the ground to usable use after the rock is excavated.

Mr. Clarke pointed to two rock quarries which have been granted by this Board - the Occoquan Creek quarry and the other in the western part of the County on Rt. 29-211. This would be the same type of operation.

Mr. DiGuilian, from Northern Virginia Construction Company estimated that the over-burden which would necessarily be removed would be used to bring the final grade of the property - after the rock is removed - back to a useable level. The excavation would be to a depth of about 25 or 30 feet below the creek bed. The grading plan presented shows the manner of handling drainage - after the rock is removed, Mr. DiGuilian noted. The map also shows the limits of the operations all around the property - indicating the

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January 14, 1958

NEW CASES - Ctd.

4-Ctd.

2:1 slopes on the two sides. It was noted on the plat that Mr. Siegel owns approximately 100 acres directly to the north of this property adjoining the military reservation.

In answer to Mrs. Henderson's questions, Mr. DiGuilian stated that they would use dynamite; the operations will extend to about 500 feet of the main pavement of the Shirley Highway - however, the property runs to the service road which is a part of the Highway system; operations would take place approximately 35 feet from the chain link fence along the Government property and 5 feet from the property line; operations will take place about 75 feet from the main VEPCO transmission line.

Mr. V. W. Smith asked what would happen to the over-burden while operations are in progress? Mr. Henry, Engineer, answered that they will operate in sections - and while they are working on one area the over-burden can be pushed to one of the unused areas temporarily - until the operations are completed and it will be used for re-fill. All over-burden will be kept within boundaries of the property.

They expect to remove about 1-1/2 million yards of stone. This amounts to approximately 2,000,000 tons.

The following report from B. C. Rasmussen, Subdivision Design Engineer of Public Works Department, was read:

"January 14, 1958

Board of Zoning Appeals  
Fairfax County  
Virginia

Re: Proposed Quarry Site  
Application #19038  
45 Acres  
Irvin L. Siegel Tract

ATTENTION: Mr. W. T. Mooreland

Dear Mr. Mooreland:

A field inspection was made on the above named site which is bordered on the east by (a) the Shirley Highway Service Road (Route #790) and (b) the Virginia Electric Power Company right-of-way, (c) on the south by Accotink Creek, (d) the west by the U. S. Government proving ground Eberfield, (e) and on the north by additional property shown in the name of Siegel, and the following conditions were found:

- (1) The existing topography map submitted by William T. Henry, Certified Engineer and Land Surveyor, is apparently correct.
- (2) The bridge crossing the Shirley Highway at the Fort Belvoir interchange is located at the north-easterly corner of this property.
- (3) No developed subdivisions exist in this immediate area.
- (4) A power line serving the U. S. Government property is located through the northerly half of this property, and series of electric transmission and service lines exist within the VEPCO right-of-way on the easterly boundary.
- (5) A stream, identified on the U.S.G.S. quad sheet as Field Lark Branch, enters this site from the north and flows this property to Accotink Creek. A secondary drainage way discharges from the adjoining property and the U. S. Government property at the north-westerly corner. Another minor drainage area flows from this property to the existing culvert under Route #790.

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## NEW CASES (continued)

4-Ctd.

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- (6) A group of storage tanks containing fuel oil, gasoline, jet and missile fuel are located on the U. S. Government property in the vicinity of the proposed quarry site, and the Army presently is installing an observatory tower and electronic computer for testing night vision equipment, and for satellite observation.
  - (7) There are only two points of safe access to this property in red as "A" and "B" on the attached plan.
  - (8) There is one major out cropping of rock visible on this property at the southwesterly corner.
  - (9) We have been advised that approximately 25' of soil overburden will be encountered before the stone is exposed.
  - (10) The planned operation of this quarry is to continue removing stone to a relative depth approximately 25' to 30' below the invert of Accotink Creek.
  - (11) The proposed grading plan as shown on the original topography indicates the following:
    - (a) 2:1 slopes down from a line 25' off the right of way line of Rt. 790; (b) 2:1 slopes down from the VEPCO right of way line; (c) 2:1 slopes down from the computed flood plain line of Accotink Creek; (d) 2:1 slopes down from a line 5' off the Government property line; (e) 2:1 slopes down from the Siegel property on the north; (f) a proposed cross-section on this plan indicates that all earth slopes will be shaped on a true 2:1 slope; however, that portion of the slopes where rock is removed will be stepped horizontally 20' and vertically 10'; (g) the stream flowing through this property will be graded diagonally across this site and will discharge into Accotink Creek at a point approximately 1,000 feet downstream from the original point of discharge. The natural drainage from the Siegel and U. S. Government properties, and the natural drainage now being discharged into the existing culvert under Rt. 790 will all be diverted into this re-located stream; (h) the berm proposed along Accotink Creek will protect the quarry from floods during operations and a portion will be removed at the termination of operations to allow drainage of the re-located stream; (i) the bottom of this site will be graded with earth fill which will result from the earth overburden to form a swale for the diverted stream with a maximum slope of 0.5% (one-half a foot fall for each 100' of length); (j) the side slopes leading to the main swale will be graded at 1.0% (one foot fall for each 100' of distance); and (k) the existing stream bed of Field Lark Branch at its point of entry onto this property will be graded on a slope of 2:1.

The following comments on the above are offered for your consideration:

- (1) The topography ranges in character from rolling to hilly, and is covered with small trees and thick underbrush.
- (2) There is a remote possibility of some damage by blasting operations to the bridge crossing at the Fort Belvoir interchange and this matter should be discussed with representatives of the Virginia Department of Highways. This matter was discussed with the Resident Engineer, Virginia Dept. of Highways, and he concurs in this decision.
- (3) Some land could be subdivided in this area at this time; however, no houses exist in the near vicinity.
- (4) Every precaution should be taken to protect the electric power and telephone services in this area.
- (5) The drainage ways through this property show very little signs of erosion in their natural state.
- (6) The Commanding Officer should be consulted pertaining to the effects on the U. S. Government property because we were advised that their observation and testing operations could be hampered by vibration and dust. We were further advised that all explosives detonated on their property were now limited to charges not to exceed 25 pounds.

NEW CASES (continued)

4-Ctd.

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- (7) Points "A" and "B" designated as safe access points to Rt. 790 were jointly inspected in the field with the Resident Engineer, Virginia Dept. of Highways; therefore, the note on the attached plan should be revised accordingly. Point "A" will only have safe access if some of the small trees within the Virginia Dept. of Highways right of way are removed. A permit must be obtained for any work done within the Virginia Dept. of Highways right of way.
  - (8) That portion of the rock visible at the outcropping in the south-easterly corner of this property does not appear to be a high quality stone; however, complete test borings should be made to determine the overall quality of this stone.
  - (9) and (10) It is planned that the soil over-burden on this site will be stock-piled and the quarry operation will extend some 25 or 30 feet below the invert of Accotink Creek. This will create a rock lined basin which will be filled with the soil over-burden at the termination of operations.
  - (11) (a) (b) (c) (d) (e) (f) All slopes as shown on the proposed grading plan conform to the requirements of the Ordinance except where the proposed cross-section indicates that in the area where rock is encountered the slopes will be stepped in 10' lifts with a 20' horizontal plain between lifts. If this variance is acceptable to the Board it is suggested that the face of each lift be left in a sound condition free from crevasses, loose stone, and possible slides; (g) the diversion of the natural drainage ways through this property does not conform to the requirements of the Ordinance; (h) when the berm along Accotink Creek is removed at the termination of operations and the quarry is filled with the over-burden as indicated on proposed grading plan, the bottom area will be subject to flooding by Accotink Creek and in effect become part of the flood plain; (i) and (j) if the grading plan is approved as proposed, the diverted stream could cause considerable erosion across this property and silt will be discharged into Accotink Creek. The bottom area of this site will probably become marshy and useless for further development; (k) the existing stream bed of Field Lark Branch at its point of entry on to this property will be subject to considerable erosion if it is allowed to flow down the proposed 2:1 slope, unless it is permanently stabilized.

If this land is to have any future use for development, it is recommended that the site be filled and compacted at the termination of operations to a minimum elevation of 2:0' to 3.0' above the computed flood plain, and that permanent stabilized channels of an adequate size be provided for the diverted drainage ways across the compacted fill areas. The ultimate ground and channel slopes should be sufficient to preclude the ponding of water on this site.

The flood plain study as submitted by W. T. Henry has not been reviewed by this office.

Very truly yours,

/s/ B. C. Rasmussen  
Subdivision Design Engineer"

Mr. Talbott, of the Virginia Department of Highways (Resident Engineer) was asked for comments. They are interested in several factors with regard to this operation, Mr. Talbott told the Board - first, safety of traffic on the Shirley Highway; safety of entrance to the operations from the service road; and concern over the possible affect the dynamiting might have on the concrete structures, bridges. He thought the entrance from the service road were satisfactory, Mr. Talbott continued, but the blasting will take place about 250 feet from the service road and as to flying debris which might endanger traffic on the Shirley, Mr. Talbott thought the depth of the operations might act as something of a screen-protection. However, they do feel that the dust and flying rock might be hazardous. If that is controlled - Mr. Tolbert stated, Culpeper would have no objection to this use.

## NEW CASES (continued)

4-Ctd. The dynamiting probably would have no affect on the overpass, Mr. Talbett explained, because that structure is not on solid rock.

Again, Mr. Talbett stated that Culpeper would have no objections to this use if that office could be assured that the dust and flying rock would not be a hazard to the Shirley. What kind of assurance would you consider satisfactory to Culpeper, Mr. V. W. Smith asked? They must know more about the operations, Mr. Talbett answered - the type of rock is sometimes considered, and how the dynamite behaves after it is shot. They would like to know what type of blasting operations would be carried on.

The Chairman asked for opposition:

Major Kinney from Fort Belvoir asked if any structures were to be built upon the property of any substantial height? The answer was "no". In answer to Major Kenney's further questions, the answers were - they will relocate the VEPCO lines necessary to be relocated into the military reservation; they plan to operate for approximately 10 years; the property will be cared for in such a manner that it will have no adverse affect on neighboring property; as to debris falling on the Government property, they do not know at this time, but that will be handled by experts. Major Kinney also asked if the owners of this property would cooperate with the offices of the military reservation in that they would be notified of the times when blasting would take place in order that they may make necessary adjustments in their plans.

As to the blasting affecting the storage of any materials on the reservation, Colonel Ingram thought there was no danger - he did think the flying debris would cause them some concern.

Mr. Schumann asked Colonel Ingram to make a statement as to the affect of these operations on the water supply at Fort Belvoir.

Colonel Ingram said he did not know just what the operators of this project have planned. As to sewage - if they plan pit latrines - they would not object. However, if a great amount of mud and silt goes into the stream the filtration would be difficult. They would like to know what the applicant plans both with regard to sewage and pollution of the stream. It is important to them, Colonel Ingram continued, that the Accotink not be contaminated any more than it is at present, as their intake is below this quarry property.

Mr. William Scott, from VEPCO, stated that his company is in something of the same situation as Mr. Tolbert, they do not object to the use of the land as such, but they would like to have certain assurances. There are several power lines across this property (one to Fort Belvoir), Mr. Scott noted, which probably could be relocated without much difficulty - but their main concern is the transmission line to the east, which is their main supply line to Northern Virginia. Should they have to move that double circuit line it would mean a black-out in Northern Virginia. However, their ex-

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NEW CASES (continued)

perience with blasting operations has/both good and bad, Mr. Scott continued - it has depended upon the individual operator.

Mr. Cornell from the Petersburg office of VEPCO was also present. He located the transmission tower on the map and noted that this transmission line is 75 feet back from the easement. It is most important, Mr. Cornell went on, that every effort be made to protect these lines. A break in the service caused by blasting would result in many hours of interrupted service. These are heavy conductors which take specialized crews to handle and restoration of broken service could take from six to eight hours. Mr. Cornell continued - therefore the VEPCO people feel that they must have assurance that there will be no damage to their lines. These lines are aluminum and are easily damaged.

Doctor Thorne, from the Upper Pohick Community League, stated that his house is the nearest residence to these operations, about 2/3 mile from the nearest point of this property.

This property is bounded by the Shirley Highway, Dr. Thorne told the Board. It also runs to the telephone lines - with nothing between the operations and these lines - which he thought dangerous.

At what level will the land be left, Dr. Thorne asked, and what will be done with the land? This property is the next commercial area at the Shirley to be built upon, Dr. Thorne continued, these operations would eliminate this property from commercial development. This situation should be taken into consideration and, it is possible - is it not - Dr. Thorne asked, that these operations might be extended?

Mr. V. W. Smith answered that the Board could grant this for a period of one, two or three years - and only the 45 acres would be involved in the approval.

He had moved to this area, Dr. Thorne continued, not knowing that the possibility existed of the establishment of a rock quarry. If they take rock to a depth of 30 feet - is it worth it, Dr. Thorne asked - if there happens to be 600 feet of rock available?

This land is near a residential area - it could be dangerous to children who might wander off into this excavated area, Dr. Thorne continued. Also Dr. Thorne thought the dumping of sewage on the land should not be allowed. That, Mr. V. W. Smith stated, would be controlled by the Health Department. Dr. Thorne said he concurred in the list of requirements suggested by the Upper Pohick League, which list Mr. Loren Thompson would present later. Living near operations of this kind is very unpleasant, Dr. Thorne continued, the explosions could damage homes to a considerable degree. He noted that discharges from Belvoir where they use only 25 pound discharges have caused considerable trouble in that area.

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NEW CASES (continued)

4-Ctd. Dr. Thorne said he would like the Board to accept the limitations suggested in the letter to be presented by Mr. Thompson. This would still not make this an ideal situation, but at least if these limitations are placed upon the operations they would interfere less with the residential areas.

Mr. Loren Thompson, President of the Upper Pohick Community League read the following statement adopted by the League at their meeting of Jan. 2nd.

"January 14, 1958

Board of Zoning Appeals  
County of Fairfax  
Fairfax, Virginia

Gentlemen:

The Upper Pohick Community strongly urges that the following requirements be made conditions precedent to granting of any use permit for stone quarrying and crushing operations on 45 acres of the Irwin Siegel property off Rt. 790 near the Belvoir overpass of the Shirley Highway:

1. Said use permit be for a term not longer than three years, subject to re-evaluation of the then-existing conditions in the event of application for renewal.
2. That all operations be conducted in a manner to assure the safety and well-being of surrounding property without physical or economic depreciation of such properties.
3. That quarrying and related operations be conducted only during normal working hours six days a week and not on Sunday or at night.
4. Blasting operations to be undertaken only at a set time, preceded by a suitable air whistle or other warning device, and strictly regulated as to size and placing of charges, with minimal blast and tremor effect.
5. That primary blasting only be permitted, with weighted ball and crane reduction of rock size following blasting.
6. Strict control of dust resulting from the crushing operation.
7. Restoration of the tract following quarrying operations to greatest natural state possible, including filling of the area of operations.
8. Self-policing by the quarry operators in the matter of loading trucks only to their permitted gross weights and body capacities to insure safety of roadway users in the vicinity of ingress and egress particularly, but in the interests of the general welfare elsewhere as well.

Should these recommendations be unacceptable for any reason, it is strongly urged that granting of the use permit be deferred pending further discussion between the applicants, the Zoning Appeals Board, other appropriate County Agencies, and the general public.

Respectfully,

UPPER POHICK COMMUNITY LEAGUE

/s/ Loren L. Thompson  
President"

If the charges used in this area are to exceed in intensity those used on the Government Engineering Improvement grounds, they would be most objectionable, Mr. Thompson told the Board. Blasting on the U. S. Government property has been most disturbing.

There are many things in the letter which cannot be controlled by this Board. Mr. V. W. Smith told Mr. Thompson, but the Board is very conscious of these things.

NEW CASES - Ctd.

4-Ctd.

The assurance must come from the operators, Mr. Thompson stated, and if the operations are granted for a short period - less than three years - then if conditions have not been met - further operations could be denied.

They have investigated the operations of the rock quarry at Occoquan, Mr. Thompson informed the Board, and have found that people in the area are strongly against the plant - the dust problem is terrific, the noise, and flying rock have upset the whole community.

Mr. Frank Lee told the Board that the Army's operations since the war have become obnoxious - windows and china in homes near the reservation have been broken and houses have been dangerously shaken. Because of the low point in the Creek, Mr. Lee asked, will the culvert carry off the water? That has not been specified by the applicant - if flood water will be taken care of. If the stream is changed it would affect his property, Mr. Lee continued, as he adjoins the proposed quarry area. Mr. Lee also thought the distance between the access road and the Shirley Highway was not sufficient for safety purposes.

These operations will go down 40 or 50 feet, Mr. Lee continued, and there should be some way of adequately carrying off the surplus water from the operations.

Mr. Schumann said that there are two considerations which are of prime importance in this case - the condition in which the property is to be left, and drainage. Mr. Schumann quoted from the Ordinance:

- "1. All banks shall be left with a slope no greater than 2:1.....
2. Sufficient drainage shall be provided so as to prevent water pockets or undue erosion,
3. Grading and drainage shall be such that both natural and storm water leaves the entire property at the original, natural drainage points which existed as shown by field topo map submitted to the Board....and that the area draining to any one such point is not increased....."

This will not be according to the plans, Mr. Schumann continued. As to the drainage, Mr. Schumann pointed to various paragraphs in Mr. Rasmussen's letter which could not be met.

As to the affect of this use on future development in this area, Mr. Schumann said he could not predict - but that he felt the Board should consider that. The Board looks beyond today in the granting of such uses, Mr. Schumann continued, and in consideration of future development of the County toward sewer lines - it would appear logical, Mr. Schumann went on, that the next water shed which will have sewers will be Accotink and Pohick. This property is adjacent to Accotink - therefore this may have some affect on the future development of this area.

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January 14, 1970

## NEW CASES - Ctd.

4-Ctd. Mr. Schumann called attention to the fact that Mr. Tolbert of the Highway Department had stated that his department would like assurances that the Shirley Highway will not be affected and VEPCO is apprehensive of these operations.....

This amendment to the Ordinance (which has been referred to regarding rock quarries) was written to take care of gravel excavation, Mr. Clarke told the Board - rather than stone. The 2:1 slope cannot be maintained. As to dust control and control over flying debris - if there is any way to control that - it would have been done in other places. The Shirley Highway can be protected only by stopping traffic.

Mr. DiGuilian stated that it would be impossible to live with some of Mr. Rasmussen's recommendations. All of the over-burden will be used in filling the excavated area. Mr. DiGuilian asked the Board to consider the overall picture - the taxes to the County and the ultimate use. However - as to conditions listed in both Mr. Thompson's and Mr. Rasmussen's letters - they could not comply. Mr. DiGuilian noted, however, that no such conditions were placed upon the granting of the Occoquan plant.

There are many imponderables in this case, Mrs. Henderson noted, the operations are near the Shirley Highway and the power lines, and it would appear difficult for the applicant to give assurances that there would be no damage caused from dust or flying rock - therefore, Mrs. Henderson moved to deny the case as not being a proper place for this kind of operation.

Seconded, Mr. T. Barnes.

Carried, unanimously.

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5- 7 - ELEVEN STORES, INC., to permit erection of a store within 14 feet of side property line, south side Rt. 644, 7 feet east of junction with Hanover Av., Mason District. (Rural Business).

Mr. David Carpenter represented the applicant. The side setback of this property is 20 feet, Mr. Carpenter told the Board - since it borders a residential zoning with a 20 foot required setback. They are asking a 6 ft. variance. There have been no objections from the people owning this adjoining property - their house sets 25 feet from the property line. Between these two lots is a 10 foot outlet road, Mr. Carpenter noted, and if this road is vacated another 5 ft. would come to this property. They are asking this, Mr. Carpenter continued, in order to put on the property their standard size store. This store at the standard size will gross approximately \$25,000 per month - but if they must cut off 6 ft. it would cut down the volume of gross receipts by 25%. One of the gondolas would have to be taken off, which would include the cosmetics, frozen food and they would lose some shelving. This cut would give them 156 sq. ft. of selling space which to a small store of this kind is very important. Mr. Carpenter insisted that the intent of the Ordinance would be carried and this would not adversely affect the neighborhood.

NEW CASES - Ctd.

5-Ctd.

It was noted that this 10 ft. outlet road would not likely be vacated as it provides the only access to people in the rear.

Mr. Mooreland noted that this is an old spot of zoning.

There were no objections from the area.

The following letter from the Springfield Civic Association was read:

"6603 Floyd Avenue  
January 12, 1958

Chairman  
Board of Zoning Appeals  
Fairfax County  
Fairfax, Virginia

Honorable Board:

I refer to a petition filed by or on behalf of the Seven-Eleven Store to be heard by the Board on Tuesday, January 14. This petition concerns a plot of land, zoned rural business, located on Keene Mill Rd. near the intersection of Keene Mill by Hanover Ave. in Springfield, Virginia. It is my understanding that the lands adjacent to either side of the subject rural business plot are zoned for one acre residential use and that any structure to be built on the subject rural business plot must be limited under the zoning code by a twenty foot setback from the property lines of this plot and the adjacent lands. The petition on behalf of the Seven-Eleven Store requests the Board to grant an exception under the code, thereby permitting the contemplated business structure to be built with only a 14 ft. setback instead of the required twenty feet.

This petition was discussed at the last meeting of the Executive Committee of the Springfield Civic Association. By resolution, the Executive Committee requests that the Board deny this petition. For your consideration in acting favorably on this request for denial the following factors are offered for your review:

- 1) If the twenty foot setback requirement is not maintained, not only will the residential value of the adjacent lands suffer, but the residential value of properties on Hanover Ave. and in Monticello Forest will be adversely affected.
- 2) In other cases before the Board involving requests by residents in the Hanover Ave. area for exceptions to the zoning code to permit the enclosing of carports without conforming to property line setbacks the Board has consistently denied such petitions on the grounds that the exceptions would decrease values and bring about unesthetic differences in properties.
- 3) Under current planning we understand that Keene Mill Rd. will be used as the main boulevard thoroughfare to West Springfield, which is the next residential development planned in this area. The exception, if granted, will therefore tend to stimulate requests for unattractive spot and strip zoning along this future boulevard. In view of the admirable shopping facilities and future business areas available in the Lynch and Carr Shopping Centers expansion of facilities or permission for larger stores along Keene Mill Rd. is undesirable.
- 4) The present area in question was improperly zoned rural business before all factors relating to the development of Springfield were known and before proper zoning and planning requirements for the County of Fairfax were initiated. Although the Planning Commission has recommended that there be no 'rollback' of any spot zoned areas, it is our opinion that good County management requires that such spot zoned areas be kept from developing any other expansions therein or adjacent thereto.

We trust that the above factors will assist the Board in reaching a proper decision in this case, to the mutual satisfaction of all concerned.

Sincerely yours,

/s/ Tom L. Davis  
First Vice President  
Chairman, Planning and County Affairs  
Springfield Civic Association, Inc."

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## NEW CASES - Ctd.

5-Ctd. In their planning of this store - they are trying to develop in keeping with the community, Mr. Carpenter told the Board; they have purposely located the building far back on the property so if and when it becomes necessary to dedicate the 40 or 50 feet for highway right of way - they can do so.

Mr. Mooreland questioned the fact that a letter was received from the Citizens Association without some one to support that letter. Could it be, Mr. Mooreland asked that this letter is representing only one member of the Association? He thought the letter presented should have no weight with the Board.

Mr. Mooreland said a Mr. Shindell from this area had asked if the store would sell beer. He had had no other complaints.

This company has a standard size store, Mrs. Henderson noted - she prophesied that Mr. Kinder would soon be before the Board asking for a sign variance - as they want the same type of signs on all their stores. That would mean two variances on this one piece of property. Since the lot is obviously too small for their standard store, Mrs. Henderson suggested that the applicant should have considered that rather than ask for the variance. She moved to deny the case.

Seconded, Mr. T. Barnes.

Mrs. Henderson withdrew her remarks about the sign - but stated that she felt that the Board was not justified in granting this when the lot is too small for the building, and any hardship created is not due to the Ordinance.

For the motion: Mrs. Henderson, Messrs. Barnes and J. B. Smith

Mr. V. W. Smith refrained from voting.

Motion carried to deny.

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6- DR. E. L. PHILLIPS, to permit operation of a private school and a summer day camp in a non-conforming residence, north side Route 123, approximately 300 feet east of Oakcrest Subdivision. (Agriculture).

Dr. Phillips said he wished to start with a summer day camp and if that is satisfactory he would expand into a private school which would be in operation throughout the year. This is a five acre tract with a frontage of 252 feet on Rt. 123, and running to a depth of 864 feet. The dwelling which would be used is about 47 feet from the highway. The plan for the summer day camp would be to center activities around the dwelling and the smaller frame building to the rear of the house. There is also a barn on the property, Dr. Phillips continued, which could - in time - be renovated and used for some purposes related to the project.

It is impossible to estimate how many children they will have, Dr. Phillips explained, as he does not know how many in the area would be interested in this type of school - but he would plan on from 15 to 30.

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NEW CASES - Ctd.

6-Ctd.

This is a specialized type of school, the Doctor continued, for exceptional (handicapped) children, and there are very few facilities in Northern Virginia for this type of children.

Dr. Phillips presented two letters in support of his project: One from Mrs Helen Hunt, Supervisor of Special Education, Fairfax County, in which she stated, "I have recently found out that you are contemplating beginning a summer camp program for handicapped children in Northern Virginia area. I feel strongly that this is one facility that is needed in this area because to my knowledge no such facility exists. If I can be of service in helping you in planning, please feel free to contact me. I extend to you my best wishes for success in such a worthwhile endeavor....". The other: from Norris G. Haring, Coordinator Services for Exceptional Children, Arlington County Schools - "In my capacity as Coordinator of Services for Exceptional Children, I get numerous calls from parents of handicapped children who are searching for summer camp and/or recreational facilities. Such facilities for these children in the Northern Virginia Area during the summer are almost non-existent. When I learned that Dr. Phillips was considering organizing a summer activity program for children with physical and mental handicaps, I was very pleased. I can not over-emphasize the urgent need that we have in this area for a summer program which will provide interesting learning and physical activities for handicapped children. Having worked closely with Doctor Phillips over the past two years I have gained a high regard for his ability to work with children. I know that a program which he would organize would be a very valuable service to the people of this Community. I very heartily endorse this action and sincerely hope that the necessary re-zoning will be granted so that we can have this additional very important facility....."

The children will not be allowed to run rampant around the area, Dr. Phillips told the Board - all activities will be closely supervised and kept within a radius near the house. This will not adversely affect the neighborhood, Dr. Phillips continued, as the project would be located on a large area and there are already two other schools in the immediate area - Flint Hill and the Cardinal school - both on Rt. #123.

Mr. J. W. Lane appeared in opposition. Mr. Lane told the Board that he has five acres immediately adjoining this property on the west. According to his information, Mr. Lane stated that Dr. Phillips is a psychologist and is primarily interested in mentally disturbed children. It would not appear, Mr. Lane went on, that this is the proper place for such an institution. The facilities to be used would be within 100 feet of his home. Children with mental disturbances are naturally separated from normal children, Mr. Lane observed, and a school located here in the midst of an area where there are normal children, would defeat the purpose of the school. There

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January 14, 1958

NEW CASES - Ctd.

6-Ctd.

most certainly is a need for facilities of this type in the Northern Virginia area - and such a program should be very profitable. In that case - the place would grow - the number of children and the buildings would necessarily be expanded. This could grow out of bounds - into a tail wagging the dog proposition.

They have no way of knowing if the facilities necessary for this program will be provided, Mr. Lane continued, the dwelling is not in good condition and the barn has long been inadequate to house a car. It is questionable, therefore, if it could be renovated - as Dr. Phillips suggested.

This could run into a very expensive operation, Mr. Lane advised the Board, it will certainly require a considerable amount of State control and supervision. They should have a psychiatrist attached to the school and a specialized personnel, which would be expensive. Mr. Lane said he did not know how far Dr. Phillips had progressed with his plans but he thought more time should be given to a project of this nature.

Also, Mr. Lane suggested that this use could have an adverse affect upon real estate values. The others in the area did not appear to actively object, Mr. Lane continued, but he felt that many people did not know what type of school this is planned to be - and some of them had probably looked forward to sending their own children. In the discussion of this project the term "exceptional children" was used, and Mr. Lane said he thought that that description of the children expected to attend the school had been very misleading. The people simply thought this was another private school which would not particularly hurt the neighborhood, and it might prove a service to the community.

Dr. Phillips explained that the term "exceptional children" is one used professionally to indicate children of a type - not usual. There was no thought in his mind of misleading people as to the type of children he would expect to have in the school.

They do not know, Dr. Phillips explained, just what type of children they will have yet - the response from the community will determine that, but services like this cover all types of children. In Arlington they are running classes for two groups. These children do not take a great many facilities nor an elaborate program. They are prepared to carry this through on a professional level, Dr. Phillips assured the Board. They have no doubt of their ability to furnish all personnel and facilities necessary. In the beginning, Mr. Lane had indicated that he had thought of opening some kind of school himself on his five acres, Dr. Phillips told the Board, and in his opinion Mr. Lane's opposition is a personal reaction - it is not a considered one.

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NEW CASES - Ctd.

6-Ctd.

The property will be fenced, they have a good well, and the sewer system (septic) was passed on by the County last year. This is a two story house with three toilets, therefore the septic field would appear to be adequate however, Dr. Phillips assured the Board - the field would be enlarged if the Health Department says it is necessary.

While they are including the entire 5 acres in the application, the activities will be centered toward the front. They will not subdivide nor sell off any part of the land.

As to the number of children, Dr. Phillips assured the Board that he would not take more than he could handle adequately - professional limitations would control that.

Mrs. Henderson suggested that this could be a full time job for the Doctor. Dr. Phillips said he would supervise the camp and school during the day but naturally he could not put all his time on it - however, the question of his time would depend upon the growth of the school. Under any circumstances, the school would be under constant supervision. There would be a counselor for every 15 or 16 children. While he would not live in the house, Doctor Phillips continued, someone would - one who would be in charge all the time. Mrs. Henderson said she would like to see the property (other Board members agreed), therefore, Mrs. Henderson moved to defer the case to view the property and the surrounding area - deferred to January 28th.

Seconded, Mr. J. B. Smith

Carried, unanimously

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ESSO STANDARD OIL COMPANY, to permit erection and operation of a service station and to permit pump islands within 25 feet of the street right of way lines, N. E. corner of Lee Highway and Route #650, Dunn Loring Road, Providence District. (Rural Business).

Mr. Millsap represented the applicant. Mr. Millsap located the property as being at the northeast intersection of Lee Highway and Dunn Loring Rd. There is a two story house on the property which is vacant now, Mr. Millsap pointed out. The last use made of this property was a nursery and garden supply business. This will be a two bay station - modern in every respect. They are also purchasing 100,000 sq. ft. of ground from Mr. Dulan at the rear of this corner property. All property owners in the area have been notified of this request. Mr. Millsap detailed the types and locations of business in the immediate area - showing that this request is not out of keeping with existing business uses.

There were no objections from the area.

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January 14, 1958

NEW CASES - Ctd.

7-Ctd.

Mr. Hannawalt, Engineer from Esso, was also present.

It was noted that Lee Highway has a 66 foot right of way at this point, and Dunn Loring Road (Gallows Road) has a 30 ft. right of way.

Mr. V. W. Smith thought the pump islands should be 35 feet back from Rt. 650 (Dunn Loring Rd.). Mr. Millsap agreed - assuming that the Highway Department would take 10 feet from each side of the road.

It was then suggested that the setback be required from whatever the new right of way may be on Dunn Loring Road. That, Mr. Mooreland explained, would not be practical since the applicant would necessarily have to indicate on his plat a definite setback from a definite right of way line in order to get his permit.

Mrs. Henderson moved to grant the application for a 25 foot setback from Rt. #29-211 (Lee Highway) and a 35 foot setback from the present right of way of Rt. #650. This is granted in accordance with the plat prepared by Mr. H. L. Courson, Certified Land Surveyor, dated December 21, 1957, as it conforms to the provisions of Section 6-16 of the Ordinance.

Seconded, Mr. T. Barnes

Carried, unanimously.

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8- CITIES SERVICE OIL COMPANY, to permit erection of one sign on building with larger area than allowed by the ordinance, on south side of Columbia Pike, Route 244, 900 feet west of Evergreen Lane, adjacent to Harris' Plumbing Shop, Mason District. (General Business).

Mr. Minton from Jack Stone Sign Company, represented the applicant.

The new trend in signs now, especially for service stations, is to put an attractively designed sign on the building - one that is architecturally in keeping with the building, Mr. Minton explained. In this way a fairly large sign could be erected which is far less objectionable than a large sign on poles. In this case they plan the sign on the building and a small "bow tie" sign free-standing on a pole near the corner of the property.

It was noted that no drawings of the proposed sign showing dimensions and location of the sign were submitted with the case.

Mr. T. Barnes moved to defer the case until January 28th, for proper plats which would indicate the size of the signs and show their location on the property.

Seconded, J. B. Smith

Carried, unanimously.

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January 14, 1958

Mr. Mooreland read a letter from VEPCO, dated December 27, 1957, stating that the Virginia Department of Highways had acquired a strip of land along the front of their property on Rt. 236. Their building now on the property maintains the required setback from Rt. 236. They wish to put an addition on to their building which addition and building will naturally be in violation of the required setback after the Highway Department takes additional right of way.

If they could put on this addition and maintain the same setback as the present building, it would be all right. But if they are required to move the present building and their equipment back to conform to the new setback, which would be created by the additional right of way, in order to put on the addition, it would be very expensive for the Highway Department, and a great deal of trouble to the Company. Mr. Mooreland showed a plat of the buildings and equipment on the property. It would cost the Highway Department more to move the VEPCO equipment than to purchase the property, Mr. Mooreland noted. VEPCO has asked - may they maintain the same setback on their new construction, or must they move their structures back - or must they come before the Board of Zoning Appeals? Mr. Mooreland said he had replied to VEPCO that this would be brought to the Board.

Mr. V. W. Smith asked Mr. Mooreland if he thought this power company should be treated differently from a single home owner?

Mr. Mooreland said he was asking for an interpretation from the Board.

No action was taken.

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The meeting adjourned

*(Verlin W. Smith, Chairman)*

Verlin W. Smith, Chairman

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The regular meeting of the Fairfax County Board of Zoning Appeals was held Tuesday, January 28, 1958 at 10 o'clock a.m. in the Board Room of the Fairfax County Courthouse, with all members present except Mr. Verlin W. Smith. Mr. A. Slater Lamond, Vice Chairman, took the Chair.

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The meeting was opened with a prayer by Mr. J. B. Smith

DEFERRED CASE:

- 1- JAMES C. ROBERTS, JR., to permit conversion of existing carport to recreation room within 12 feet of the side property line, Lot 153, Section 2, Loidale Estates, (7713 Layton Drive), Lee District. (Suburban Residence).

This case had been withdrawn by the applicant, therefore, the Board heard Mr. Raymond Waple, who had asked for time on the agenda.

RAYMOND WAPLE.

Mr. Waple said he had come before the Board for a strange reason, recalling his application which came before the Board on October 8th requesting a recreational area on his property. The Board had granted that use. A considerable amount of opposition to the use has been generated, Mr. Waple told the Board - mostly from a group in Fairfax Farms. The Citizens Association in his area and the people in Fairfax Farms have been quarreling among themselves over this - some are strongly in favor of the recreation area and others are against it. He has been beseeched with phone calls from both sides. A case has been filed in Court. Rather than cause so much dissention in the community, and to drag this through the Courts, and through the appeal -

Mr. Waple said he planned now to give up the idea of going ahead with his plans. He had been completely sincere in wanting to do something for the children of the County - he would like to contribute - in some way - to solve the juvenile delinquency problem among the young people and he had thought this recreational area might help. However, rather than to carry it farther he would give up the entire plan, in the hope that it would work for more harmony in the neighborhood. He came here, Mr. Waple continued, to ask the Board's advice on how he could best drop this case legally - so people in the area will know that he cannot come back and ask for a permit on this application. He would like to have the permit cancelled.

Mr. Mooreland suggested that it would be proper for the Board to accept Mr. Waple's request and to withdraw permission for him to go ahead with the application as granted on October 8th, 1957.

Mr. T. Barnes moved that Mr. Waple's request for withdrawal of his application for a recreation center, which was granted by this Board on October 8, 1957, be accepted by this Board and that it be so entered in the minutes.

Seconded, J. B. Smith

Carried, unanimously

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NEW CASES:

1- THE JACK STONE CO., INC., to permit erection of nine signs with larger area than allowed by the Ordinance, (total area 770 sq. ft.) on north side of Edsall Road, Route 648, opposite Bren Mar Park, Lee Dist. (General Business). Mr. Mooreland told the Board that Mr. Stone had called saying that he would be at least 15 minutes late, and requested that his case be put over until later in the day. The Board agreed to take this up at the end of the agenda.

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2- CRESTWOOD CONSTRUCTION CO., to permit dwellings to remain as built, Lot 128 Block 24, Section 3, Edsall Park, 12.2 feet from side property line and Lot 29, Block 24, Section 3, Edsall Park, 37.7 feet and 39 feet from Street property lines, Mason District. (Suburban Residence Class II).

Mr. Carl Hellwig represented the applicant.

Mr. Hellwig recalled to the Board that Crestwood Construction Company has built something over 500 houses, and only these two errors have occurred - in Edsall Park.

Mr. Hellwig showed how these two lots lay on the plats - Lot 129 being a corner lot, with Lot 128 adjoining to the south. In laying out these lots they came down the back line of the lots and staked the houses - a sufficient distance apart - but the house on Lot 128 too close to the line. There is little that can be done about Lot 129, Mr. Hellwig continued, as it is too close to the streets. However, Lot 128 can be re-subdivided to make the side line conform. The Only question is that both houses are sold and the contract owners do not particularly like the idea of changing the line between these two lots. (Since there is sufficient room between houses, the lot line between the two lots could be shifted a little to make Lot 128 conform, and would not cause a violation on Lot 129).

The contract owner on Lot 129 wants the land he now has, and the owner on Lot 128 does not care for the addition to his lot, but, Mr. Hellwig continued, technically the situation can be cleared up without the variance.

Mr. Hellwig noted that there are approximately 34 feet between houses, which puts the buildings farther apart than required.

Mr. Hellwig noted that on the corner lot the house jogs a distance of about 3 feet, which assures that there is no violation of the site distance.

Since the lot line can be changed on Lot 128, so as not to require the variance, Mrs. Henderson thought that should be done. Mrs. Henderson noted that the one house would require two variances - setback from both streets. Before the variance on Lot 128 is denied, Mr. Hellwig said, he would like to withdraw that request and fix the lot line.

Therefore, Mrs. Henderson moved that <sup>the requested variance</sup> Lot 128 be withdrawn and that the two lots (128 and 129) be re-subdivided so the setback on Lot 128 will conform  
Seconded, J. B. Smith

Carried, unanimously

## NEW CASES - Ctd.

2-Ctd. Mr. T. Barnes moved that the variances on Lot 129 be granted as this is a corner lot and it is shown that the violation does not adversely affect the vision around the corner on either street. This is granted as per plats prepared by Herman L. Courson, Certified Land Surveyor, dated Jan. 8, 1958.

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Seconded, J. B. Smith

Carried, unanimously.

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WILLIAM ORR, to permit renewal of variance granted 22 January 1957, to park trailer occupied by an employee, on east side Route 611 opposite junction with Route 635, Lee District. (Rural Residence Class II).

Mr. Orr recalled that this trailer is located 800 feet from Telegraph Road and 600 feet from the side property line. This was granted when he came before the Board last year, Mr. Orr went on, for a temporary trailer-living quarters for a man to look after his cattle and property. This is a renewal of that permit.

The motion as granted to Mr. Orr on January 22, 1957 read as follows: " Mr. J. B. Smith moved to grant the application for use of a trailer as a temporary living quarters for an individual attending the cattle on this property - permit to be granted for a period of 12 months, and also for this person to stand watch over the barn-building which is located on the property."

Mr. V. W. Smith suggested that the following be added for reference in case of possible future Court proceedings; "That this is an extraordinary and exceptional situation where a man has 175 acres of land and it is proposed to locate the trailer 600 feet from the closest side property line and 800 feet from the closest road. It is noted that this particular applicant has contributed a substantial amount of money to the service of the County by bringing the sewer line up to this property for future development of the area. This application shall be granted in accordance with plat submitted by the applicant, plat prepared by R. F. Kursch, Certified Land Surveyor, dated April 21, 1953 whereon the trailer is located as indicated above (800 feet from the roadway and 600 feet from the closest side line). This is granted because of the temporary nature of the trailer."

Mr. J. B. Smith accepted this addition to the motion.

Also, the following letter dated December 17, 1957, from Mr. W. T. Mooreland to Mr. Orr was read:

"Your permission to have a trailer to be occupied by an employee on property located on east side of Route 611 opposite junction of Route 635 expires midnite 21 January, 1958.

It has been called to my attention that you have two trailers parked on the property, but have the gate locked so no one can enter.

Should trailer be there 22 January, 1958 this office will be forced to take such steps as necessary to enforce the Ordinance..."

NEW CASES - Ctd.

3-Ctd.

Mr. Lamond recalled that the motion grants only the one trailer. How did the second trailer get there, he asked?

Before starting his explanation of the situation, Mr. Orr said he would like to commend the Board on its efficiency and understanding in handling the cases coming before it.

When he came before this Board a year ago, Mr. Orr stated, he told the Board at that time that there would be two trailers on the property. He explained, Mr. Orr continued, that this is a large piece of property all to itself and it would not be reasonable to leave one woman there alone in the trailer all day. Therefore, in order to keep this woman company, and for her protection, he had allowed the second trailer to move in. This woman has two small children and with the robberies and assaults going on in the County, Mr. Orr said, he did not think it safe for any woman to be left in this isolated spot entirely by herself. He had made these statements before the Board, Mr. Orr insisted, and he was not told to remove the second trailer. Had the Board told him they would not allow the second trailer he most certainly would have had it removed. But he felt that it was his and the County's responsibility if this woman was left there alone. He was not present when the final motion was passed on this case last year - and did not know if this was discussed at that time - but he had never been informed that the second trailer must be removed.

Mrs. Henderson stated that she had no recollection of the second trailer having been mentioned.

Mr. Orr insisted that he did mention the second trailer. The first trailer which was granted by the Board, is occupied by the caretaker and his wife and two small children. The second trailer is occupied by a woman and her husband. This trailer was put there solely for the purpose of keeping the caretaker's wife company. The trailers are located close to each other so the women have company and protection for themselves and the small children. This, Mr. Orr said, he considered necessary. He could not put a woman with small children out on this property by herself.

That may be true, Mrs. Henderson stated, but if these people need protection they should be in a trailer park, as provided by law.

This case was granted for one trailer for one year, Mrs. Henderson recalled, because Mr. Orr expected to develop this land at the end of the year.

Mr. Orr agreed, but stated that conditions being what they are at this time, it would be very impractical to develop this land now. If conditions improve, he most certainly will develop the land, but in the meantime, he has this cattle on the property which his insurance dictates must be looked after. He expects to continue raising cattle until such time as the economic situation favors development. He has already put in a sizable amount of money in bringing the sewer lines to this area and those lines have been

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NEW CASES - Ctd.

3-Ctd.

donated to the County. If others would do as much the County would not be so badly in debt.

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This is an old farm, Mr. Orr continued, he has insurance which the company will cancel if no one is living on the place and is responsible for the cattle.

The wife of the caretaker has this friend who was willing to live there to keep her company - Mr. Orr said he could see no harm in allowing the second trailer.

He has 250 head of cattle, Mr. Orr continued, and it takes the full time of one man to keep watch, and assure that the cattle are not stolen. It would be an extreme hardship not to have this protection - and therefore the insurance.

This hardship is not the fault of the Ordinance, Mrs. Henderson pointed out. A small house could be built for the caretaker which would meet the requirements of the Ordinance. The wording of the Ordinance, Mrs. Henderson continued, does not create the hardship.

This Board is set up to relieve hardship, Mr. Orr insisted, the Board understands his hardship - there is nothing in the Ordinance to prevent the granting of this relief. There is one trailer on the property which was not mentioned in the permit, but it was stated at the first hearing, Mr. Orr again contended, that the second trailer did exist. He had told the Board why he wanted the second trailer, and he had offered to get rid of it if the Board so desired. The Board said nothing about the second trailer - so he left it there.

Not one of the Board members could recall any mention of the second trailer on the property at the previous hearing.

Mr. Orr also said he did not lock the gate - as stated in Mr. Mooreland's letter.

Mr. Mooreland said he had been told the two trailers were on the property, and as a result of this information he went to Mr. Orr's property in December 1957 - between the 1st and the 17th - and the gate was locked at that time. This is not true, Mr. Orr answered, that gate was not locked. It has not been locked since about April of last year. He could prove that, Mr. Orr continued, and he considered that statement to be a misrepresentation.

Mr. Orr located the second trailer on the plat - which was not shown on the plats as presented. The insurance company have told him that they would cancel his insurance if he does not have the caretaker on the property full time. He has a grace period now for these few days beyond the year expiration date.

Mr. Orr recalled that when he first asked for this permit, Mr. Brookfield asked what he (Mr. Orr) would do if at the end of the year he found he could not develop the property. Mr. Orr said he had stated at that time that in such a case, he would be back to the Board for an extension.

NEW CASES - Ctd.

3-Ctd.

Mr. Lamond noted that the Trailer Park Ordinance had been adopted since the granting of this permit to Mr. Orr. Mr. Lamond quoted the definition of a trailer...."Any vehicle or conveyance designed to be towed or towed on a highway and so constructed as to permit residential or sleeping occupancy of any self-propelled vehicle or conveyance designed for use or used on a highway and so constructed as to permit residential occupancy." This case was granted, Mr. Lamond stated, pending the adoption of the Trailer Park Ordinance. That Ordinance has now been adopted, and the trailer is in violation.

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It was also noted that a trailer park must be in a business zone. This property is not zoned correctly for it to be considered on the basis of the Ordinance, Mrs. Henderson noted.

Mr. Lamond quoted from Section D-3 of the Trailer Park Ordinance.....

".....It shall be unlawful.....to rent, lease or to allow any trailer that is to be used as a dwelling or living quarters to be parked on the land under their supervision, unless it is a legal trailer park licensed by the County.."

Therefore, Mr. Lamond continued, this trailer would be in violation of the Ordinance. The question is, will the Board allow this extension for the people to occupy the trailer - on a temporary basis.

Mr. Orr stated that Mr. Barnes knows how important it is to him to have this extension, as his company holds the insurance and they will not continue the insurance unless the caretaker is on the property. They have threatened to cancel his insurance unless this man is there to assure watch over the cattle.

Mr. Barnes agreed that Mr. Graham held the insurance and the reason for Mr. Orr first applying for the permit for this caretaker was because the Company would not insure him without a caretaker permanently located on the property.

Mr. Orr had been advised by his company that the insurance would be cancelled unless this could be accomplished.

If, this is granted, Mr. Orr went on, and if after the year is out conditions are still such that he cannot develop the property, he will again apply for an extension. This is a large piece of property, Mr. Orr noted, and he felt that the County should show him some consideration because of the unusual situation.

A year ago when this was granted, Mrs. Henderson stated, the County had no Trailer Park Ordinance - now we have the new Ordinance, and in her opinion the Board must take that Ordinance into consideration. However, if this was considered in the light of the Ordinance, it would be practically impossible there would be so many variances to grant - the zoning of the land, trailer park license, there are no sanitary facilities as required in the Ordinance - the Board would be amending the Ordinance.

Mr. Orr agreed that he would get rid of the second trailer - the Board need consider only the one trailer.

January 28, 1970

NEW CASES - Ctd.

3-Ctd. Since it is illegal to allow a trailer to be occupied as a dwelling outside of a trailer park, this Board would sanction breaking the law if this is granted, Mrs. Henderson contended.

Mr. Lamond thought a granting could be based on a temporary situation.

However, Mr. Orr again stated that he would be back again at the end of the year if he does not develop the land. Mr. Orr again plead that he was stuck with this large piece of property, stocked with expensive cattle. He has lost many animals which have either been stolen or which have gotten out - he insisted that he is entitled to this consideration as a tax payer.

Mr. Barnes questioned the justification of the Board to grant this - since the new Trailer Park Ordinance is now in effect.

This is definitely discriminatory, Mrs. Henderson insisted, this is the only case of this kind that the Board has allowed, and it was the understanding that it was the only one they would allow in the future - that was before the County had the Ordinance. The Zoning Office has been making a tremendous effort to rid the County of illegal trailers, Mrs. Henderson noted, and it would appear that that office should be upheld by this Board.

Mr. Lamond asked Mr. Orr if he would get rid of both trailers before this time next year. Mr. Orr answered - "no".

Mr. Lamond asked Mr. Orr if he would not build a temporary house for his caretaker to live in.

Mr. Orr told of having spent \$3500 on the Farr tract for a temporary house. When the property was developed that house could not be used in any way in the subdivision. The building was torn down - with a loss to him of the entire \$3500.00. This would be the same thing, Mr. Orr continued, if he put up a temporary building - it could never blend in with the subdivision development. However, Mr. Orr offered to under-pin the trailer to make it look more like a house - if that would satisfy the Board.

The Board could not allow that, Mr. Lamond answered, the only alternative would be to grant the temporary trailer permit. Mr. Lamond suggested that Mr. Orr buy one of the temporary buildings from Fort Belvoir, which could be moved for a very little amount and could easily be made livable for the caretaker. Mr. Orr did not comment on this.

Mr. Orr again discussed his extreme hardship and the Board's ability to relieve that hardship. This Board is a safety valve, Mr. Orr continued, set up to take care of citizens in the County if they are unduly restricted by the Ordinance. If this is not granted, Mr. Orr threatened, he would appeal and would take this up to the Supreme Court if necessary, as he has had good advice, Mr. Orr continued, that one is not required to take abuse beyond a certain point - but that the Courts will give relief.

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NEW CASES - Ctd.

3-Ctd.

This hardship is self-created, Mrs. Henderson contended - it is not created by the Ordinance nor by the Board. The hardship is actually caused by the fact that Mr. Orr does not want to spend \$3500 for a building. This Board is not in a position to relieve financial hardship, Mrs. Henderson stated. Mr. J. B. Smith moved that the permit be granted under the same resolution as that passed at the original hearing - granting the one year extension. (See Resolution quoted earlier in these minutes). It is also required that the applicant remove the second trailer which is now on the property, and that this granting be limited to the one trailer and it is understood that this trailer is granted on a strictly temporary basis.

Seconded, Mr. T. Barnes

For the motion: J. B. Smith, A. Slater Lamond, T. Barnes

Mrs. Henderson voted "no".

Motion carried.

Mr. Orr again insisted that the gate to this property was not locked after last April, and suggested that to confirm this the Board get in touch with the following people and ask them if a lock has been on the gate:

C. P. Tolbert, Sr. - and Jr.; J. L. Anderson; R. P. Schmitt; J. H. Boyd, Sr.

The addresses are on file in the records of this case.

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4-

DONALD A. HITT, to permit dwelling as erected to remain within 48 feet of the street property line, Lot 11, Lee Meadows, Providence District.

(Rural Residence Class II).

Mr. Donald Holford, Attorney, represented the applicant.

Mr. Hitt has asked for a deferral of his application until February 11, Mr. Holford told the Board. Mr. Hitt is an electrician who is now on a reduced work week. Since he is working today, Mr. Hitt has asked that this application be put over to come up with another case on Lot 9 which is scheduled for hearing on the 11th. The cases are similar and could very well be handled together.

Mrs. Henderson moved to defer the case until February 11, 1958 for discussion with Mr. Hitt at the time his other application is heard on Lot 9.

Seconded, J. B. Smith

Carried, unanimously.

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5-

SULGRAVE MANOR DEVELOPMENT CORP., to permit erection and operation of a community swimming pool with accessory structures thereto, proposed Lots 42 and 43, Section 2, Sulgrave Manor (on north side Route 624, 1400 feet east of Badger Drive), Mt. Vernon District. (Rural Residence Class I).

The applicant had asked that this be deferred until February 25, 1958.

Case deferred.

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January 28, 1958

NEW CASES - Ctd.

6-

REUBEN E. WOODALL, to permit carport to remain as erected with 4.3 ft. roof overhang and closer to Street property line than allowed by the Ordinance, Lot 1, Block 9, Section 3, Grass Ridge, (5804 Youngblood Street), Dranesville District. (Suburban Residence Class 2).

Mr. Vail Pischke represented the applicant.

<sup>is</sup>  
This request for a variance of 1' 4" on the roof overhang across the front of the carport, Mr. Pischke explained. All the neighbors have been advised of this violation, and as shown on the return letters of notification of this hearing all have indicated that they do not disapprove of this violation and they believe that any change in the carport roof would detract from the neighborhood. They urge the Board to grant the application.

This wide overhang was done without intent to evade the Ordinance, Mr. Pischke told the Board. It was aesthetically in keeping with the architecture of the building. The plans were approved by the building inspector's office but the plot plan shown to the zoning office did not show the deep overhang. Therefore, this was not caught before it was constructed.

Mr. Woodall showed pictures of his dwelling with the carport - indicating the overhang across the front. The plan of this type carport shows him when he bought the house did not show the roof overhang, Mr. Woodall told the Board, therefore, he did not think it necessary to show it when he presented his plot plan to the zoning office. He had thought that the main foundation of the house was the only setback that was questioned, Mr. Woodall continued. He noted that the overhang is on the carport only - that the main building conforms to requirements.

The Plans shown to Mr. Croy's office did indicate the overhang, Mr. Woodall said. He showed the Board the plans he had presented to the Building Inspector.

Mr. Pischke called attention to the fact that the neighbors not only do not object to this violation, but they would object to having the overhang cut back - to make it conform to requirements. However, Mrs. Henderson thought it would not destroy the attractiveness of the structure to cut the roof back by 1-1/4 feet. In fact cutting the carport roof back would be more in keeping with the house roof, Mrs. Henderson suggested.

This is a very small variance and the neighbors do not object, but rather they feel that it would be detrimental to the house and to the neighborhood to cut the roof back - therefore, Mr. T. Barnes moved to grant the application.

Seconded, J. B. Smith

For the motion: T. Barnes, J. B. Smith and A. S. Lamond

Against the motion: Mrs. Henderson.

Motion carried.

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DEFERRED CASES:

2- DOCTOR E. L. PHILLIPS, to permit operation of a private school and a summer day camp in a non-conforming residence, north side Route 123, approximately 300 feet east of Oakcrest Subdivision. (Agriculture).

Mr. Hertz, Attorney, represented the applicant.

Mr. Hertz gave a brief summary of the case as presented at the last hearing detailing what Dr. Phillips intends to do in his school and the extent of his operations - insofar as Dr. Phillips can predict.

The following letter was read - from Mrs. Beatrice B. Schalet of Windy Hill Farm, Vienna:

"January 27, 1958

Board of Zoning Appeals  
Fairfax County  
Fairfax, Va.

Gentlemen:

It has been brought to my attention that Dr. E. Lakin Phillips of Falls Church is planning the establishment of a school and summer camp for exceptional children on Route 123, between Vienna and Oakton. The property, I am informed, is composed of a house, barn and assorted buildings situated on not less than 5 acres of ground.

To my knowledge, there is no such facility in Fairfax County, or in northern Virginia. It would be difficult to name a more severely needed one.

It is my privilege to serve as trustee and vice-president of Linwood Children's Farm, located in Ellicott City, Maryland. This is a center for severely emotionally disturbed young children. Two children from Fairfax County commute daily to this Center, despite the fact that Linwood Children's Farm is 40 miles the other side of Washington. While it is true that the children are picked up by bus in Washington each morning, and returned at 4 every afternoon, the commuting problem for strained parents is strength and time consuming. Frequently children are denied help because parents have the responsibility of other young children or lack second cars for the twice-daily trip.

There are children in this area who could be returned to normal living if a facility such as Dr. Phillips is willing to undertake were available here. Without it, many such children will worsen and eventually suffer the tragedy of living out their days in the State's institutions.

Linwood Children's Farm, also on 5 acres, was welcomed in Ellicott City three years ago. Since then, a nearby development of homes in the \$20 to \$25 thousand dollar bracket has been built on one side of it, and sold without difficulty. It is a fact that the Devereaux Schools, an old and large treatment center and school, is situated in the midst of some of Philadelphia's finest suburban estates. Similar instances can be cited in northern New Jersey and northern Illinois.

I hope that the Board of Zoning Appeals will grant the needed zoning, and thus establish another constructive force which the community so acutely needs.

Sincerely yours,

/s/ (Mrs.) Beatrice B. Schalet"

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DEFERRED CASES - Ctd.

2-Ctd. Also the following letter from Mrs. Sylvia Goodkind was read:

"January 27, 1958

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Board of Zoning Appeals  
Fairfax, Virginia

Doctor Phillips has advised me that he would like to establish a day camp for exceptional children near Vienna. From what I know of Doctor Phillips, who is a person of excellent professional reputation, I would judge that any facility he would establish would be run on sound principles and would be adequately staffed by qualified personnel.

There is a lack of any kind of day camp facilities in this community for children who are different and who need special help. Doctor Phillips' plan should meet a real community need.

I am writing this as an individual and through my own knowledge of Doctor Phillips and not as a member of any organization with which I am affiliated.

/s/ Mrs. Sylvia Goodkind"

Mr. Lamond asked about approval of the building from the Fire Marshall and if Dr. Phillips would have sanitary facilities. The septic field and water supply were checked by the County last July, Mr. Hertz answered. The Doctor has estimated the cost of renovating the barn and will probably have that done. The house is in good condition, only a few minor repairs will be necessary. There are three toilets in the house and if the barn is used sanitary facilities will be put in. If the small building is used - that too could be put in shape with little difficulty.

All of these buildings must meet the requirements of both the Health Department and the Fire Marshall, Mr. Lamond cautioned. That can be done, Mr. Hertz answered.

Mr. Hertz again pointed out the need in the County for this type of school, and the fine work Dr. Phillips is planning with this school.

Mrs. Henderson moved to grant the application because under the terms of Section 6-12-f of the Ordinance, this will not adversely affect the use of neighboring property and it fits into the intent of the zoning map, and it is the opinion of the Board that Dr. Phillips is rendering a service badly needed in the County. Mrs. Henderson recalled that the Board had found it necessary to turn down a similar case because the proposed school was not located in the proper place. The Board recognizes that these buildings are non-conforming as to setback. The operations are granted for use of these non-conforming buildings located on the 5+ acres, as shown on the plat prepared by Frank A. Carpenter, dated August 6, 1955.

Seconded, J. B. Smith

Carried, unanimously.

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January 28, 1958

DEFERRED CASES - Ctd.

3-

CITIES SERVICE OIL COMPANY, to permit erection of one sign on building with larger area than allowed by the Ordinance, on south side of Columbia Pike, Route 244, 900 feet west of Evergreen Lane, adjacent to Harris' Plumbing Shop, Mason District. (General Business).

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Mr. Jack Stone represented the applicant.

This case was deferred for proper plats which Mr. Stone presented, explaining that this is the same sign layout used on the Cities Service station across from the Anchorage Motel, and the same that Cities Service uses throughout the country. Mr. Stone noted that the pylon is an integral part of the building, forming one of the walls. The background of the sign lettering would therefore be the portion of the pylon above the roof of the building. The area to be considered was discussed - also the signs granted on other similar filling stations. Mrs. Henderson called attention to the signs on the filling station at Hybla Valley, which have a total of 136.1 sq. ft. for four signs, while the area on these signs - if the background is considered - would total 167.6 sq. ft.

Mr. Stone did not arrive at the same total square footage. He also called attention to the 150 foot frontage of this lot.

Mr. Mooreland stated that the re-write of the Ordinance would compute sign area by taking the smallest rectangle containing the sign.

Mr. Mooreland also noted that the words "Lubrication", "Washing", etc., would not be advertising the station as such - they would merely be directional - indicating a service - therefore, these words should not be included in the total sign area. The sign area, Mr. Mooreland continued, would take into consideration such words as "Cities Service", etc. - which distinguish this station from others. Also Mr. Mooreland said the new ordinance will not compute signs on the lot frontage - it will be based on the frontage of the building.

Mrs. Henderson was of the opinion that the Board would be more than unreasonable if they cut these signs - since about two months ago the Board granted the same request on another station. However, she agreed that the Board had gone over-board in the former granting. Mrs. Henderson moved to grant the application.

Seconded, Mr. J. B. Smith

Carried, unanimously.

NEW CASES:

1-

// THE JACK STONE CO., INC., to permit erection of 9 signs with larger area than allowed by the Ordinance (total area 770 sq. ft.) on north side of Edsal Rd., Rt. 648, opposite Bren Mar Park, Lee District. (General Business).  
THE JACK STONE COMPANY. Mr. Stone represented the applicant.

Mr. Stone explained that this was a package deal - which he thought was a little over done, he therefore suggested a compromise which would eliminate one of the signs and raise the standing sign for better visibility. However, Mr. Stone noted that there are two businesses on this property - which is a

012  
NEW CASES - Ctd.

1- ctd large tract - a restaurant and a bowling alley which would require more than normal sign area.

The Board discussed at length the large amount of sign area requested and which signs might equitably be eliminated, or which might be reduced in size. Also the location of the property with relation to the Shirley Highway and the topography were discussed. It was agreed that most of the business would come from the north - therefore it would be important that signs facing the on-coming business not be obstructed nor reduced.

It was noted that in driving toward this property there are other overlapping signs which would obscure some of the proposed signs on this property.

Mr. Stone pointed out that in turning off the Shirley there is a short distance in which visibility is not good - but it is some little distance from the property, and as one approaches the business, the signs would be completely visible.

Since this will be used mostly by people in the immediate area, Mr. Lamond thought so much sign area was not necessary. However, Mr. Stone called attention to the distance from the Shirley Highway and the topography - which precludes continuous visibility.

Mr. Mooreland suggested that the Board - in their motion - set up the square footage they would allow in order that Mr. Stone may have some flexibility in working out the signs.

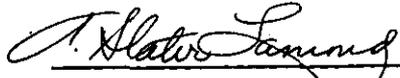
Mrs. Henderson moved that the application of Jack Stone Company be reduced from the aggregate of 770 square feet to an aggregate of 530 square feet - there being two operations on the property - and that this sign area be divided so that the restaurant has an aggregate of 150 square feet of sign and the bowling alley will have 380 square feet. This is granted because of the situation of the Shirley Highway and because of the topography it appears to warrant this variance.

Seconded, J. B. Smith

Carried, unanimously.

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The meeting adjourned.



A. Slater Lamond, Vice Chairman

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The regular meeting of the Fairfax County Board of Zoning Appeals was held Tuesday, February 11, 1958 at 10 o'clock a.m. in the Board Room of the Fairfax County Courthouse, Fairfax, Virginia - with all members present - Mr. Verlin W. Smith, Chairman, presiding.

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The meeting was opened with a prayer by Mr. J. B. Smith

Mrs. Henderson told the Board that she had a matter of personal privilege to bring before the Board but would be glad to defer it until the end of the meeting if she could do so without prejudice - as it would appear to be a matter which should be considered at the earliest possible moment. It was agreed that Mrs. Henderson present her statement at the close of the agenda.

NEW CASES:

- 1- DAVID A. THORPE, to permit division of lot with less area than allowed by the Ordinance, Lot 44, Annandale Acres, Mason District. (Rural Res. Class II). This case had been withdrawn by the applicant.

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- 2- CLARENCE W. GOSNELL, INC., to permit erection and operation of a sewage pumping station, Outlet 38A, Block 2, Section 5, Waynewood Subdivision, Mt. Vernon District. (Suburban Res. Class II).

Mr. Charles Harnett represented the applicant.

In September of 1956, Section 5 of Waynewood was put on record, Mr. Harnett told the Board, which Section reserved Outlet Lot 38A for location of a pumping station. Since the lots in this Section are now being developed the pumping station is needed. This station has been approved by the Sanitary Engineer (as evidenced by letter dated February 5, 1958) and also by the Planning Commission. (Letter dated February 11, 1958). This will serve 52 lots.

Mr. V. W. Smith asked if the pumping station is a permanent thing or if the sewage would eventually be carried by gravity to the main plant? Mr. Harnett answered that at this time this is a permanent installation which would be turned over to the County when completed. Mr. Harnett said he did not know if it could be replaced by gravity flow or not.

Mr. Steinberg, who owns the adjoining property, stated that this plant would serve some of his land.

There were no objections

Mr. Lamond moved to grant the application because it has been approved by the Planning Commission, the Board of Supervisors, and the Sanitary Engineer, as this is a needed facility and the recorded plat shows the plan for this plant.

Seconded, Mrs. Henderson

Carried, unanimously.

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NEW CASES - Ctd.

3-

DONALD A. HITT, to permit dwelling as erected to remain within 48.5 feet of the Street Property Line, Lot 9, Lee Meadows, Providence District. (Rural Residence-Class II).

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It was recalled that Mr. Hitt's case on Lot 11 which is similar to this case, was deferred from the last meeting to be brought up in conjunction with this case on Lot 9. It was agreed to discuss both cases but to wait until 12:10 p.m. to pass the motion on Lot 11, as that case was scheduled for that time.

Mr. Donald Holford, Attorney, represented Mr. Hitt.

The mistake occurred when Mr. Hitt measured the setback from a straight line drawn between two points in Taylor Drive, not taking into consideration that Taylor Drive curves in toward the house location. The curve is just enough to cause this violation of 1.5 feet. Mr. Hitt said there were no curbs nor gutters along the road, and he did not realize that it did not run straight. The road has a macadam topping but since the curve is so slight it did not show.

Mr. Hitt said he was not a builder in the true sense; he builds a few houses now and then, but it is not his full time business.

Mr. Hitt said he thought the Zoning Office had received his location plats - but the actual setback of the house was not checked until settlement on the loan. It was questioned how the loan reached this point without a closer check, as most loan companies and V. A. and FHA ask for a location plat before the loan is made.

It was suggested that perhaps the curve in Taylor Drive could be straightened out - but the road has a 50 foot right of way and houses are built on the lots across the road. Therefore, a change in the road would not be practical. This road has been built for over four years, Mr. Mooreland told the Board, and has been taken into the State System - therefore, it would be practically impossible to change the right of way.

There were no objections.

Mr. T. Barnes called attention to the fact that this was an honest mistake, it is a small variance, and it is obvious that no attempt was made to squeeze the house on this lot. The lot is large and the applicant was well able to meet all requirements, and this would not appear to adversely affect neighboring property. Therefore, Mr. Barnes moved to grant the application. This is granted under Section 6-12-g of the Ordinance and granted in accordance with the plat presented with the case, prepared by Walter L. Ralph, dated February 16, 1955.

Seconded, Mr. Lamond

For the motion: T. Barnes, Lamond, J. B. Smith

Mrs. Henderson voted "no", and Mr. V. W. Smith refrained from voting.

Carried

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DEF. CASES - cont.

1- DONALD A. HITT, to permit dwelling as erected to remain within 48 feet of the street property line, Lot 11, Lee Meadows, Providence District. (Rural Residence Class II).

The Board discussed Mr. Hitt's second case on Lot 11.

The circumstances in this case are identical with the first case, Mr. Holford told the Board. The curve extends to this property and Mr. Hitt measured in just the same manner.

Mrs. Henderson suggested that if Mr. Hitt continues to build in the County that he reverse his methods of locating his houses.....

Mr. J. B. Smith said it was always amazing to him that people building on these large lots - with sufficient room for setback - usually crowd the house as close as possible to the street line. He wondered why..... a builder would subject himself to the possibility of an error.

Mr. Lamond asked about the setbacks of other houses in the area. Mr. Holford answered that it is difficult to tell the exact setbacks because there are no sidewalks nor curbs from which to measure. But, Mr. Holford continued, the houses are in an even row and because of this curve these two violations are not noticeable. The ground is rolling and along the street it graduates into a sharp hill. This topographic condition would disguise any difference in setback completely, Mr. Holford added.

There were no objections.

Motion deferred until 12:10 p.m.

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NEW CASES:

4- M. J. BLES, to permit extension of operation of a gravel pit on 12 acres of land on N. E. side of Route 7, near Tyson's Corner, Dranesville District. (Rural Residence Class II).

Mr. Jack Wood represented the applicant.

Mr. Mooreland told the Board that he had received no plats from the surveyor in this case - that Mr. Paciulli, the surveyor, had called him and said that it is assanine to have the applicant furnish plats showing what will be on the ground at the completion of this work.

The Board agreed that the case could not be heard without the plats.

Mr. Lamond moved to defer the case until February 25th for the applicant to comply with the Ordinance.

Seconded, J. B. Smith

Why put the case on the agenda, Mr. V. W. Smith asked, if we do not have the required information?

The applicant has been operating for a year, Mr. Mooreland told the Board, without a permit - he thought a definite time should be set for the continuance, in order to force the applicant to present the information required by the Ordinance.

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NEW CASES - Ctd.

4-Ctd.

Mr. Wood recalled that when this case came up several years ago it was determined that there was no way under the Ordinance to take gravel from this property. When the case was granted in 1954 it was the first granting under the new gravel pit amendment. Three years ago Mr. Bies put up the required \$12,000 bond. When the time ran out the applicant asked Mr. Berry's office for new plats - they had lost the original linens - the job was re-drawn. They do not yet have the plats. They are operating in the same area, Mr. Wood continued, but the gravel veins run on into additional ground. They are now asking to work in that additional area. Mr. Wood said he realized that it is difficult to get survey work out, but he hoped to have the required information for the Board within a short time.

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Mr. Mooreland said they would need the field topo as the plat they have was taken from the Geological Survey maps and no lines are shown indicating how the property will be left when the work is finished. The Geological Survey maps can be easily 100 feet off, Mr. Mooreland continued, which is not sufficient to meet the requirements of the Ordinance.

Since the Board does not have the necessary information, Mr. Lamond moved to defer the case until February 25th - or later - at least until such time as the applicant can furnish complete information.

Seconded, J. B. Smith

Carried.

Mr. V. W. Smith said he did not think the Board of Zoning Appeals cases should be advertised or put on the agenda until all the information is in the hands of the Zoning Office. It is not fair, Mr. V. W. Smith continued, to advertise a case and have people come to the hearing expecting the case to be heard - and for the case then to be deferred because the applicant has not met his obligation to furnish the required material.

Mr. Mooreland said that it was practically impossible to have all the information ready by time of advertising - but the Board agreed that if the Board set the policy that they would not hear cases until all information is filed with the Zoning Office, it would strengthen Mr. Mooreland's position in requiring such information in advance of advertising date.

Mr. Mooreland called attention to the fact that this permit ran out last Fall, and it has taken this length of time to get the case before the Board. He thought the Board should set a definite date for the deferral as the applicant is operating now without a permit.

Mr. Lamond changed his motion to state that the case be deferred until Feb. 25th, to give the applicant time to furnish necessary material - otherwise if the material is not on file by that time - the applicant will necessarily file a new case. Mr. J. B. Smith agreed to the change, and seconded the revised motion.

It was carried unanimously.

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Mr. Lamond moved that the Board set a dead line of 10 days before hearings on Board of Zoning Appeals applications for all material to be in the Office of the Zoning Administrator, and that no advertising or any case shall take place unless all such pertinent material is in the Office of the Zoning Administrator.

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Seconded, J. B. Smith

Carried, unanimously.

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NEW CASES - Ctd.

5- WILLIAM H. SPITLER, to permit less width of lot than allowed by the Ordinance

Proposed Lot 1, Lear Subdivision (on west side of Shreve Road, approx. 2 mi. north of Lee Highway), Providence District. (Suburban Res. Class II).

This Lot (Lot 1) is 5 feet short on the Shreve Road side, Mr. Spitler explained. This tract was originally divided into eleven lots, but in order to conform to the average lot size requirements - the plat was re-drawn and submitted with the ten lots shown on the plat. However, the property is not wide enough to provide the 105 foot depth on corner lots.

It was noted that the applicant had given 25 feet for the widening of Shreve Road, however, Mr. Mooreland called attention to the fact that that had nothing to do with this case - the property simply is not wide enough and the land cannot be approved for subdivision without this variance. Under the old Ordinance this would have been sufficient width - but the Ordinance now requires 105 feet on corner lots. Mr. Spitler has revised his plat in accordance with the new requirements and finds it necessary to have the variance.

It was asked if Mr. Spitler has tried to buy land in the rear of his property, to widen out his property? The property to the rear is in litigation, Mr. Spitler stated, and he was unable to acquire more land.

Mr. Spitler said he had already lost one lot and he felt that he should not be required to cancel out this second lot - especially when it comes so near to conforming.

Mrs. Henderson moved that the variance as requested be granted, due to the peculiar narrow shape of the land, which prohibits any other solution - therefore the refusal of this case would result in an undue harshness on the applicant.

Seconded, Mr. Lamond

Carried, unanimously.

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6- WALTER KURYLO, to permit enclosure of existing porch within 13 feet of the

side property line, Lot 5, Section 7, Broyhill Park, (1906 Dye Drive) Falls Church District. (Suburban Residence Class II).

When they bought this house in 1954, Mr. Kurylo told the Board, they asked for an addition of an open porch on the side of the house - which would extend into the side yard by 10 feet. This porch came within 13 feet of

NEW CASES - Ctd.

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6-Ctd. the side line. The porch is useable only during the months from June to September, Mr. Kurylo explained, and it is his wish now to enclose the porch - running to the full width of the house for additional living quarters. Mrs. Henderson asked why not put the addition on the back of the house? The porch is already there, Mr. Kurylo answered, which would take care of the initial expense.

If the new Ordinance is adopted as proposed, Mr. Mooreland noted, a 12 foot side setback would be all right, and Mr. Kurylo would have one foot to spare. There were no objections from the area.

Mrs. Henderson suggested that this case be postponed until the adoption of the new Ordinance - as she assumed there are many houses in Broyhill Park which have the same situation. Under the present Ordinance requirements, Mrs. Henderson continued, the Board would not have jurisdiction to grant this - but if the applicant could enclose this under the revised Ordinance - it would appear reasonable either to deny the case or defer it and by waiting for the new Ordinance Mr. Kurylo could still have this porch enclosed by next winter.

Mrs. Henderson moved to defer the case until the adoption of the new Ordinance, which will allow a 12 foot side setback line.

Mr. V. W. Smith suggested that since there are no doubt a great many cases like this - that it would be more logical for the applicant to push for adoption of the new Ordinance - which would allow him to enclose his porch, rather than for the Board to grant variances piece-meal.

Mr. Lamond seconded Mrs. Henderson's motion.

All voted for the motion except Mr. V. W. Smith, who voted "no".

Motion carried.

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Mr. Kurylo asked why he was allowed to file this application when the Board had no jurisdiction to grant it?

Mrs. Henderson noted that under the Ordinance, one has the right to file an appeal from the decision of the administrative office - this is therefore an appeal from the strict application of the Zoning Ordinance.

Mr. Kurylo said at no time was it suggested to him that the Board might assume it had no jurisdiction - but rather he was told to make this application. Mr. Kurylo said he felt that he had been misled.

Mr. V. W. Smith quoted the 'hardship' clause in the Ordinance - stating that only under that Section does the Board have jurisdiction.

The porch is already there, Mr. Kurylo stated, he has put a considerable amount of money into the porch already. It would be the logical thing to extend it - if any addition is allowed. But, Mr. V. W. Smith noted, this is not a hardship created by the Ordinance, but rather it is caused by the applicant - in his desire to enclose the porch. If people create their own hardships, Mr. V. W. Smith continued, that is not the fault of the Board.

NEW CASES - Ctd.

6-Ctd. Also, Mrs. Henderson called attention to the fact that financial hardship is not considered by this Board - they could consider a topographic condition or some situation which is not self created.

It would be difficult to put this addition on the rear of his house, Mr. Kurylo pointed out, as the ground slopes immediately back of the house. It would be expensive and impractical.

Since the topographic situation has been noted, Mr. Lamond asked that the Board reconsider their motion, and look at the property. Therefore, Mr. Lamond moved that the former motion be stricken from the record.

Seconded, T. Barnes.

Carried - Mrs. Henderson voting "no".

Mr. Lamond moved that the Board view the property in order to be in a position to act on this case on February 25th.

Seconded, J. B. Smith

Carried, unanimously.

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7- MARY L. BOWMAN, to permit renewal of Board of Zoning Appeals granted 10 January 1956 (2 yr. time limit) to operate a beauty shop in a residential zone, east side of Madison Lane, 400 feet south of Columbia Pike (1113 Madison Lane), Mason District. (Suburban Residence Class II).

Mrs. Bowman presented notices which she had forwarded to property owners adjoining her and across the street - showing that these people do not object to her continuance of the beauty shop. She operates her shop five days a week - she has no display sign and employs no outside help. There is nothing to indicate that the residence is used for any purpose other than a dwelling. Mrs. Bowman said she had not heard of any complaints.

Mr. Lamond recalled that the Board had decided that this type of business does not come under a "home occupation" - but that it is strictly a business and therefore cannot be conducted in a residential district.

Mrs. Henderson questioned if that policy would hold with a renewal.

Mr. Bowman asked to make a statement. They bought their property three years ago, Mr. Bowman explained, knowing that it was possible at that time to conduct a restricted business in the home. They selected this particular property for several reasons - first because it is on a dead end street where there would be no question of a traffic problem. They have their own parking space on the property, the house is located 100 feet back from the street. This neighborhood has a history of a limited self-employment, Mr. Bowman continued, many people are either working in their homes or conducting a business from their homes. One man has a trucking service, another a radio repair shop and another carried on a painting business. They bought the house with the thought that this small business would not be out of keeping with what was already going on in the area - and it would therefore be a great hardship if their right to continue is taken away. There were

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## NEW CASES - Ctd.

7-Ctd. apparently no objections in the area when this use was requested and granted.

The business has been conducted quietly and without disturbance to the neighborhood.

Mrs. Henderson suggested that the minutes of the original hearing be read, since she and two other members were not on the Board at the time of this granting. Mr. Mooreland left the room to get the minutes.

Mr. Richard A. Mohn represented the opposition. Mr. Mohn presented a written statement of the opposition: viz; that the County has designated certain areas for business uses, which do not include this area, that they had bought in an area which they had every reason to believe would remain residential. Mrs. Bowman has had other beauty shops in other locations and it was unnecessary for her to bring this business into this area - there are sufficient commercial areas for such a use. This is not a "housewife's" hobby - but is a full blown business, operating even on Sundays with a continuous stream of customers. This traffic is a hazard to children. ~~It is~~ ~~held~~ ~~by~~ ~~the~~ ~~opposition~~ ~~that~~ ~~Mrs.~~ ~~Bowman's~~ ~~customers~~ ~~will~~ ~~follow~~ ~~her~~ ~~to~~ ~~some~~ ~~other~~ ~~location~~. The parking lot on the Bowman property is detrimental to the neighborhood - overflow parking takes up a considerable amount of street space.

While the neighborhood welcomes the Bowmans, the opposition continued, it would appear that they came to this area solely to escape the higher cost of operating in a business district. They asked for protection under the established zoning laws, protection of their property values which could be depreciated by encroachment of business uses for which this extension would set a precedent.

The signers of the opposition statement all live on Madison Lane.

There were 15 signatures on the petition.

Mrs. Henderson asked how long the signers of this petition have lived on Madison Lane. Mr. Mohn answered that there is one family living on the Lane who was not there when the Bowmans bought. There was no opposition to the first hearing because they did not know anything of it until they saw an unusual number of cars coming to the home.

Mrs. Bowman is a good operator, it was stated, and a great many people come to her for work, and it was thought that her same customers would follow her to a business location.

The opposition made it plain that they like the Bowmans - they consider them good neighbors, and they are opposing only the business use in this area.

Four persons were present in opposition.

Mrs. Barndt stated that she had written a letter at the time of the first hearing on this - opposing the use. She did not know this was to be a use that would be continued indefinitely. Mrs. Barndt asked that the case be given a permanent decision - as they objected to having to come before this Board every two years or so to oppose a continuance.

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NEW CASES - Ctd.

7-Ctd.

It was brought out that people in the area are not Mrs. Bowman's customers. Mr. Bowman called attention to the fact that the other businesses which he mentioned were carried on apparently without objection. Mrs. Brandt's husband works on radios, Mr. Bowman pointed out, in his home. No one seemed to object to that. They have never worked on Sunday, Mr. Bowman insisted - the shop is open five days a week, closing on both Sunday and Monday. Mr. Bowman showed their bookings - which indicated that Mrs. Bowman did not have a great many customers, and that she carried on such a limited business that no traffic hazard could possibly result. They have room for four cars on the parking lot - but seldom is it filled. If they do have an overflow - those cars park in front of their own home, Mr. Bowman continued.

Mr. Bowman pointed out that Mr. Almond, next door to them, and the lady across the street, have no objection to this use. Their names do not appear on the opposing petition. Mr. Bowman also noted other people near them who have no objection.

As to other businesses operating in this area, as a result of granting this use, Mr. Bowman called attention to the fact that no business could operate here unless granted by the Board - at which time all concerned would have the right to object. Mr. Bowman said he thought these people objecting were digging up fears in the dark - the future can be controlled as far as business is concerned, and the presently operating shop has not been obnoxious and has not hurt the property values - nor the normal community life in the area.

Asked if he knew this was residential property when he bought in this area, Mr. Bowman said yes, but he had thought they could operate a small business in their home, and since other people were doing it there was no reason for them to question the fact that they too could operate. The business uses in the area lead them to believe they could do the same thing. However, they did not inquire if they could conduct this kind of business. An application was filed as soon as they had their equipment installed.

It was agreed by the objectors that limited business had been carried on in this area - but most of them have now been stopped - and it is the thought that to do away with any tinge of business in the area was necessary to maintain a good neighborhood.

The minutes of the original hearing were read (January 10, 1956) showing that there was no objection.

Mr. Bowman said he thought some of the people in the area had believed that a business use of this kind could change the zoning. He realized that such was not the case.

Mr. V. W. Smith explained that this Board has no jurisdiction to rezone - it can grant only a specific use - which does not change the zoning classification.

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February 11, 1970

NEW CASES - Ctd.

7-Ctd. Mr. V. W. Smith recalled that the Board did grant a number of business uses in homes at one time - but that now there are several new members on the Board and a new policy had been established by the Board - and the Board is of the opinion that it does not have jurisdiction to grant uses that are not in the "home occupation" category. A beauty shop is in the class of non-permitted uses.

The Courtland Park case - which was recently refused by this Board - was recalled. Mrs. Henderson said she was somewhat confused, but she considered this in a different category from the Courtland Park case. This shop is established and operating - therefore is it now non-conforming - in view of the policy resolution passed by this Board, Mrs. Henderson asked? This was granted, it has been operating in conformance with the requirements of the original application, but in the new Ordinance a beauty parlor would not be allowed in a residential district and would not be considered a home occupation. However, Mrs. Henderson recalled also that the Commonwealth's Attorney had stated that in a New Jersey case the operation of a beauty parlor was held to be a "home occupation"...where does that put this Board now, Mrs. Henderson asked?

The old Board did hold that operating a small beauty parlor was a "home occupation", Mr. Mooreland noted.

Mr. V. W. Smith asked Mr. Mohn if the people in the area knew that this Board could not rezone land, and would that make a difference in their opposition?

Mr. Mohn answered "no" - they want to weed out the business use.

You were not opposed to the other businesses operating in this area, Mr. V. W. Smith noted - yet you oppose this. It takes time to get rid of these small businesses, Mr. Mohn answered. It is necessary to oppose a business use whenever they have the opportunity, Mr. Mohn contended.

Mrs. Henderson said she was generally opposed to a business of this type operating - sign or no sign - but in view of the circumstances, she would move to allow an extension of this use for two years - because it appears that the applicant started the operation in good faith and there were other operating businesses on the street at the time the Bowmans opened their shop. The other businesses have gone out of existence but the residents are the same - with the exception of only one change. The applicant has conducted this operation in good faith and in conformance with the original granting of this use.

Mr. Lamond offered the following amendment, which was accepted by Mrs. Henderson: That while Mrs. Bowman is granted this two year extension to operate, it is understood that during that time she must find another place to operate her business, or discontinue this use.

Seconded, J. B. Smith

Carried, unanimously.

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NEW CASES - Ctd.

8-

TONI MANCINI, to permit dwelling as erected to remain within 18.2 feet of the side property line, Lots 76 thru 86, Washington & Great Falls Survey Subdivision, (on east side Rt. 603, 110 ft. south of Rt. 682), Dranesville District. (Agriculture).

Mr. John Aylor represented the applicant. Mr. Mancini contracted to buy this tract of land, Mr. Aylor told the Board, in June of 1954. It was known at that time that there were various clouds on the title, but settlement was made in March of 1955. In August of that year, Mr. Mancini got a permit to build a house on one of the lots and employed Mr. Joseph Berry to stake out the house location. Mr. Berry put in the pipes on all four corners of the lot and located the house, which is now about half completed. It was then discovered that in the layout of the house the surveyor had measured from the wrong point, which threw the entire group of lots - 76 through 86 - out of line.

Mr. Paciulli told the Board that Mr. Berry had been employed in 1951 to lay out the subdivision to the south of this property. No sales were made out of that property and there was no activity in this area between 1951 and 1954. When Mr. Berry staked out this lot he found a pipe along River Road which it was believed was the proper point from which to work. Had he not used this point he would have necessarily gone back about 2700 feet to the original point of the old survey to start his starting marker, but it was perfectly natural to assume, Mr. Paciulli continued, that the pipe in River Road was the point established in the original survey.

Last year in establishing the lots in Great Falls Survey Subdivision, the line was taken across the rear of this property and when they came to the road they did not hit Mr. Mancini's corner. It was evident then that an error had occurred. They dug for the original marker and found Mr. Berry's original point. Therefore they re-established the line and re-located Mr. Mancini's corner. This was a logical error, Mr. Paciulli explained - especially when working on a large tract of land.

Mr. Lamond asked why there was no survey before the house was built? The lot was surveyed, Mr. Paciulli answered and the house was built in accordance with that survey. They had no reason to question it. None of the lots in Great Falls Survey Subdivision were staked. All of the surveys were made by Mr. Berry's office.

When this mistake was shown to Mr. Mancini, Mr. Aylor stated, he immediately suggested that steps be taken to clear the situation. Mr. Mancini is a man of modest means, Mr. Aylor continued, and it would be a great hardship for him to have to move the house. He has done most of the work on the house himself - from time to time.

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February 11, 1958

NEW CASES - Ctd.

8-Ctd. In view of the circumstances outlined to the Board, Mr. Lamond stated that he would move to grant the application as it is apparent that the running of the two lines which could logically vary is the cause of the error. The building location was granted under the first survey, which was held to be correct at that time - therefore, this Board should not hold to the new line which is established now. This is granted as per plat by Joseph Berry, dated December 20, 1957 - covering Lots 76 through 86.

Seconded, J. B. Smith

Carried, unanimously.

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9- JAMES M. & DOROTHY M. HOWARD, to permit erection and operation of a service station with pump islands within 25 feet of the Street Property Lines and station building within 25 feet of the Side Property Line, Lots 1 and 2, Section 1, Lincolnia Heights, Mason District. (Rural Business).

Mr. Crouch, represented the applicant. Mr. Burnett from Sinclair Oil Company was also present.

The applicant wishes to improve his property with ~~some~~<sup>a</sup> modern two bay service station, Mr. Crouch told the Board. There is a dwelling now on the property which has been used as a combination residence and garage. There have been complaints about the operation of this use and the unattractiveness of the structure. This will be a great improvement and the people in the area favor it.

The following letter was read:

".....An emergency meeting was held by the Lincolnia-Sherry Heights Civic Association on February 11, 1958. This meeting was convened to review the request posed by representatives of the Sinclair Oil Company, Mr. Burnett and the owner of the property, Mr. Howard, to endorse a Use Permit (6-16) for the construction of a gasoline station at Lincolnia, Braddock and Hillcrest Roads.

The members of the Lincolnia-Sherry Heights Civic Association have unanimously endorsed the request for the issuance of a Use Permit providing that there aren't any changes in zoning pending now or in the future.

This Association is not cognizant of the zoning laws which pertain to (6-12) (g) (Variance from strict application of zoning regulations), and therefore cannot endorse this portion of the request.

/s/ Robert V. Izzie, President  
Lincolnia Heights-Sheery Heights  
Civic Association"

It is the belief of those in the community, Mr. Crouch continued, that this will be an asset to the area from every standpoint.

The 25 foot setback for the pump islands is requested in order that the islands will not be located too near the building.

Mr. Lamond moved to grant the application for a use permit, and for the requested setback of the pump islands. This is granted under Section 6-16 and Section 6-12-g of the Ordinance. Seconded, J. B. Smith

Carried, unanimously.

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NEW CASES - Ctd.

9- JAMES M. MONROE, to permit erection of an additional building on property within 35 feet of the Street Property Line, Lot 2, James G. Bennett Sub-division, (south of Rts. 29 & 211 on Meadow View Lane), Falls Church Dist. (Rural Business).

Mr. Mooreland read a letter from Mr. Shield McCandlish asking for deferral of the Monroe case until February 25th, 1958.

Mr. Lamond moved that the case be deferred until February 25, 1958.

Seconded, Mr. J. B. Smith

Carried, unanimously.

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11- HOLY TRINITY LUTHERAN CHURCH, to permit an addition to Church within 4 feet of the Side Property Line, Lot 157, 158 and 159, part Section 3, City Park Homes and Lot 1 and outlot, Block 1, Woodley Subdivision, Falls Church District. (Suburban Residence Class - I).

Mr. George Cooper, President of the congregation, represented the applicant. This is a request for a 30 foot addition to the rear of the present Church building, Mr. Cooper told the Board. This will bring the building to within approximately four feet of the side line. Mr. Cooper called attention to the jog in the side line of the Church property, which would create this violation. Only one corner of the building violates the setback requirement. They have bought additional property on this side of the Church building but were unable to purchase the strip running all the way from Woodlawn Ave. to Wallace Drive. This chops off the width of the property and causes this short setback. They will, in time, put up a large new Church building on the front of their property. They will need all the area possible for parking.

They have over 400 in their Sunday School, Mr. Cooper told the Board, and this addition is needed for the overflow.

Mr. Mooreland said he had suggested that the addition be located at the rear in order that the Church provide sufficient off-street parking. If this is granted, Mr. Mooreland continued, the new Church building could be very well located on the property meeting all requirements.

At the present time they do not have enough parking space for the new Church building, Mr. Cooper told the Board, but they will not build the new Church for another four or five years, and in the meantime they hope to purchase property at the rear of the building in order to provide the parking.

Mrs. Henderson asked why not put the new addition on to the existing Sunday School room and use the area proposed for this addition for parking.

Mr. Cooper answered that this would cover the grouping of windows in this room and it would also be in the way of the new building. The architect has worked this out very thoroughly and has advised that the addition as proposed is the most practical. This room will be used for school purposes - their day school - the kindergarten and the first grade - which the Church

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## NEW CASES - Ctd.

11-Ctd. is operating. In their first grade day school they take only children who cannot get into the public schools.

There were no objections.

Mrs. Henderson moved to grant the application because of the peculiar division of the property where the variance is requested, and attempt has been made to purchase more ground which is not available at this time. It is the opinion of the Board that this variance will not adversely affect the surrounding property and the variance will not violate the intent of the Zoning Ordinance. This is granted as per plat dated June 12, 1951 and revised by Walter L. Ralph, January 16, 1958.

Seconded, Mr. Lamond

Carried, unanimously.

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12- J. GRANT WRIGHT, to permit an addition to dwelling as erected to remain within 34.2 feet of the Street Property Line, Lot 90, Section 2, Woodley, (1413 Oak Ridge Road), Falls Church District. (Suburban Residence Class I). The house was built in 1950 or 51, Mr. Wright told the Board, and he bought it in 1956. The previous owner had enclosed the carport for a recreation room. It is obvious from the construction and the terrain, Mr. Wright continued, that the carport was put on at the same time as the original house was built. Mr. Wright said he had been using this enclosed carport for a work shop - but now - since his family is increasing, he will use this room for an additional bedroom and will enclose the storage shed, which is not in violation - for his work shop.

Since the enclosed carport has been on the property for several years and it has apparently not been objectionable, Mr. Wright said he could see no reason why he could not continue to use it. He called attention to the curve in Oak Ridge Road, which puts one corner of this room in violation. The distance to the street is still sufficient to give clear visibility, and the addition does not destroy the appearance of the house nor does it adversely affect the neighborhood.

It was noted that the permit to enclose this carport for a recreation room has never been recorded.

Mr. Mooreland recalled that the Freehill Amendment changed the zoning in this area to Suburban Residence Class I - but this house was built under the zoning requiring a 40 foot setback and the carport at that time was allowed a 10 foot encroachment.

While this is a large lot, Mr. Wright pointed out, it has an odd shape. The people in the neighborhood had been greatly surprised at the need for a variance on his property as it is apparent that he has considerably more room than necessary for his house. The house setback is in line with other houses down the street.

NEW CASES - Ctd.

12-Ctd.

There were no objections from the area.

Mr. Lamond moved to grant the permit as requested with a 34.2 foot setback from the Street Property Line, because this does not appear to adversely affect neighboring property. This is granted under Section 6-12-g of the Ordinance and granted in accordance with the plat presented with the case, prepared by Carpenter and Cobb, dated November 21, 1956.

Seconded, Mr. J. B. Smith

Carried

All voted for the motion except Mr. V. W. Smith, who refrained from voting.

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13-

CHARLES AWRET, to permit erection and operation of a sewage pumping station, 1400 feet north of intersection of Pollen and Lagrange Streets, Lee Dist. (Suburban Residence Class II).

Mr. William Koontz represented the applicant.

The recommendation for approval of this plant by the Planning Commission was read. While the application did not have a letter of approval from the Sanitary Engineer,

Mr. Koontz said that approval had been obtained.

Mr. Koontz told the Board that Mr. Awret had purchased 146 lots from Mr. Hassan. In November 1955 Mr. Hassan had had this property rezoned to Suburban Residence Class II - this zoning having been granted on condition that the land would be properly sewered - therefore an agreement between the Board of Supervisors and Mr. Hassan was drawn providing that a treatment plant would be installed which would meet the requirements of the County Sanitary Engineer. The contract provided for a stand-by pumping station which would take care of emergency pumping - to assure proper treatment in case of a break down. This is the emergency pumping station - which fulfills the conditions of the contract with the Board of Supervisors.

Since this is the stand-by pumping station to take care of emergency needs as provided for in the contract with the County Board of Supervisors, Mr. Lamond moved to grant the application under Section 6-12 of the Ordinance.

Seconded, Mr. T. Barnes

Carried, unanimously.

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DEFERRED CASE:

1-

DONALD A. HITT, to permit dwelling as erected to remain within 48 feet of the Street Property Line, Lot 11, Lee Meadows, Providence District. (Rural Residence Class II).

This case was discussed earlier in the meeting - with the motion deferred until 12:10 p.m. or after.

Mr. Lamond moved to grant the location of the dwelling as erected, because of the topographic condition, and it is noted that there is a break in the

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DEFERRED CASE:

1-Ctd. line of the street which has a bearing on the location of the house.

Seconded, T. Barnes

For the motion: Messrs. Lamond, Barnes and J. B. Smith

Mrs. Henderson voted "no" and Mr. V. W. Smith refrained from voting.

Carried.

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Mrs. Henderson read the following statement to the Board:

" Mr. Chairman, I feel constrained to bring up a matter which disturbs me and which I think should be discussed by this Board. I am reluctant to raise this issue but feel that in good conscience as an official of Fairfax County I have no choice but to bring it up as a matter of personal privilege at this time.

Mr. Chairman, this Board is a quasi-judicial Board, appointed pursuant to statutory authority granted to the Board of County Supervisors by the Code of Virginia. This Board is charged with the responsibility of construing applicable Statutes and pertinent Ordinances of the Commonwealth of Virginia and the County of Fairfax respectively. In discharging this responsibility the Board is presumed to act in accordance with all the provisions of the Code of Virginia and the Ordinances of the County of Fairfax which govern the actions of individual members of this and similar Boards and Governmental Agencies. Both the Commonwealth of Virginia and the County of Fairfax have enacted Statutes and Ordinances which prohibit actions by any Member of any official body which are in conflict, or likely to be in conflict, with unbiased interpretation or administration of the Laws whose administration or interpretation is the responsibility of the Board or Agency of which the individuals are Members.

At our last meeting, during the course of public discussion of a case before this Board on January 28, 1958, scheduled at 10:30 a.m.; concerning a request for further extension of a variance permitting the presence of a trailer on Mr. Orr's property in contravention of Section D-3 of the Trailer Park Ordinance, it unfortunately became clear from evidence presented to this Board that one Member of this Board would derive personal benefit from the granting of the application and would suffer a loss if the application were denied. The minutes show clearly this interest which was admitted by the Board Member at the time. Subsequently, this same Board Member moved to grant the application, and the application was approved.

Not being certain of the exact provisions of the Fairfax County Conflict of Interest Ordinance or other applicable Statutes or Ordinances, I did not wish to raise the issue at the time. However, I have since satisfied myself that this is a clear violation of the law. Under the circumstances, I consider the granting of the application in the case to be void and of no effect, and the motion to grant illegal in that the Member making the motion was legally unable to act in the case. I therefore respectfully move that the Chairman, in order to protect the reputation of this Board, do now hold that the motion to grant the application in this case was out of order, and I suggest that suitable arrangements be made, with due notice to the applicant and other interested parties, for a rehearing, at which time I am sure the Board Member concerned will wish to disqualify himself, since I am sure the action was taken inadvertently. Nevertheless, I feel it is the duty of this Board to call the attention of the Commonwealth's Attorney to this matter in connection with the violation of the Conflict of Interest Ordinance or other applicable laws and the requirement for bringing it to the attention of whatever authorities are concerned, such as the County Executive and the Board of Supervisors.

I should like to reiterate once more the reluctance with which I bring this matter up and should like to assure all Members of the Board that in my opinion this was an inadvertent mistake on the part of the Board Member concerned. Be that as it may, I do not believe this Board can afford to permit even a shadow of a doubt to be cast upon its integrity or the propriety of its action."

Mr. Barnes said he realized after the meeting on the Orr case that he should have disqualified himself - and had so stated to Mrs. Lawson in discussion after the case was passed. He sincerely regretted his part in this and assured the Board that he had no intention of acting in any way to embarrass the Board.

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Mr. Lamond seconded the motion incorporated in Mrs. Henderson's statement. Mr. Mooreland stated that since Mr. Barnes is an employee of the Graham Co. who carries the insurance on Mr. Orr's cattle and not a member of the firm he was not acting in conflict of interest. Mr. Mooreland questioned if the Board could legally say Mr. Barnes was out of order in his vote on this case. He thought, from the standpoint of ethics, the Board might be right, but not legally. And, Mr. Mooreland continued, if the Board took action to retract the motion in this case - if it cannot be considered a mistake legally - the Court would not sustain a retraction of the motion. He thought the Board should be very sure it was on legal ground in taking the proposed step.

Mr. Barnes said it is true that he is not a member of Mr. Graham's firm, and that he would stand to receive no monetary gain from the selling of this insurance to Mr. Orr. However, Mr. Barnes again stated that he regretted not having disqualified himself, and would be glad to have the motion put again - at which time he would take no part in it.

The Board agreed that this was a very natural oversight, and was a situation which could involve anyone - with no intent of wrong doing.

Mr. Lamond suggested referring this to the Commonwealth's Attorney before taking any final action.

It was agreed to see the Commonwealth's Attorney immediately at the close of the meeting, before taking final action.

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The Board asked that a resolution be sent to Mr. C. G. Massey asking that the parking places of the members of the Board of Supervisors be reserved for members of the Board of Zoning Appeals on the second and fourth Tuesdays of each month.

It had been informally agreed that the Board should have these parking places,

Mr. Lamond noted - but invariably the places were occupied when the Board members arrive.

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The Board met with Mr. Fitzgerald, Commonwealth's Attorney, and the opinion of the Commonwealth's Attorney was that Mr. Barnes' voting in this matter (the Orr Case) did not show a conflict of interests with the County. It could be a matter of ethics, Mr. Fitzgerald stated, but Mr. Barnes' voting did not constitute any wrong doing. Therefore no action was taken by the Board.

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Mr. Lamond suggested that Tuesday, March 4th be set as a special meeting for the Board to consider the Pomeroy draft of the Zoning Ordinance, at 10 a.m. Mrs. Henderson suggested that if it should happen that the Board of Supervisors appoints another member to the Board to replace Mr. Verlin W. Smith, that Mr. Smith attend this meeting. All members agreed that they wished to have Mr. V. W. Smith present.

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Meeting adjourned

*Verlin W. Smith, Chairman*  
Verlin W. Smith, Chairman

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February 25, 1958

The regular meeting of the Fairfax County Board of Zoning Appeals was held Tuesday, February 25, 1958 at 10 o'clock a.m. in the Board Room of the Fairfax Courthouse with all members present. Mr. Verlin W. Smith, Chairman, presiding.

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The meeting was opened with a prayer by Mr. J. B. Smith

DEFERRED CASES:

- 1- THOMAS D. ALWARD, to show cause why the permit granted to you on January 22 1957, to operate a repair garage, should not be revoked, on south side #244 approximately 1500 feet east of Bailey's Cross Roads, Mason District.

(General Business).

At the last hearing on this, Mr. Mooreland stated that the Board had asked him to write to Mr. Gibson (Attorney for Mr. Alward) telling him what would be required on the Alward property. Mr. Mooreland said it was not possible for him to send that letter until the Board has made certain decisions on this case. There is a question, raised by Mr. Gibson, of whether or not this is a non-conforming use. There is also the question of what is "parking of vehicles" on the property. Mr. Gibson wants to make some arrangements about moving the whole operation back on the property, Mr. Mooreland continued, and he believes that this property can be cleaned up to a great extent by working with Mr. Alward.

Mrs. Henderson questioned if Mr. Alward would be willing to screen the property.

Mr. Mooreland said he thought that if he and Mr. Gibson could meet Mr. Alward on the property and discuss what the County would like to have done - it is very likely they can reach an agreement that would be satisfactory to all concerned. Mr. Gibson is in Court today, Mr. Mooreland continued, but he would like to have the case deferred for 60 days, during which time they would accomplish whatever changes they can.

We now have the Automobile Graveyard Ordinance, Mr. Mooreland recalled, which requires a \$50 licensing fee and fencing. They would attempt to bring the operations as near to conforming with the Graveyard Ordinance as possible.

Mr. J. B. Smith moved to defer the case until April 22nd.

Seconded, Mrs. Henderson - as there seems to be no alternative, Mrs. Henderson added.

All voted for the motion except Mr. V. W. Smith, who voted "no". Mr. V. W. Smith said he thought a 60 day deferral too long as the longer this drags on the more difficult it would be to clear it up. It was his understanding Mr. V. W. Smith continued, that this came under Section 6-16 at the original granting of the repair garage - then the graveyard business came up. He thought a decision should be made one way or another - and soon. Mr. V. W. Smith suggested that photographs be taken of the property so the Board will know just what is being done on the property before it takes action.

The motion to defer until April 22, 1958 carried.

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February 29, 1958

DEFERRED CASES - Ctd.

2-

SULGRAVE MANOR DEVELOPMENT CORP., to permit erection and operation of a community swimming pool with accessory structures thereto, Proposed Lots 42 and 43, Section 2, Sulgrave Manor (on north side Route 624, 1400 feet east of Badger Drive), Mt. Vernon District. (Rural Residence Class I).

Mr. Hiss represented the applicant. Mr. Meltzer, developer of the subdivision was also present.

Mr. Hiss showed the location of the proposed swimming pool with relation to the subdivision - indicating that it is in one corner of the entire tract with a good circulation of streets through the subdivision which would make this property easily available to all lots in flood plain, is owned by Mrs. Brisco who endorses this project. Otherwise there are no homes near. This part of the subdivision has not yet been built, therefore people coming in later will know in advance of the pool location.

This is not a club, Mr. Hiss explained, it is simply a community pool - established solely for owners of property in the subdivision, who will maintain it. The subdividers are giving the property. They have notified all people in the subdivision - having sent out more than 40 letters - of just what they plan to have on the property and the responsibility of those who wish to make use of the activity.

There is a creek running through the flood plain to the west of this property and it is possible - if they add more play area - that a part of the flood plain will be used for that purpose. However, that will depend upon the County - if they can fill on this ground and meet requirements.

This will be served by the Woodlawn Water Company. Mr. Hiss again made it plain that this development was for the people in the subdivision only.

Mr. Lamond commended Mr. Meltzer on his development of the subdivision, stating that it is most attractive - they have left a great many trees, the lots are large and the roads well located.

Mr. Hiss said they planned no commercial activity - no snack bar. This will be purely for swimming, with only the pool, a wading pool and the bath house. They will comply with all County ordinances pertaining - including the Swimming Pool Ordinance. The wading pool will be approximately 20 feet in diameter.

It was noted that the plat did not show the wading pool nor the dimensions of the bath house. Mr. Hiss said they had not attempted to present a detailed drawing - but a final plat would show these things. The wading pool will be located very near the large pool. The entire pool area will be fenced.

The plan ultimately will serve approximately 138 homes in the subdivision - and many of the homes are within walking distance, Mr. Hiss pointed out.

When this is turned over to the community a charge of \$60 per year per family will be made - this charge for maintenance purposes, life guard, etc. There are now 50 houses completed - 30 more will be started within a week. They figure that 100 homes will support the pool project.

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February 25, 1970

## DEFERRED CASES - Ctd.

2-Ctd. Mr. V. W. Smith commended Mr. Meltzer for his plan to provide a much needed recreational area.

Mr. Meltzer said the Paddock people are doing the pool. They have put in two others for him. He thought a project of this kind was most necessary in subdivisions and plans to carry this idea through on all of his developments.

Mr. V. W. Smith suggested that before granting this the Board should have a plat and a statement showing all activities which will take place on the property and should know just what the agreement is with the community who will take over the project. Mr. V. W. Smith recalled the experience of Mr. Morrell at Rose Hill - when the pool project was granted with the idea that it would be turned over to the community - and in the end the community did not want the pool - but rather made application for their own independent pool. This was granted - resulting in two recreational areas for the subdivision.

Mr. Meltzer said there was no agreement at this time, except the \$60 fee. The people who will take part in this will not be obligated in any way other than maintenance. However, if they could get tentative approval of this, Mr. Meltzer continued, they will draw an agreement and the plats and will come back to the Board with the information requested.

Mrs. Henderson asked what would happen if 100 families were not interested in paying their \$60 and joining the group?

Mr. Meltzer said they had no thought that they would not get the 100 families, and had planned accordingly. However, if they do not get that many it may be necessary to apply for some members outside of the subdivision. But he was confident that that would not be necessary. They had not planned to spend any more than necessary on this until they know it will be approved, Mr. Meltzer explained, but if the County approves the project they will bring to the Board all the information asked.

Mr. V. W. Smith said he had no question of the intent of the developers but in view of the Morrell situation - he thought the Board should have a written statement of how this will be turned over to the people in the subdivision.

Mrs. Henderson also questioned the parking area - if the 43 cars provided for on the plat would take care of 138 families? Even though many of the homes are within walking distance, Mrs. Henderson noted, very few use the privilege of walking.

With a membership of 100 - or possibly the full 138 - Mr. Meltzer asked how many parking spaces the Board would consider adequate?

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DEFERRED CASES - Ctd.

2-Ctd.

There was no answer on this - as the Ordinance says only "adequate parking". It was agreed that a survey should be made of the ratio between membership and number of car spaces provided for a project of this kind, and that it be suggested that a ratio for such parking be included in the new Zoning Ordinance.

Mr. Meltzer said it would not be practical to lose too many lots on this project. He had hoped to reduce the parking space by not having too many members and by the fact that so many would be close. However, he noted that some of the flood plain area adjoining these lots could probably be used.

Mr. V. W. Smith again commended Mr. Meltzer on the fine project he is planning, saying that his only questions were on the agreement, the detailed plats and the parking - all of which the applicant agreed to furnish.

Since Mr. Mooreland said it would be impossible for his office to make the survey on how many parking spaces have been required in other projects of this kind in the County, and in other jurisdictions, it was agreed that the Planning Staff would make this survey.

Mrs. Henderson moved to defer the case until March 25th, in order that the applicant present a plat showing the exact location of the services to be provided by the project - including the wading pool and the dimensions of the bath house - both of which were not shown on the plat. Since the Board is of the opinion that the parking space shown on the plat may not be sufficient - it is requested that a survey of parking area in similar projects be made by the Planning Staff, showing what parking area should be required for this project. The survey by the Staff shall show the relationship between the number of families using this type project, and the required parking area - in order to arrive at a fair and reasonable parking area. The Board also would require a statement of the intent of the applicant with regard to turning this project over to the community at some future date.

Seconded, Mr. Lamond

Carried, unanimously.

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NEW CASES:

1-

MILDRED F. WALLACE, to permit operation of a private school - preschool and grades one through six, approximately 400 feet west of dead end of Colfax Avenue, (Dowden Terrace), Falls Church District. (Sub. Res. Class II).

Mr. George Botts represented the applicant, who was also present, Mr. Botts presented his evidence of notification of this hearing, to adjoining and nearby property owners.

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February 25, 1958

## NEW CASES - Ctd.

1-Ctd. Mr. Botts displayed a map showing location of schools in the area with relation to this property - indicating that there is only one private school reasonably near this section. (However, it was pointed out that there are several other nearby private schools not shown on the plat).

Mr. Botts stated that this property, which is acreage and which is largely wooded, is surrounded mostly by large tracts. Mrs. Godwin, who sold this property to the applicant, ~~owns~~<sup>owns</sup> 20 acres adjoining this to the west, and south. Her property is undeveloped. Other property to the south is owned by Mr. Seeds - who lives on his property. Property to the east - 2 acres - is also owned by Mrs. Godwin, where she has her home. Reservoir Heights to the north (Parcel A) is not subdivided. It would appear, Mr. Botts said, that the property is secluded, it is well wooded, and would not interfere with the development of any neighboring property.

This tract is reached by a 400 foot outlet road, which leads from Colfax Avenue. The outlet road abutts this property on the east.

The existing structures will be used for the school, Mr. Botts continued, with no changes except sufficient modernization to meet County requirements for fire, health and sanitation. Adjoining property owners who live on their property have stated that they have no objection to this use, Mr. Botts told the Board; Mrs. Godwin on the east and Mr. Seeds on the south.

Mrs. Wallace is well qualified to operate a school of this kind, Mr. Botts continued - she has been the Director of the Busy Bee School in Arlington, a child care center, and her record among schools of this type is excellent. She is director of the School Association of Fairfax, Arlington and Alexandria at Aurora Hills.

Mrs. Wallace said the Busy Bee School was operated from 7 a.m. until 6 p.m. for children from 2 to 6 years. The school in Aurora Hills cannot be enlarged, Mrs. Wallace told the Board, and there is a great need in this area for full day care for children of working parents. There is only one other school in the County which operates for these hours, Mrs. Wallace continued. This is an ideal location for the type of school she would conduct, Mrs. Wallace stated, it is in the center of population, reasonably near the homes of those who would attend. Children spend so much time on busses in getting to most of the schools - this will do away with that, as most of the homes could be reached within a few minutes. The school will furnish bus transportation. Only the necessary changes in the buildings will be made; Mrs. Wallace continued, and the property will remain residential in character. The school will be reached by the 28 foot dedicated outlet road.

Mr. Wallace noted that the property is so remote that very few homes could even be seen from the buildings. Mrs. Godwin's home is the only one that is near, and that is about a long golf drive away.

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NEW CASES - Ctd.

1-Ctd.

Mrs. Henderson asked what number of children would be expected?

In the beginning they will use two rooms and an office in the house. If the school warrants, they will expand. They plan on about 20 pupils to start - probably expanding to 75 pupils. The Arlington school has 30 pupils.

They now have city water, Mrs. Wallace told the Board, the septic field has been approved by the County - and they believe it is adequate for what they require at present. The dwelling has three baths and the <sup>septic</sup> field has been satisfactory for that. However, the sewer line is available, and if necessary they could connect. They will make this their permanent home.

The Chairman asked for opposition.

Mr. R. W. Brown appeared before the Board representing a group of citizens from Dowden Terrace. These people are here in a body to oppose this project. Mr. Brown told the Board. Since the posting sign was placed on the private road - very few saw the notice, Mr. Brown explained, therefore they were late in getting together. They did that, however, last Sunday, Mr. Brown stated. They drew up an opposing petition, which was circulated to those immediately affected. Mr. Brown presented the petition with 38 names. The petition stated that the signers believe that such a use would be dangerous detrimental to property values and against the general welfare of the community. (The signers of the petition all live on Colfax Drive and the immediate area).

Mr. Brown quoted from the Ordinance regarding the granting of exceptions:

".....The granting of the application will not materially affect adversely either the health or safety of persons residing or working in the neighborhood.....or will neither immediately nor ultimately affect adversely the use or development of neighboring property in accordance with the zoning regulations and map.....Means of ingress and egress to the highway shall be so located that dangerous or otherwise objectionable conditions will not be created.....". Eleven persons were present objecting.

Mr. Brown called Mr. Jennison to speak in opposition.

Mr. Jennison stated that he is Vice President of the Recreational Association for the Dowden Terrace community. The outlet road to this property is a private driveway and is not a dedicated right of way, Mr. Jennison stated. He thought it objectionable for a school to use a road which is not dedicated. This is not a personal matter, Mr. Jennison told the Board. He had talked with Mrs. Wallace, who came to his home and discussed her plans. But they do object to the establishment of a business in a residential area. People bought in this area, Mr. Jennison told the Board, with the thought of having a purely residential community. The homes are above average in cost and people are very eager that the character of the area be maintained. He had talked with members of the Dowden Terrace swimming pool club - all of whom

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## NEW CASES - Ctd.

1-Ctd. opposed this type of project. (However, he was not representing that group.)

The access road - which is not dedicated - Mr. Jennison continued, runs over one of the objectors property. This could create a nuisance, Mr. Jennison assured the Board - an attractive nuisance, to children. It could grow into a summer day camp - they cannot be assured that something more objectionable would not grow out of this, if it is granted. There is room for anything, Mr. Jennison pointed out.

There are five or six private schools in the area, Mr. Jennison noted, which serve this area very well. He could see no need for another school.

The right of way for a highway may go through this area in the future, Mr. Jennison pointed out - they do not know what might happen and the granting of a commercial use could very well depreciate the area to the extent that it would encourage unwanted and depreciating projects.

Mr. Kiley also spoke in opposition. Mr. Kiley said he concurred in all Mr. Jennison had said, plus the fact that he would like to stress the possibility of this project depreciating their property. He believed that it would change the character of the community and adversely affect the growth of the area.

Mr. Kiley also suggested that this would be hazardous for children in the area, as there are no side walks and the children often play in the street.

This added traffic could be dangerous. This is a narrow road, Mr. Kiley continued, and with the school busses added to the normal car traffic - a serious condition could result. The road is not constructed to take care of busses which will carry 75 children, and it would appear that there is no other outlet except down the 28 foot road to Colfax Avenue.

Mr. Kiley said he lives on Colfax Avenue, about four houses to the north at the top of the hill, which is dangerous for speeding cars.

Mr. McGrath also spoke in opposition.

Mr. McGrath said he had bought his lot from the original Godwin Tract - his home is next to that of Mrs. Godwin. The outlet road leading from Colfax Avenue, which will be used for this school, has been maintained by both Mrs. Godwin and him. He thought the road completely inadequate to carry the traffic for this use. The road stops at his property.

He objected to this use, Mr. McGrath continued, because of reasons stated and for personal and financial reasons. He bought in this strictly residential community where he had thought no profit making enterprise could be located. His deed specified that no dwelling could be constructed here below a certain minimum cost. His lot is large - something over 1.4 acres with a 292+ foot frontage on the outlet road from Colfax Avenue. He bought in this secluded spot to assure a quiet rural home. The ingress and egress is important to him, Mr. McGrath continued. This little narrow road is the only means of access to the proposed school property. It is a narrow one-track gravel road which gives entrance for four dwellings. While the road

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NEW CASES - Ctd.

1-Ctd.

was dedicated on the original plat, Mr. McGrath pointed out; it has been privately maintained, and it is not the kind of road suitable for traffic to a business use. Mr. McGrath also pointed out that this road encroaches on the front yard of his property. The road was laid out by Mr. Godwin and he did not object to the encroachment as long as only the four families were using it.

The granting of this use would present more problems than can presently be foreseen, Mr. McGrath concluded - he therefore must oppose it - definitely. Mr. Brown read from the Deed of Dedication of the Wheat Subdivision - recorded in Book W-6 at Page 185.

".....Party of the first part grants unto the parties of the Second part right of way over and use of all streets laid upon said plat in common with others entitled thereto but the Party of the First Part otherwise reserves all rights to said streets to the use of himself, his heirs and assigns..."

This would indicate, Mr. Brown pointed out, that these rights go to the owners of homes on the streets. That right does not go to the State, Mr. Brown insisted, but only to the people on the road, giving them right of way over the 27+ foot road. This, Mr. Brown contended, is not an actual dedication.

Mr. Hammer, who stated that he lives three houses off Colfax Avenue, told the Board that he is in the real estate business and that he objected to this use for three reasons: depreciation of property values; there are no side-walks along Colfax Avenue, where there is a dangerous hill; children sometimes play at the foot of the hill. Cars often come over the hill at too great a speed, causing a serious hazard to the children. This particular situation and the added traffic going to and from the school will add to the present danger; there is already a considerable amount of concentration in this area and along Holmes Run - the swimming pool, the elementary school, and the ball diamond - all of which have already brought added traffic to this area, to which many have objected. This would bring even more problems. People in the area feel that this use will adversely affect the health and welfare of their community, Mr. Brown summed up. It cannot be determined what the ultimate adverse affect will be, but it is obvious that the school will bring new dangers and serious problems. Continuing good development on acreage would be retarded, the ingress and egress are completely inadequate and dangerous, and this additional use of the road would be objectionable to property owners in the community.

In answer to Mrs. Henderson's question, Mr. Brown stated that this property is about 1/4 mile from the Dowden Terrace swimming pool.

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## NEW CASES - Ctd.

1-Ctd.

In rebuttal, Mt. Botts assured the Board and the opposition that the notices were posted by the County, and according to law. The fact that these notices were not seen by many of the people in the area shows how remote the property actually is, Mr. Botts noted. Immediately after the notices were posted they contacted the neighbors, Mr. Botts continued, and inquired from Mr. Jennison the name of the President of the Citizens Association or others in the area whom they might contact. They never heard from any of these people.

Mrs. Godwin had planned to be present at this hearing, Mr. Botts told the Board, but illness prevented her coming. He had discussed the outlet road with Mrs. Godwin and she stated that it is a dedicated road - dedicated in accordance with the method of dedication at the time the Wheat plat was recorded.

This will be a small school, Mr. Botts went on, there is no intention of changing the residential character of the home, in fact the operation of a small school will preserve the residential character of the neighborhood as it will assure the fact that the property will not be subdivided. Mr. Botts noted on the plat that the Wallace property blocks any possibility of using Colfax Avenue as an entrance to subdivision of this tract. However, if this property were sold to a developer he could bring Colfax Avenue down through this area carrying traffic on through the entire tract to the subdivision at the rear. This property could be divided into lots averaging 12,500 sq. ft., which would bring far more traffic than a little school of 40 or 50 children.

This is an attractive area now, Mr. Botts continued, and they will do nothing to change the property. It is remote, wooded, and is joined by acreage. Mrs. Godwin owns the property to the west and most of the adjoining property on the east. She and Mr. Seeds own the property to the south. These people do not object to the school. It would be difficult to find a piece of property so well located for this purpose. The only dwellings from which the school would be visible are Mrs. Godwin's and Mr. McGrath's.

Mrs. Godwin had stated that this property was rented for a time to a family with two noisy boys - in her home she was unable to hear them.

The added traffic from this school would be negligible, Mr. Botts continued, but it would be considerable if this tract were subdivided with the main entrance through Colfax Avenue.

The school hours will be from 7:30 a.m. until 6 p.m. They will collect and deliver the children by station wagon. These hours would be a special service to working parents - eliminating the necessity of after-school help.

Mr. Botts again assured the Board that this outlet road is dedicated as shown in Book W-6, Page 185. This was done by recordation of the plat. That dedication may be legally disputed, Mr. Brown contended, if this road is used for any purpose other than residential traffic. It was dedicated for the owners of the residential property.

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NEW CASES - Ctd.

1-Ctd.

Mr. Botts again pointed out that the road is dedicated, and that there is nothing in the deed of dedication which restricts the use of the road to any one or any group - nor is there any statement that the road is to be used for any specific purpose.

The present zoning ordinance provides for a private school in a residential area, Mr. Botts recalled to the Board, the newly proposed ordinance also places private schools in a residential area. Where else can such a school be located, Mr. Botts asked? This is an adequate piece of property, it provides parking space for 12 cars (more if necessary). All objectors except Mr. McGrath live more than 400 feet from the school site - the house cannot even be seen by most of the people.

The following letter from Colonel Kitchen, who lives on the lot adjoining the Busy Bee School in Arlington, was read:

907 South 23rd Street  
Arlington, Va.  
21 February, 1958

Zoning Appeals Board  
Fairfax County, Virginia

Dear Sirs:

I have been informed that Mrs. Mildred F. Wallace is requesting your approval to establish a daily child care center (pre-school through sixth grade) at 6000 Colfax Avenue, Fairfax, Virginia. As one who initially approved the introduction of the Busy Bee Child Care Center within our community, as one who lives adjacent to the project, and as one who is personally acquainted with Mrs. Wallace, I wish to urgently recommend your approval. Mrs. Wallace's original project, The Busy Bee, is recognized as an asset to Arlington and the immediate community; I am confident that the more ambitious project will be of comparable value to the community of Fairfax.

Mrs. Wallace assumed possession of the Busy Bee Child Care Center in November, 1956, and operated it in a manner which has been creditable to the community. Under the tactful and constant supervision of her or her assistants, the children seem quite happy, cooperative, polite and well behaved; an important facet of the progress is the development among the children of group responsibility and respect for designated authority.

Mrs. Wallace, a mother of two children, not only is well qualified for sponsoring the proposed project, but has proved to be a good neighbor - with all the latter's implications.

My recommendations are not merely those of a personal friend nor as a neophyte in the field of child guidance and pedagogy: a formal college training, an MA degree and considerable post-graduate work which included a great deal of child psychology, and some 20 years of experience as a public school administrator and college professor should qualify me to evaluate her program of activities.

Your approval of her request to establish another school within your community will, I am sure, redound to your credit.

Very truly yours,

/s/ Carr P. Kitchen

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## NEW CASES - Ctd.

1-Ctd. In view of the educational need for more schools in the County, Mr. Botts urged the Board to grant this project. This will lessen the burden on tax payers in the County, it is an appropriate location, it will not change the character of the area, and it is a needed service in the County.

Mr. Brown again quoted from the subdivision deed of dedication and questioned if this outlet road was dedicated to public use. Mr. Mooreland answered that there could be no question of the dedication of this road. The manner of this dedication (by recordation of the subdivision plat) was the accepted means of road dedication at the time this plat was put on record. The County has never questioned that, Mr. Mooreland stated.

Mrs. Henderson moved to grant the application, because of the size of the property - approximately 6 acres - which would appear to be more than adequate for a private school; the location of the buildings with relation to neighboring property; and because of the fact that many more commercial activities are permitted in a residential area without a permit - a tourist home for example, which requires no permit from this Board. A private school must necessarily be located in a residential area, as no other type of zoning would be appropriate as a commercial area would be too expensive and dangerous for the welfare of the children. In providing this private school it will remove some of the load for tax payers of the County. Considering the two nearby private schools it is noted that there are very good homes immediately in the vicinity of these school properties, and there have been no complaints from these residents. Also the Juniper Lane school, which is in her area, Mrs. Henderson stated, is only 1/2 acre of ground and to her knowledge this school has not depreciated property in the area - in fact a good class of homes has continued to be constructed after the installation of the school. The applicants plan to make this their own residence, and therefore the property will always be under surveillance.

It is understood that this project must conform to all County health and fire regulations pertaining to this use, and to all other ordinances which might be applicable.

Seconded, T. Barnes

Carried, unanimously.

2- ROBERT A. PERKINS, to permit erection and operation of a service station, approximately 500 feet east of Kirby Road, Route 695 on north side of Old Dominion Drive, Route 738. Dranesville District. (General Business).

Mr. James Harris represented the applicant.

The entire property shown on the plat is in one ownership, Mr. Harris pointed out - they will use only the portion zoned for business. They are not asking a variance on the pump island setback.

400

NEW CASES - Ctd.

2-Ctd.

Mr. Harris quoted from the Ordinance, ".....filling stations....shall be so far as possible located in compact groups.....". This location meets that restriction, Mr. Harris pointed out. He located the other filling stations in the area which are within a short distance.

The sale of this property would bring it under the subdivision control ordinance, Mr. Mooreland told the Board - which would mean that a service road would be required to be constructed within the 160 foot right of way. This right of way would run for an 80 foot depth from the centerline of Old Dominion Drive. The present right of way of Old Dominion is 40 feet. There is a serious drainage problem on this property, Mr. Mooreland continued - but if the property comes under subdivision control - that will necessarily be resolved.

Mr. Harris agreed that this land is low and he realized that they will have to meet the drainage requirements of the Public Works Department.

The Chairman asked for opposition.

Reverend Roberson from the Methodist Church spoke in opposition. The Church has purchased the land immediately back of the Perkins property which they may wish to use for a recreation area. The Church Board asked Reverend Roberson to appear at this hearing and explain to the Board that they were concerned over the drainage problem which a filling station on this land could very well aggravate. Also before they purchased this property the Church Board had discussed it with the Planning Commission and had been told that any further commercial development in this area would be discouraged as they wished to concentrate business in the McLean business area. In view of that - they bought this land. They do not favor one filling station over another, Reverend Roberson continued, and they oppose this mainly because of the drainage problem it might cause on their property. He thought considerable fill would be necessary.

Mr. Harris noted that the property is already zoned for business - they are not asking for an extension of the area - and many other types of commercial activity could go in here without approval of this Board.

Mr. Miller, who owns land immediately across from the property in question, stated that the highway in this area is very poor - it has low shoulders and is rough with only a 20 foot pavement. There are two existing filling stations in this immediate area and five stations in McLean - which more than serve the area. The existing store in the area is closed for lack of business. One of the filling stations has changed hands many times, indicating that it has not done too well. They realize that some business may go on this property - but people in the area do not think it has the potential for a filling station - however, they would like to know what might be planned for the area.

701

401

NEW CASES - Ctd.

2-Ctd. Mr. Bray from Bray's Esso Station presented a petition with 50 names - objecting to this use, for reasons stated. People signing the petition live within 1-1/2 miles of this property.

Mr. Harris called attention, again, to the fact that this property is not up for rezoning. The fact of this not being a good place for a filling station from the financial standpoint is not a matter for the Board to decide, Mr. Harris noted, and has no bearing on the case. No one knows what the future will bring. The Board has the jurisdiction to grant this use - the application meets the requirements of the Ordinance.

Mr. Mooreland called attention to the fact that the Board should consider a need - that is one of the main factors in a granting such as this, Mr. Mooreland continued. If this would be detrimental to other business in the area - that business should be protected - the same as residential property. But, Mr. Harris contended, our Country is based on free enterprise - no one should be allowed to create a monopoly. The nearest business area is four miles away.

Mr. Lamond asked about the width of Old Dominion Drive. (The plat showed it to be 40 feet). Mr. Harris answered that Mr. McCloud from the Highway Department had stated that there are no plans for widening Old Dominion Dr. and they could give no further information on the future ultimate right of way.

Mr. V. W. Smith asked about the setback from adjoining residential property.

Mr. Mooreland noted that this plat shows two separate lots - the lot which would include the filling station is determined by the business zoning.

While the Ordinance says a filling station must set back an extra 25 feet from adjoining residential property - the Ordinance also says on Page 72-c that ".....Where a district boundary line divides a lot in a single..... ownership of record at the time such line is adopted.....such lot shall extend not more than 30 feet into the more restricted portion....". Since these two lots are in the ownership of Mr. Perkins, Mr. Schumann has determined that the applicant can extend into the second parcel a distance of 30 feet. However, Mr. Mooreland continued, this matter of the 30 foot extension must be determined by the Board.

Mr. Lamond moved to defer the case for the applicant to present a plat setting up definite boundaries of the lot for the filling station, the plat to include the additional 30 feet which is a portion of the 17,500 sq.ft. lot area shown on the plat presented with the case. This shall be deferred until March 25th, 1958.

Seconded, J. B. Smith

Carried, unanimously

NEW CASES - Ctd.

2-Ctd. Mr. Harris stated that this is not actually two lots - the line is drawn on the plat merely to show the zoning line.

Mr. Lamond asked that the plat show what area will be used for the filling station - including the extension of the 30 feet, if the applicant plans to use that area.

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3- TOPS OF FAIRFAX, INC., to permit erection of one sign with larger area than allowed by the Ordinance, (150 sq.ft.) at S.W. corner of Route 7 and Route 703, Providence District. (Rural Business).

Mr. Miller and Mr. William Johnston represented the applicant.

The following statement of the case was read:

"February 25, 1958

The Board of Zoning Appeals  
Fairfax County, Va.

Mr. Chairman, Ladies and Gentlemen of the Board:

We herewith apply for permission to install a sign, with an aggregate area in excess of that allowed by the zoning regulations, the total area of the sign would be 150 sq.ft.

This will be a pylon type sign that will be free standing and would be located on the lot, where our new Restuarant will be. The legal description of which is the Southwest corner of Route 703 (Shreve Road) and Route 7 (W. Broad St.) and is presently owned by Eva E. Row.

We have plans for a new building which will be located on the above mentioned lot, also plot plans of the lot, with a certified plot plan. We have scaled drawing of the sign, with all measurements shown there on, and color photographs of the sign, which will enable you to visualize its harmonious color scheme.

As most of you probably know we have a chain of these Restaarants, and this pylon type sign is our trademark. We were granted a variance for a sign of this type for our Fairfax Circle Restaurant in March of 1957, and hope that after due consideration of this application, variance will be granted as requested.

We have with us today our agent, Mr. Miller of the Folks & Miller Sign Co., Inc., who manufactures and installs these signs, also Mr. Johnston of Tops Drive In Restaurants, who will be glad to answer any questions that you may have.

Very truly yours,

TOPS DRIVE IN RESTAURANTS INC.

/s/ W. W. Johnston

General Manager"

Mrs. Henderson asked why this variance is being requested - what is considered to be the hardship?

Mr. Miller answered that this is the sign they are using on all of the Tops Restaurants - and is known to be their particular form of advertising. In this case visibility requires a large sign.

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## NEW CASES - Ctd.

3-Ctd. Mr. Johnston said they have been advised that if they reduce the sign to 120 sq. ft. which would conform to the Ordinance, the effectiveness of the sign would be greatly reduced. This is the same sign used on all other Tops - Mr. Johnson continued, perhaps they started out with too large a sign, but it is necessary to the best interests of their business.

The Chairman asked for opposition.

Mr. Charles Bolen stated that he lives diagonally across Shreve Road, approximately 120 feet from this lot. There is a large "Poor Boy" sign across from them, which shines in their bedroom, and if this sign goes in on the other side it will direct the bright lights into two sides of their home.

Mr. Bolen said he could not see the reason for such a large sign next to residential property. Mr. Bolen said he did not object to the business, but only to the sign, which would be only 200 feet from their house.

Mr. Barnes asked if a sign 120 sq. ft. would still annoy them? Mr. Bolen answered - "yes". It would mean two large signs shining into their home until a very late hour.

Mr. Johnston agreed that the 120 sq. ft. sign would do the same damage to Mr. Bolen - as they would use the same amount of lighted area on the smaller sign.

Mr. L. B. Field objected - stating that he lives at 1011 Shreve Road, adjoining this property at the rear - the first house after entering Shreve Rd. His screen porch and the master bedroom is on the side facing this light. His objections is to the periphery of the lighting area of the sign. The development of the business property at this intersection should not injure the adjoining residential property, Mr. Field contended. The lights should be blocked off in such a way as not to be detrimental. People in the area do not object to business at this location, Mr. Field continued, but they feel that the area is being down-graded with the over-sized signs, both at this corner and on toward Falls Church. Mr. Fields insisted that some means of controlling the lighting area should be exercised. He asked how long these lights would be kept on. He also suggested that this is a hazardous intersection, which would be made more dangerous by large glaring lights. Mr. Johnston answered that the lights would be on when they are operating and noted that the lighting from this sign would not be directed in the direction of Mr. Field's home. But, Mr. Fields answered - you would have a periphery of lights shining toward his home, which he contended should be controlled. Mr. Fields asked if the Board could put a limitation on the periphery of the lights? The answer was "no".

Mr. V. W. Smith read the portion of the Ordinance covering signs of this type.

NEW CASES - Ctd.

3-Ctd.

Mr. Johnson noted that all of the lighted portion of the sign except the light on the boy is recessed so the light is directed up and down. It is actually concealed unless one is looking straight at the sign.

Where business adjoins residential land the new Ordinance says there should be some protection, Mr. Mooreland told the Board - but there is no mention of the periphery of lighting from a sign.

Mr. Lamond thought the sign might be reduced to 120 sq. ft. and located in farther on the property, which would probably give better visibility. The sign is well balanced as it is designed, Mr. Miller answered, it is a heavy sign and the base supports must be as far apart as possible for safety purposes.

Mr. Johnson stated that they wished to start construction on this within a week. However, he would be glad to try to work the sign over with the sign company to come within the ordinance, but he believed in this case the larger sign is necessary.

Mr. Lamond moved that the application as presented be granted. While the sign is in excess of the maximum area allowed by the Ordinance - in this area or in any commercial area in the County it is the belief of the Board that it is within their jurisdiction to grant a sign of this size when circumstances warrant it. This is granted as per plat presented with the case prepared by DeLashmutt Associates, Certified Land Surveyors, dated February 1957 which sets forth the location of the sign.

Seconded, Mr. T. Barnes

For the motion: Messrs. Lamond, Barnes and J. B. Smith

Against the motion: Mr. V. W. Smith and Mrs. Henderson.

Mrs. Henderson voted no - as in her opinion evidence of hardship was not shown.

Carried.

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A. W. FLORENCE, to permit dwelling as erected to remain within 44 feet of the Street property line, Lot 1, Lorton Valley, Lee District.(Agriculture).

Mr. Bernard Fagelson represented the applicant.

Mr. Fagelson presented his proof of notification to people in the immediate area - all of whom noted that they favor the granting of this request.

Mr. Fagelson called attention to the 10 foot dedication to public use along State Route 600. The house was originally laid out farther to the north-east on Route 600, and all setbacks were observed. But when the dedication was made the builder moved the house back 10 feet more, and at the same time moved the line - resulting in the necessity for this variance. It was noticed that the house location violated the Ordinance when the search of title brought it to light. This is one of those unfortunate things, Mr. Fagelson noted - it was not deliberate and there was no intention to violate the Ordinance. However, it would be a great hardship to move the house.

700  
405

February 25, 1958

## NEW CASES - Ctd.

4-Ctd. Mr. Fagelson noted that Cranford Street bears in toward the house. Cranford is a short street, Mr. Fagelson continued, and this setback will have no adverse affect on the area.

Mr. Lamond moved to grant the application because this is a small variance and it appears to the Board that the community will not be adversely affected by this granting.

Seconded, J. B. Smith

For the Motion: Messrs. Lamond, T. Barnes, J. B. Smith

Against the motion: Mrs. Henderson and V. W. Smith

Carried

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5- NATIONAL SIGN COMPANY, to permit erection of three signs with larger area than allowed by the Ordinance. (163 sq. ft.), south side Route 644, 7 feet east of Hanover Avenue, Mason District. (Rural Business).

The applicant had asked that this be deferred for from 60 to 90 days - until the sewer is in, Mr. Mooreland told the Board. They cannot furnish a certified plat until they know the location of the sewer.

Mr. Lamond moved to defer the case until April 22nd, in view of the request of the applicant.

Seconded, Mr. T. Barnes

Carried, unanimously.

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6- SCHOLZ HOMES, INC., to permit temporary sales office to remain as erected, to permit fence to remain as erected (temporary) and to permit one sign larger than allowed by the Ordinance to remain as erected (10' x 12' total area 120 sq.ft.), Mt. Vernon District. (Suburban Residence Class II). Lots 2 and 13, Block B, Kirk Subdivision.

Mr. Mooreland told the Board that he had received a telegram from the applicant stating that he was unavoidably delayed and would be unable to be at the hearing on this case.

Major Richard Ward, from Kirk Subdivision, who lives across the street from this building, objected to a deferrment - stating that several people were present in opposition and had waited for a long time for this hearing. He asked the Board to hear the case.

The Board agreed to hear the opposition, but with the understanding that a final decision could not be given without presentation of the case from the applicant.

This development was started by Hillside Development Corp., Major Ward told the Board, who had plans for development of the tract. The Scholz people bought part of the property and put up the sales office, which is in violation - and started pushing sales. The sales office is setting on the curb line of Kane Court. The fence runs out into Kane Court and the gate closes off the dedicated street. This makes it necessary for transients to stop directly

February 20, 1970

NEW CASES - Ctd.

6-Ctd.

in front of the sales office. This is very annoying to home owners in the area. When this building was started, Major Ward said he called Mr. Mooreland's office. Mr. Mooreland ordered the Company to move the building.

They knew this was in violation from the very beginning, Major Ward continued, the fence and the gate across the road would prevent any emergency vehicle from getting past the building. While there are no occupied homes beyond the fence, a situation could arise making it necessary to get through - a fire truck for instance.

His own driveway is very near the porch of this little sales building, Major Ward explained, (the porch extends into the street). His own home is of contemporary architecture with large glass panels across the front. This means that this building is immediately in front of his windows. This is an invasion of their privacy, Major Ward continued, and completely unnecessary. They would have no objection to a sales office, but they see no reason why it cannot observe the same setbacks as the homes in the area.

It is true that the Scholz people have said that the building is temporary - it is on skids - but sales could just as well be conducted from a building which was located in accordance with regulations. Major Ward asked that the Ordinance be upheld and that the building be removed immediately.

Mr. V. W. Smith read the definition of a "building" in the Ordinance, and it was determined that this structure did meet the meaning of a building.

Mr. Mooreland said that the Scholz Company had bought the property to the rear, including the back part of this road - which is a cul-de-sac. They proposed to fence off that part of the tract which they had purchased and have the future buyers come in by their sales office. When they built on this lot they said the building was temporary and would be taken down in a very short time. The street had not been accepted into the State System - although it was dedicated on the plat and the plat is recorded. He had told the company, Mr. Mooreland explained, that the building was in violation - and they therefore applied for this variance.

This is a pure violation, Major Ward stated, and the County has laws to protect the people. The building was completed after the applicant had been advised that it was in violation. The Major urged the Board to make a decision at this meeting.

Mr. Mizelle, who is connected with this company, had told him at the beginning of this hearing, Mr. Mooreland told the Board, that he could not appear here today as he was on his way to catch a plane.

There were many questions which the Board thought should be answered by the applicant.

Mr. Mooreland recalled that the Board had agreed to make no final decision on a case unless the applicant has presented his side of the case. The Commonwealth's Attorney has stated, Mr. Mooreland continued, that if in a violation, the applicant files for a variance, no action will be taken by

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February 27, 1958

## NEW CASES - Ctd.

6-Ctd. the Zoning Administrator until a decision is arrived at by the Board.

Mr. Mooreland advised that the Board not make a decision until the applicant has the opportunity of presenting his case.

Mr. V. W. Smith suggested that the applicant be advised that the application will be heard at the next meeting - without fail.

Mr. Lamond moved to defer the case until March 11th, 1958 and that the applicant be notified to be present and if he is not present the Board will take action at that time.

Seconded, J. B. Smith

Carried, unanimously.

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7- ANTHONY L. CERMELE, to permit operation of a nursery school, on west side of Route 613, approximately 450 feet south of Summit Place, Mason District, (Rural Residence Class I).

Mr. Cermele presented his letters of notification to adjoining and nearby property owners, all of whom stated that they have no objection to this proposed use.

This school is to be established as a professional nursery school only. Mr. Cermele located the property with relation to the Parklawn school and surrounding area. The dwelling to be used is located on a three acre tract.

Mr. Cermele said he had been a resident of Parklawn for three years, he has a degree in psychology, his wife is a child psychologist and both have had considerable experience in this type of work. This is a heavily developed area, Mr. Cermele continued - many subdivisions are in the general area and there is a great need for a good nursery school. The school would be ideally located with good access to Lincolnia Road and sufficient area for their activities. They will have children from three years old to five years old. Mrs. Hammer, who lives on the tract to the east has no objections and as far as they know there are no objections from the area. The tract on the west is unoccupied. The property is attractively wooded and a creek runs across the end of the property. They have talked with the Fire Marshal, the Health Department and the Sanitary Engineer's office, and know what they will have to do in order to meet their requirements, and they can and will conform to all of these agencies. While the building is new on a septic field - public sewage is near the property and they will connect with that. They will have city water.

Mr. Cermele said they would continue to live in Parklawn, but a teacher will be a permanent resident in the building.

Mr. Lamond moved to grant the application for the operation of a nursery school as it appears to the Board that it will not interfere with the surrounding subdivision and other people living in the area, and it is believed that this will be an asset to the community.

Seconded, Mr. T. Barnes - Carried, unanimously.

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February 25, 1958

NEW CASES - Ctd.

8- MARGARET P. COPIN, to permit dwelling as erected to remain within 19.9 feet of the side property line and 47.75 feet of the street property line and allow a shed to remain with 1 foot of the side property line, Lot 2, Woodburn Heights, Falls Church District. (Rural Residence Class I).

This dwelling was built by sub-contract, Mrs. Copin told the Board. All details were left to the carpenter - who got the permit and supervised the measurements from the lines. He evidently slipped up on this - there is sufficient room on the lot, Mrs. Copin noted, and the only reason for the violation is that it was an inadvertent mistake.

Mr. Mooreland recalled that this is one of the two lots which were discussed by the Board some time ago - when the owner of the adjoining property was before the Board regarding his shed in the rear yard. The shed on Lot I was moved, Mrs. Copin's shed is one foot from the line.

There were no objections from the area.

In view of the fact that these are slight variances, Mr. Lamond moved to grant the application as requested provided that the shed in the rear of the property be moved back to conform to requirements of the Ordinance.

Mrs. Copin stated that she has sold the house - the deal is supposed to be closed. It would be difficult to move the shed in this time, and since the shed on Lot I has been moved it makes a reasonable distance between the two buildings. She asked that the Board re-consider the part of the motion requiring that the shed be moved.

Mr. Lamond withdrew the portion of the motion requiring that the shed be moved to conform to Ordinance requirements, therefore, granting the application as requested.

Seconded, J. B. Smith

For the motion: Messrs. Lamond, T. Barnes and J. B. Smith

Against the motion: Mrs. Henderson and Mr. V. W. Smith

Motion carried.

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9- WILLIAM JURGES, James Lemon and Oliver Besley, to permit operation of a stone quarry, adjoins Military Reservation Engineering Board on the south, approximately 3400 feet east of Rolling Road, Route 636, Mason District. (Agriculture).

Mr. Wise Kelly, attorney for the applicant, told the Board that due to the heavy snow the engineers have been unable to complete the topo maps required - therefore, he asked that the case be deferred until the maps can be furnished. He suggested a 30 day deferrment.

Mr. Mooreland noted that this case was filed before the Board's statement of policy that no case be advertised until all pertinent information is in the office of the Assistant Zoning Administrator.

Mrs. Henderson moved to defer the case until April 8th, as requested by the applicant. Seconded, J. B. Smith - Carried, unanimously.

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NEW CASES - Ctd.

10- DWIGHT H. DODD, to permit erection and operation of a private school, on east side of Rose Lane adjacent to Lot 27, Valley Brook Subdivision, Mason District. (Rural Residence Class I).

Mr. William Hansbarger represented the applicant.

The parcel applied for in this application is a portion of a larger tract, owned by Mr. Mark Taynton, Mr. Hansbarger told the Board. If this use is permitted, Mr. Dodd will complete his purchase contract and the Taynton property will necessarily be subdivided. If this parcel is sold to Mr. Dodd it constitutes a subdivision (this will be the third parcel sold out of the entire tract) and therefore a subdivision plat will be put on record.

It was Mr. Mooreland's suggestion, Mr. Hansbarger stated, that this case be brought before the Board at this time - if the case is granted, Mr. Taynton will then know what size lot must be allotted to this use and the subdivision plat can be put on record - taking this lot into consideration.

Mr. Hansbarger presented his evidence of notification to adjoining and nearby property owners.

Mr. Hansbarger displayed a map indicating the schools in the area (public and private) noting that without exception these schools are all in a residential zone. In fact, Mr. Hansbarger continued, all private schools in the County are in residential areas except Humpty Dumpty College.

This is a wooded area, Mr. Hansbarger pointed out, it is adjacent to Valley Brook Subdivision - but the property proposed for this use is surrounded on three sides by the Taynton tract. It appears to be a location very like the location of other existing private schools in the County. All facilities are available - there are no structures on the property and whatever is constructed will conform in every way to all County requirements.

The following letter from Mrs. Margaret Miller, Supervisor Children's Agencies of the State Welfare Department, was read:

"November 11, 1957

Mr. William H. Hansbarger, Attorney at Law  
Runyon Building  
156 Hillwood Avenue  
Falls Church, Virginia

Dear Mr. Hansbarger:

You have advised us that Mr. Dwight H. Dodd of Falls Church intends to establish a private school including kindergarten and first grade in Falls Church Magisterial District, Fairfax County, Virginia.

Our office carries the responsibility for licensing child welfare agencies as provided in Title 63, Chapter II, Code of Virginia, Sections 63-232 through 63-256. Under this Statute a bona fide educational institution is exempt from licensing.

Since you have described the proposed facility to be operated by Mr. Dodd as a private school consisting of a kindergarten and first grade, it would appear to qualify as a bona fide educational institution and as such to exempt from licensing by our Department. Should the program include day nursery care for children, it would fall within the definition of a day nursery and as such would be subject to licensing.

Sincerely yours,

(Mrs.) Margaret D. Miller, Supervisor  
Children's Agencies Section"

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February 23, 1958

NEW CASES - Ctd.

10-Ctd. The Chairman asked for opposition.

Mrs. Mary Beam of 400 Rosemont Terrace appeared before the Board presenting the following letter from the Greater Holmes Run Park Citizens Association urging the Board to deny this application:

February 24, 1958

Mr. Verlin Smith, Chairman  
Board of Zoning Appeals  
County of Fairfax, Virginia

Dear Mr. Smith:

I understand that the Board of Zoning Appeals will consider on February 25th, an application for a use permit authorizing construction and operation of a private school on a relatively small lot located on Rose Lane, about one block off Valley Brook Drive, in the area of The Greater Holmes Run Park Citizens Association.

That Association, through its executive board, has authorized me to bring its views to your attention.

We urge that you deny the application for the use permit in question, for the following reasons:

1. The application contemplates the use of the property in question for a commercial venture which would not be in keeping with the present purely residential character of the neighborhood in which the property is situated. The members of the Association attach high importance to the preservation of that residential character.
2. The Association feels that the presence of a structure which would be unattended at many hours of each day would be objectionable, if not downright hazardous to the community. Such an unattended building would represent a standing invitation to vandalism.
3. While the above objections might conceivably be overridden if there were a clear and pressing need in the community for a small private school, the Association is aware of no evidence that such a clear and pressing need exists.

I regret that I shall be unable to appear before you during your hearing on this matter, but anticipate that other members of the Association will do so.

We shall greatly appreciate the Board's consideration of the views of this Association in arriving at its decision regarding the pending application.

Sincerely yours,

/s/ Carl P. Blackwell  
President"

The Association would like more information about the school, Mrs. Beam told the Board - what kind of school is it to be; will they take pupils through the first grade or through the seventh grade? They have heard both, and the opposition is directed especially toward the inclusion of the upper grades. But - whatever the plan for the school, Mrs. Beam insisted that the lot is too small. The applicant is asking for only 28,000+ square feet, and in her opinion it should be a parcel of several acres.

Mr. V. W. Smith called attention to the fact that in the newly proposed Ordinance a school of this kind would necessarily be located on five acres - however, Mr. V. W. Smith noted, the Board is not operating under that Ordinance.

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411

NEW CASES - Ctd.

10-Ctd. Mrs. Beam continued - how will they get the children to this school, there is no driveway in to the property, and Rose Lane ends just before it reaches this property. There is no curb and gutter on Rose Lane - children from the neighborhood attending the school will probably have to cross private yards. This would be destructive and undesirable.

Mrs. Beam also objected to the unattended building (it was her understanding that the applicant or the individuals running the school would not live on the property).

The radius from which they would expect children to attend this school would include Barcroft and Malbrook. Those areas are already well served with private schools.

Mrs. Beam also discussed the stream bed easement which runs in front of this property. The stream is now at its natural level and the houses are well above the brook, but in heavy rains water from the stream floods the street and makes it practically impassable. The addition of this school with the attending run-off would increase the flood problem. This flooding would also serve as an attractive nuisance for the children, Mrs. Beam suggested.

Mr. Hansbarger was asked to further describe the plans and activities of the school.

Mr. Hansbarger asked if the main objection to the school is the inclusion of the upper grades? The answer was - that the objections would be less if the people were assured that the school was for the kindergarten and first grades only.

The grounds will be attended at all times, Mr. Hansbarger continued, someone will live in the building or will be entirely responsible for the property. The stream over-flow will be taken care of, Mr. Hansbarger explained, under the provisions of the subdivision control ordinance. Before this property can be used it must be subdivided and when this is done the culvert or whatever is needed to take care of the stream over-flow will be enlarged or made adequate to take care of the drainage. The drainage must conform to requirements of the Public Works Department.

It was noted that the culvert is across the street - it is not on this property. It was also pointed out that the stream bed is not large enough to handle the additional run-off from this property.

Whatever is on this property as to drainage will be subject to the subdivision control ordinance, Mr. Hansbarger explained again, and adequate drainage must be provided in accordance with requirements of the Public Works Dept. if the clearing and development of the Taynton tract causes excessive run-off, that will be the responsibility of the developer to conform to County requirements. Drainage plans will necessarily be approved before the plat will be approved by the Planning Commission, and all County requirements must be met prior to the time the school is erected.

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NEW CASES - Ctd.

10-Ctd.

Mr. Hansbarger recalled that Mr. Dodd has planned for a school on other lots in the County but in his opinion this is the most favorable location Mr. Dodd has considered. This is a contract - contingent sale.

If this case is granted, Mr. Mooreland explained, Mr. Taynton will then put his subdivision plat on record - including this lot. Streets, <sup>proper</sup> storm drainage, curb and gutter and black top roads will be required. All off-site improvements must be in before a building permit will be issued.

Mrs. Weinsheimer of 316 Valley Brook Drive, asked why not put the subdivision plat on record first? The answer was - that the man has had no sale for the lots and therefore there has been no reason to subdivide. He does, however, have a sale for this one lot, which if sold will require the subdivision. Under any circumstances there has been no point in subdividing until the size of the school lot is determined - the subdivision of the property will take the school lot into consideration.

Mr. Owen Birtwistle of Rose Lane stated that they own property immediately to the south of this property, with 175 foot common boundary. They have evidence, Mr. Birtwistle told the Board, that the general feeling in the neighborhood is against this school. However, they themselves are not entirely opposed to a private school - as such - but this should be done in proper form. The other private schools granted in this area have enough elbow room to be integrated into the community, which, Mr. Birtwistle contended, is good for the children. But this lot 125 x 225 is barely a half acre. He would think even three acres not too much ground for a school in this area.

This building will be only 40 feet from their home, Mr. Birtwistle continued, they have a \$25,000 home. This is an attractive community, the people take pride in their homes and he did not like to see a breaking up of the symmetry of the community - nor anything enter the area which would change the pattern into a downward trend.

Mr. Birtwistle also stated that this property is located in Falls Church District - rather than in Mason, as advertised.

Again, Mr. Birtwistle stated that they are not opposed to a private school, but this property is too small and they question the need of this project in their area. There are no sidewalks in the area for children attending the school and it would appear that the applicant cannot provide adequate off street parking. The road barely meets the minimum standards and would not take care of parked cars, nor would it stand up under additional traffic. They would also like additional information on Mr. Dodd's plans; will the property be fenced, how will they keep the children under control if they do not fence the yard? A school improperly controlled would invade the privacy of people in the area. If the property is fenced, what kind of fence will it be?

710  
413

## NEW CASES - Ctd.

10-Ctd.

Mr. Hansbarger answered that the property would be enclosed with a chain link fence. A prolonged "No-o-o" from those in opposition.

Mrs. Birtwistle came before the Board and presented an opposing petition, signed by approximately 100 people in the area.

Mrs. Birtwistle stated that in her opinion this case has been brought before the wrong Board.....she recalled the previous attempts of Mr. Dodd to establish a school in this area. Now, Mrs. Birtwistle continued, Mr. Dodd wishes to buy this 1/2 acre from Mr. Taynton so Mr. Taynton will have to subdivide. Mr. Taynton has tried several times to have this land rezoned for 14,000 sq. ft. lots and now he comes up with a plan to sell this one lot. They wonder why a builder would offer to buy 1/2 acre to erect a school. It sounds very strange, Mrs. Birtwistle went on, perhaps this sale is made so Mr. Taynton can subdivide. However, they have no particular quarrel with the private school - if it is properly done, as it would actually bring some relief to the tax burden in Fairfax County.

The Chairman asked how the subdivision of the remaining Taynton land was related to this application? This tract is something over 1/2 acre, which would more than meet the lot size requirement for this area, Mr. V. W. Smith noted.

They are not entirely clear on this, Mrs. Birtwistle answered, but it was her understanding that Mr. Taynton wished to sell this 1/2 acre to Mr. Dodd who would build the school and thereby force Mr. Taynton to subdivide his property. This is a trick of some kind, Mrs. Birtwistle insisted, but she was confused on just how the trick works. Mr. Taynton had threatened the Citizens Association last year that they must go along with him on this, therefore, Mrs. Birtwistle contended - this case should be before the other Board.....

Mr. Mooreland explained that as far as the subdivision of this land is concerned there is no trick nor subterfuge - the sale of the Dodd lot will be the third parcel of land sold out of the Taynton tract, and a subdivision will have been created. Mr. Mooreland again explained in detail the history of Mr. Taynton's property, which with the sale of this parcel will create a subdivision, and the law requires that he put a plat on record. Mr. Taynton would have to subdivide into 1/2 acre lots, which is considerably more area than the lots in Valley Brook Subdivision, which is zoned Suburban Residence Class II - 12,500 sq. ft. lots. There is only one lot in Valley Brook that comes up to a 1/2 acre area, Mr. Mooreland continued, the lot adjoining this property contains 15,625 sq. ft.

Mr. Hansbarger recalled that Mr. Taynton had asked for rezoning of his property to 12,500 sq.ft. lots, several times. He met with strong opposition. Now if he puts a plat on record - it will contain lots of 1/2 acre, which is the very thing the opposition was fighting for in their opposition to Mr. Taynton's rezonings.

414

NEW CASES - Ctd.

10-Ctd.

Mrs. Birtwistle discussed the possibility of Mr. Taynton subdividing and including the roads in the average lot area. That, Mr. Mooreland answered, could not be done. Mrs. Birtwistle still insisted that this is a move on the part of Mr. Taynton to take an unfair advantage of the community.

The 100 names on the petition could very well have been 200, Mrs. Birtwistle told the Board - the people in the area are almost unanimously opposed to this, and since the school would no doubt<sup>not</sup> draw from this area for pupils - she considered it unwanted and not needed.

Mrs. Birtwistle asked what teacher will operate the school - will she live in the building and will she buy the school? Surely, Mrs. Birtwistle continued, Mr. Dodd has no intention of running the school. How about regulations governing private schools - since there are practically no County regulations a school of this kind should not be allowed to operate unrestricted - what protection would be assured for children in the school and in the community?

Mrs. Birtwistle agreed that a private school should be in a residential area, but she also insisted that 1/2 acre is not enough ground. In her opinion the five acres required in the newly proposed ordinance should be observed.

Mrs. Birtwistle contended that this is an attempt to upset the residential character of the area - and they object. Mrs. Birtwistle asked that they hear from the person who would run the school.

Mrs. Witt, who will operate the school was present, Mr. Hansbarger told the Board, but she is suffering from laryngitis and was unable to speak.

Mr. Tauber, who is presently operating a specialized school, and who will probably serve as one of the instructors in this school, gave his educational background. Mr. Tauber stated that he had taught for a number of years in the public schools - but that he hoped never to do so again. The public schools are unable to do a good job, Mr. Tauber charged, because the classes are too large, the teachers are placed in the category of guards rather than educators, their work load is tremendous with an abundance of paper work and meetings. Public education as it is presently operating is completely inadequate to meet the basic needs of the children. The schools operate like a big factory, with an amazing disregard for the individual, Mr. Tauber continued. While he is deeply interested in education he could not subscribe to a system that neglects the basic requirements of good schooling. Mr. Tauber considered the objections to this school small and unimportant, and he felt the people in the area had no real interest in education.

Mr. Tauber told of his work with children with problems, children who are passed over in the public school system. There are always children who find it difficult to get on with others, they are not bad children, they are often very intelligent, but they need understanding and guidance, Mr. Tauber continued. They get none of this in public schools. He told of one child with practically a genius IQ who was on the verge of being expelled from the public school. He has taken this boy and in less than one month the child is greatly improved.

415

## NEW CASES - Ctd.

10-Ctd.

Mr. Tauber said he has eight children in his school. He has been looking for another location, and would like to integrate his children with the Dodd school.

Mrs. Henderson asked Mr. Tauber if he would live on the premises? The answer was - yes, if he could conduct his own school there.

It was recalled that Mr. Tauber had been refused a school location some time ago - because the ground area was too small.

Mr. Lamond commented that it would appear that Mr. Tauber is doing a commendable job.

Mrs. Justice, from Valley Brook, stated that it was her understanding that this was to be a kindergarten and first grade. Mr. Tauber takes children through the elementary grades. However, it was noted that the application calls for a "private school" and not just a kindergarten and first grade.

Mr. Weinsheimer, who owns property adjoining this tract, objected to the statement that the people opposing have no real interest in education. Mr. Weinsheimer told of his and his wife's educational work in connection with the Holy Trinity Church - particularly the Sunday School and the private day school. He listed their activities and educational background.

Mr. Weinsheimer objected to this school for reasons stated, also noting that since his work requires that he sleep during the day the noise would be objectionable and he thought an unattended building would encourage vandalism. He believed that there is no need for the school in this area, and that the property is too small for the school and off-street parking.

It was noted that many who had come to speak for or against the school had found it necessary to leave.

(Mr. Mooreland interrupted the case to state that Major Ward - who had opposed the Scholz Homes, Inc. case had called his office stating that Mr. Mizelle had not left by plane as reported, that Mr. Mizelle was still in the building and therefore could have been present at the hearing. The Major asked that the case be reopened and a decision made. However, Mr. Mooreland told Major Ward that the case had been deferred and that decision would stand.)

Mr. Hansbarger said in rebuttal that it would appear that the people in opposition are really not objecting to a private school. All have agreed that a private school should be located in a residential district. The main objection is to the size of the lot. If the Board requires more land for this project, Mr. Hansbarger asked that he be told just what would be satisfactory. They will meet all County requirements as to setbacks and health and fire regulations.

The Board discussed the State regulations which set forth the relationship between children and land area.

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NEW CASES - Ctd.

10-Ctd.

Mr. Hansbarger quoted 100 sq.ft. per child for exterior play area, and 35 sq.ft. floor area per child for classroom as having been proposed by the County Ordinance to control nursery schools. They will comply with those requirements, Mr. Hansbarger told the Board. Also the applicant has no objection to the purchase of one acre - if the Board so desires. He will also agree to locate the building near the far lot line, which would place it away from homes of those objecting. If the Board wishes to limit this school to kindergarten and first grade - that too will be satisfactory to the applicant, Mr. Hansbarger concluded.

Mr. J. B. Smith moved that the application be granted provided the acreage is increased to one acre, and that the building shall be located 20 feet from the north boundary line. This school is to be limited to a kindergarten and the first grade.

Seconded, Mr. T. Barnes

For the motion: J. B. Smith, T. Barnes, A. S. Lamond, Mrs. Henderson  
Mr. V. W. Smith voted "no"

The motion carried.

Mrs. Birtwistle apologized for her poor presentation, saying that she was excited, confused, and nervous. She thanked the Board for their courtesy.

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DEFERRED CASES:

3-

M. J. BLES, to permit extension of operation of a gravel pit on 12 acres of land on the northeast side of Route #7, near Tyson's Corner, Dranesville District. (Rural Residence-Class II).

Mr. John Testerman represented the applicant.

They have removed most of the gravel from the property on the original permit, Mr. Testerman told the Board, and have restored the land in accordance with requirements. They are asking now to remove gravel from the adjoining 12 acres. The complete plans showing topography of the ground before starting operations have been presented with the case. These plans contain the information as to how the land must be left upon completion of the work, all of which meets the requirements of the Ordinance. These plans were furnished when the bond was put up to assure the County that no pockets will be left, slopes, drainage and elevations will conform to the original plat, and the ground surface will be left in a safe condition, and that the water will leave the property in the same manner as before operation. They will meet all these obligations, Mr. Testerman told the Board, and the bond will not be released until such conditions are met and the land is restored to the existing topography in the area used.

<sup>it</sup>  
If/happens that Mr. Mooreland's office would need a topographic map at the time of completion they will furnish one, Mr. Testerman stated.

TLI

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## DEFERRED CASES - Ctd.

3-Ctd. Mr. Lamond stated that since the applicant has met the requirements of the Ordinance, he would move that the extension of operation of a gravel pit be granted for a period of three years.

Seconded, J. B. Smith

Carried, unanimously.

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5- JAMES M. MONROE, to permit erection of an additional building on property within 35 feet of the Street property line, Lot 2, James G. Bennett Sub-division, (south of Routes 29 and 211 on Meadow Lane), Falls Church Dist. (Rural Business).

Mr. Shield McCandlish represented the applicant.

This is a request to make further improvements to this school, Mr. McCandlish told the Board. This is the only school in the County which is located on Rural Business property, Mr. McCandlish noted. The proposed building will be located 35 feet from Meadow Lane, a 40 foot right of way adjoining the side line of this property. The setback required is 50 feet.

When Meadow Lane was dedicated it had a 30 foot width. Mr. Bennett, the original owner of this tract joined in an additional 15 foot dedication for the first block of Meadow Lane, leaving the 30 foot road on the Monroe property. When Pine Springs was put in, the line of the road was moved to the west, which resulted in a 40 foot dedication along the Monroe property.

This property is surrounded on two sides by Suburban Residence-Class I zoning, Mr. McCandlish pointed out, which requires a 35 foot setback, except to the north, which is Rural Business - the same zoning as Mr. Monroe's property - which requires a 50 foot setback. If this building is set back the required 50 feet it would be out of line with the residences in the area - some of which - to the rear of this property - are non-conforming and which set back 25 feet.

Mr. McCandlish read a letter from the architect of the building, which states that he has experienced difficulty in providing adequate building width and sufficient play yard, if the building must meet the 50 foot setback - and asking Mr. Monroe to obtain a variance on this setback.

Also, Mr. McCandlish noted that a topographic condition exists which would impose a hardship on the applicant. There is a bank along this part of the property which would require a considerable amount of dirt moving if the building is located farther from the street line.

As they have the building located it will give adequate light and air and good circulation throughout the property - a consideration necessary for proper fire and police protection.

Mr. McCandlish called attention to the fact that this building with its 35 foot setback will still be 10 feet farther from the line than that of neighboring property to the rear. The granting of this request will not

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DEFERRED CASES - Ctd.

5-Ctd.

violate the intent of the Ordinance, Mr. McCandlish continued, as the building will not be out of line with setbacks in the area.

Mrs. Henderson suggested turning the building around with the side toward the street line. This is the part of the property which is high, Mr. McCandlish pointed out, and excavating for the length of the building would be impractical as the elevation rises steadily the farther it goes away from Meadow Lane.

There were no objections from the area.

Mr. McCandlish stated that there is no easement set aside to make this road 50 feet wide all the way. It has been accepted into the State System.

Mr. Lamond moved to grant the application because of the exceptional circumstances surrounding the dedication of the road and the fact that this setback is in keeping with setbacks in the area. This is granted under Section 6-12-g of the Ordinance.

Seconded, J. B. Smith

Carried, unanimously.

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4-

WALTER KURYLO, to permit enclosure of existing porch within 13 feet of the side property line, Lot 5, Section 7, Broyhill Park, (1906 Dye Drive) Falls Church District. (Suburban Residence -Class II).

This case was deferred to view the property. Mr. Lamond reported that he had seen the property and he did not see how this could adversely affect any other property in the area. There is a topographic condition, which would make it impossible to put the porch at the back of the house. The back of the house is at cellar level. There is no room on the opposite side of the house for an addition. The porch is 10 feet wide, which would make a very small variance.

Mr. Mooreland noted that if the new Ordinance is adopted, this setback will not be in violation.

The addition will be of brick construction with wood siding which would conform to the existing building.

Mr. Lamond moved to grant the variance because of the topographic condition existing on the property.

Seconded, Mrs. Henderson

Carried - all voted for the motion except Mr. V. W. Smith, who refrained from voting.

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The meeting adjourned.

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Verlin W. Smith, Chairman

419

March 4, 1958

A Special meeting of the Fairfax County Board of Zoning Appeals was held Tuesday, March 4, 1958 at 10 o'clock a.m. in the Court Room of the Fairfax Courthouse with all members present. (First meeting for Mrs. Lois Carpenter).

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The meeting was called for the express purpose of discussing the first draft of the Zoning Ordinance proposed by Mr. Hugh Pomeroy.

Mr. A. Slater Lamond, Vice-Chairman, presided.

The following changes were suggested:

1. Height (Page 36) - The Board suggested a limitation of 75 feet, regardless of the zone and the setback.

2. Under the granting of swimming pools (Community Clubs): These projects should be subject to coming before the Board of Zoning Appeals for further control. The Board especially noted the inequities which might arise when a pool or club is requested outside of the subdivision which it will serve.

3. At Page 40, Paragraph 5. It was suggested that the width of the patio allowed and the distance allowed from the side line should add up to the total setback. For example; if a patio is allowed 6 feet into the side yard - it then should not be allowed to come closer than 4 feet from the side line. This in a zone with a 10 foot side setback. Any zone should total the required setback.

The same would apply to Paragraph 6 - on outside stairways. If the stairway is allowed to project 4 feet into the side or rear yard, the distance to the lot line should total the full setback. (If it projects 4 feet the distance from the lot line should be 6 feet on a 10 foot setback).

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The Board agreed to defer election of a new Chairman (in view of Mr. Verlin W. Smith's retirement from the Board) until the next regular meeting - March 11, 1958.

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The meeting adjourned



A. Slater Lamond, Vice-Chairman

March 11, 1958

The regular meeting of the Fairfax County Board of Zoning Appeals was held Tuesday, Mar. 11, 1958 in the Board Room of the Fairfax Courthouse with all members present, Mr. A. Slater Lamond, Vice-Chairman, presiding. (First regular meeting for Mrs. Lois Carpenter).

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Mr. Lamond called for nominations for Chairman.

Mr. J. B. Smith nominated Mrs. Henderson.

Seconded, Mr. T. Barnes

Carried - all voting for the nomination except Mrs. Henderson, who voted "no".

Mrs. Henderson took the Chair.

DEFERRED CASES:

1- ELLIS G. HARRINGTON, to permit storage shed to remain as erected two feet of side and rear property lines, Lot 4, Block 8, Section 3, Hollin Hall Village, (406 Fairfax Road), Mt. Vernon District. (Urban Residence).

This case was originally deferred for adoption of the new zoning ordinance.

Mr. Mooreland was of the opinion that this setback would be taken care of in the new ordinance.

Mr. Lamond moved to defer the case for 90 days, with the expectation that the new ordinance would be enacted by that time, which would eliminate the necessity for this variance. If the ordinance is not in effect by that time the Board would extend the time again.

Seconded, J. B. Smith

Carried, unanimously.

POLICY

Mr. Mooreland asked if the Board would agree that he hold any other similar applications which might come into his office - pending adoption of the new ordinance. The Board agreed that he should do so.

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Mrs. Henderson welcomed Mrs. Carpenter - as the new member of the Board.

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NEW CASES:

1- DOCTOR JAMES D. MILLS, to permit operation of a medical and dental clinic in a dwelling as non-residents, Lot 1, Mizelle Subdivision, (401 North Kings Highway), Mt. Vernon District. (Suburban Residence Class I).

Mr. Andrew W. Clarke represented the applicant, who was present also.

Mr. Clarke congratulated Mrs. Henderson upon her election to the Chairmanship of the Board.

The letter of notification to adjoining and nearby property owners was read - indicating that no change in the zoning will take place and that there will be no alterations in the exterior structure of the building to be used for the Clinic.

MARCH 11, 1958

## NEW CASES - Ctd.

1-Ctd.

This is a request to continue the use which has been carried on in this dwelling by Dr. Mills, with the addition of the Dentist.

Mr. Clarke presented a drawing of the immediate area indicating the Mills property with relation to other land uses - for a radius of several blocks noting particularly the Jefferson Manor shopping center, Acme market, Bank, Telegraph Road shopping center and homes. This property is located about 3/4 mile north of the Penn Daw Hotel.

Doctor Mills has lived in this house for four years, Mr. Clarke told the Board. A few months ago he moved to a new home. He now wishes to establish a clinic in this building - the same kind of request, Mr. Clarke noted, as the Board granted some time ago to Doctor Austin.

Doctor Mills' office hours will be from 1:00 p.m. to 4:30 p.m., and from 7:30 p.m. to 9:00 p.m. in the evening. He will be closed on Wednesday.

Associated with him will be Doctor La Cava, a dentist who would set appointments at 1/2 hour intervals - with hours from 9:00 a.m. to 5:00 p.m. There would be no office hours on Saturday or Sunday.

Fairfax County has practically no office space for Doctors and no specific areas set up for professional men, Mr. Clarke pointed out. Therefore it becomes necessary, in order to attract Doctors and Dentists to the area, to give them a place where they can operate within easy reach of their clientele.

Mr. Clarke showed a picture of the brick rambler - which would be used for the clinic.

Doctor Mills had prepared a traffic flow chart on Kings Highway between the hours of 8:00 a.m. and 6:00 p.m., which showed an average of 9-2/3 cars per minute or 5800 cars for the ten hour period.

The following letters requesting the Board to grant this application were read:

"February 11, 1958

## TO WHOM IT MAY CONCERN:

We of the Fairhaven Citizens Association respectfully request that Dr. James D. Mills, 401 North Kings Highway, Alexandria, Virginia, be allowed to retain offices at above address.

With the vast increase in population and shortage of physicians in this community, his services are indeed essential.

Very truly yours,

/s/Donald E. Weston, President.  
Fairhaven Citizens Association"

"March 1, 1958

Dr. J. D. Mills  
401 North Kings Highway  
Alexandria, Va.

Dear Dr. Mills:

It is our understanding that you wish to obtain a use permit so that you can move from your present residence at 401 North Kings Highway and retain your office there.

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NEW CASES - Ctd.

1-Ctd. Jefferson Manor Citizens Association letter - ctd.

The Jefferson Manor Citizens Association, representing the residents of Jefferson Manor, has no objection to your application. In fact, we heartily approve it. We are glad to have you in our community and hope the Fairfax County Zoning Board will act favorably on your application when presented.

We consider a good Doctor an asset to any community and it is our thought that should your application be approved and you had the entire building at 401 North Kings Highway available for office and clinic space, then the community would benefit by more valuable and much needed services.

Again, let us say that we sincerely hope the Fairfax County Zoning Board will give favorable consideration to your request, and if we can be of any assistance in the matter please let us know.

Very truly yours,

JEFFERSON MANOR CITIZENS ASSOCIATION

/s/ R. Ivan Shields, President"

"February 25, 1958

Doctor J. D. Mills, M. D.  
401 North Kings Highway  
Alexandria, Virginia

Dear Doctor Mills:

Your letter of January 14, 1958 was referred to a committee for study and recommendation. The committee found and recommended as follows:

- a. That it is reasonable to distinguish between a professional and a strictly commercial establishment.
- b. That there appears to be a need for a medical-dental clinic where you are presently practicing for the convenience of residents in the area served by your office and particularly when emergencies arrive.
- c. That it is extremely doubtful your continued use of the premises at 401 North Kings Highway would influence further commercial development in the adjacent area inasmuch as it is understood that each application is reviewed and considered on its own merits under current zoning ordinance.
- d. That the premises give no appearance of an unpleasant nature, being residential in character and maintained in a very satisfactory manner.
- e. That providing the premises continue to be maintained in the future as in the past, neat and pleasing in appearance, the committee,

Recommends that you be permitted to retain your office at 401 North Kings Highway or be permitted to conduct a medical-dental clinic on the premises now existing.

I personally concur in the findings and recommendation of the committee and I feel quite certain that the membership will vote in favor thereof at the next meeting to be held in March.

Sincerely,

/s/ R. F. Rickard  
Colonel, USA, Retired  
President  
MT. VERNON-LEE CHAMBER OF COMMERCE"

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NEW CASES - Ctd.

1-Ctd.

The number of people willing and eager to sign a petition favoring the granting of this use is overwhelming, Mr. Clarke told the Board. He presented petitions with 700+ signatures. The petition read as follows:

"TO: Fairfax County Board of Supervisors  
Fairfax Courthouse  
Fairfax, Virginia

We the undersigned, property owners, residents, and taxpayers of Fairfax County, Virginia, do hereby petition this Honorable Board to give favorable consideration to the granting of a use permit or to special zoning of the property of Dr. James D. Mills, to permit his former home located at 401 North King's Highway to be continued to be used as his office and a dental clinic.

We further represent that by permitting Dr. Mills to remain at this location that the same will be an asset and a convenience to the community, particularly because of the extreme shortage of doctors to serve the fast growing population of Fairfax County, Virginia.

We further represent that there are no office buildings or other commercial centers available for Dr. Mills in the area and that since Fairfax County is primarily a rural community, that it will not be detrimental to any of the properties located in this area to permit him to maintain his medical office and a dental clinic."

Only three home owners who live in the nearby area were unwilling to sign, Mr. Clarke informed the Board.

Thirty-four people were present favoring this application - Mr. Clarke said he would call on a few to give the Board an expression of the feeling in the area.

Mr. William Moss, member of the Board of Supervisors, after congratulating Mrs. Henderson upon becoming the new Board Chairman, stated that he hesitated to appear before this Body since the Board of Appeals is appointed by the Board of Supervisors, but, continued Mr. Moss, since the oath of office states that the membership of this Board is charged with maintenance of the health, welfare, and safety of the community - and since those things are at stake in this case, he felt it proper that he make a statement.

Mr. Moss recalled that a request for commercial zoning near this property was before the Board of Supervisors some time ago, and it was refused because the area is predominantly residential, and the Board believed that it should remain in that category. The Board is very conscious of the fact that strip zoning in this area - such as that on U. S. #1 - would be detrimental. It is extremely important, Mr. Moss continued, to keep this highway free of that type of development, and the Board of Supervisors are committed to that policy. Therefore, if it is thought by anyone in the neighborhood that granting this use might encourage requests for commercial zoning - the people in the area can rest assured that the Board of Supervisors has a firm policy on this which would preclude them from granting any commercial zoning - and the granting of this case would not influence the Board to change its policy.

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March 11, 1958

NEW CASES - Ctd.

1-Ctd.

Mr. Moss said he had checked with the owners of Jefferson Manor Shopping Center and was informed that no office space is available there for Dr. Mills. If there were - Mr. Moss declared, he would speak against this case. However - Dr. Mills has been conducting his practice from the house while he lived there - and without complaint. It would appear to him, Mr. Moss continued, that the health, welfare, and safety of the people in the community are at stake.

A case must be decided on its merits and it must be decided for the benefit of the greater number of people concerned - even though in that granting it works a hardship on the few. The opposition to this case is no doubt geared to the fear that this granting might bring commercial development into the area. That, Mr. Moss again stated, will not be so. The Board of Supervisors will not deviate from their policy.

This is a service greatly needed by the people in this area, and now the question is - will Dr. Mills be allowed to remain here - and serve the people. He is wanted and he is needed, Mr. Moss contended. Mr. Moss urged the Board to grant the requested use.

Dr. Kennedy told of the shortage of doctors in this area, stating that there are less than ten doctors for every 45,000 people. Doctors in the County, and particularly in this area, are carrying a very heavy load, Dr. Kennedy told the Board. He asked the Board to grant the requested clinic to better serve the people.

Mr. Allen Vanderberg, from Mt. Vernon Park stated that a letter from their Citizens Association had been sent, which he did not believe had been received by the Zoning Office. (Note: This letter was received that day, after the hearing.) There is no doctor between Woodbridge and Alexandria on Mt. Vernon Highway, Mr. Vanderberg told the Board, and Dr. Mills has served a considerable portion of their area. He is very well thought of, Mr. Vanderberg told the Board, and their citizens Association urges the Board to grant their permit.

Colonel Rickard from the Mt. Vernon League Chamber of Commerce also asked the Board to allow Dr. Mills to continue practicing in this building. A Committee was appointed by their Chamber to study the situation regarding this case, Colonel Rickard informed the Board, and the letter read earlier in the hearing was sent as a result of the Committee report. The Chamber urges the Board, the Colonel continued, to consider the health and welfare of the people in this area in making their decision.

Mr. Herbert Allen from Lyon Heights Subdivision, stated that his home is across the street from Dr. Mills and he has not been disturbed by cars parking near the Mills property. Very few cars are there at one time - perhaps two or three, Mr. Allen noted. He had talked with many people in Fort Lyon Heights, all of whom feel it would be a great injustice to the community to

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## NEW CASES - Ctd.

1-Ctd. take Dr. Mills away from this area. He is a wonderful Doctor, Mr. Allen continued, he is there when they need him and they want the clinic with both the Doctor and Dentist.

Both Mr. O'Neil and Mr. Baker, who live near him, Mr. Allen told the Board were unable to be present but had asked him to voice their approval of this request.

Major Durassi, from Jefferson Manor Citizens Association, told the Board that there are 554 houses and 184 apartments in Jefferson Manor, and the great majority of these people are in the military services. They need a Doctor within walking distance, especially for their families when the men are away on duty. The Major told of the very fine services Doctor Mills had rendered his family. He was greatly appreciative and urged the Board to grant Doctor Mills' application.

Mr. Shields, who lives one block from Dr. Mills, spoke of the comfort and convenience of having Dr. Mills in their area. Mr. Shields said he had talked with over 100 families, most of whom agreed with him. He urged the Board to consider the community's need and welfare in this.

Mr. Arenholt stated that in his opinion petitions did not necessarily mean too much, but in this case he had carried a petition around and he was particularly interested in the reaction of home owners to this clinic. He found people enthusiastic and eager to sign the petition. He found no opposition. These people are thinking of the good of their community.

Mrs. Bough agreed with others favoring this use and added that there is a school almost adjacent to this property, and she thought it particularly advantageous from the standpoint of the school to have the Doctor near.

Mr. Smith, from the drug store in Jefferson Manor, told of the advance in his prescription business since Dr. Mills has come into the community. He asked the Board to grant the application as a service to the community.

Mr. Vranich, who owns a large tract of land on Kings Highway just south of Dr. Mills, told the Board that he had understood that some opposition had developed to this case over a lack of parking space. Mr. Vranich pointed out that between Dr. Mills' property and Fairhaven there is a stretch of 2000 ft. along the roadside, which is not used by homes for parking purposes. This 2000 ft. borders his property and that of Dr. Fifer. When they widened the highway in this area, they left parking space for 100 cars.

There are never many cars parked in front of Dr. Mills' property, Mr. Vranich told the Board, but if at any time Dr. Mills requires more space for parking he has told the Doctor that he will give him all the space he needs on his adjoining land.

Mr. Vranich commended Dr. Mills very highly, telling of his great service to the community.

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NEW CASES - Ctd.

1-Ctd.

This building has become too small for the Doctor and his expanding family, Mr. Branich went on, it has become necessary for him to find another location. Since this house has been used for this purpose and the Doctor is greatly needed and wanted in the neighborhood, Mr. Vranich could see no reason for his leaving the place. He would far rather have the Doctor keep his office in the house than for him to rent it and leave the area. Mr. Vranich asked the Board to leave Dr. Mills in their community.

Mr. Charles Harnett, owner of Jefferson Manor shopping center, urged the Board to grant this request - because, Mr. Harnett stated, the people in this community want and need Dr. Mills and it is therefore the duty of the County government to allow this clinic to operate where it is needed and where it will best serve the best interests of the people.

Dr. Mills is not only a good Doctor, Mr. Harnett continued, but he is a great asset to the community, he is interested in people, he helps with the ball team, and is an active enthusiastic community worker. It would be a serious blow to this community if they could not keep Dr. Mills - he is highly respected and a great addition to the area.

Mr. Clarke asked Doctor Mills to speak.

Doctor Mills said he was overwhelmed by the testimonies and statements of his friends - he appreciated deeply all that had been said, the efforts of the people in the area in his behalf. Four years ago when he came to this area there was no office space available, Dr. Mills told the Board, so he selected this house which he thought suitable both for an office and a home and moved in. Dr. LaCava, a dentist, has also outgrown his present office space and it is Dr. Mills' plan to have Dr. LaCava come in with him.

The Chairman asked for opposition.

Seven were present opposing the application.

Mr. Wesley Mizelle, from Mizelle Subdivision, of 402 Kings Highway, spoke first in opposition, representing himself and adjoining property owners - the Hills, Meggs, Beata, and the Wilcox families. Mr. Mizelle said his property is across the street from Dr. Mills.

Although they want to keep Dr. Mills in the community they object to the Dentist going in with him, Mr. Mizelle told the Board. Mr. Mizelle said he was very sure there is available property on Rt. 1 for Dr. Mills' office. In answer to the statement that there is no other doctor in the area, Mr. Mizelle called attention to the two Doctor Austins, who have a clinic on Kings Highway.

This is not a suitable place for a clinic, Mr. Mizelle continued, as the Doctor is unable to furnish off-street parking. The addition of the Dentist's patients will create an intolerable situation for those in the immediate area. He has seen many more than three cars parked along the highway - in fact cars have often completely blocked Shady Oak Lane and his own driveway had been blocked so friends were unable to get in and out. The coming

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1-Ctd. and going of cars has created a hazard in getting into Kings Highway from his own driveway. Many times it has been difficult to squeeze through on to Kings Highway because of the cars parked on both sides of the street. Mr. Mizelle recalled that Mr. Vranich had offered Dr. Mills a parking area on his property across Shady Oak Lane. That, Mr. Mizelle stated, would be within 15 ft. of his front yard, and he did not consider a parking lot an especially attractive outlook from his front windows. The traffic would present a hazard to his four children and to children in the immediate area. He could foresee - with the coming of the Dentist - that the hazard would be doubled.

Also, Mr. Mizelle suggested that this type of development could very well have an effect upon the undeveloped land in this area. They had hoped it would be put into single family homes. This granting would leave a question in the minds of nearby property owners - how would this land be developed? It is very likely that apartments near the shopping center have vacant apartments which would serve very well as a location for professional offices. That would be only about .3 of a mile away. They have sufficient parking facilities and these apartments are located just about in the geographical center of the homes of the petition signers.

Mr. Mizelle said he did not think it would be a financial strain on Dr. Mills to take an office in a business area, as he has apparently prospered here. A business location would relieve the parking situation for people in the area, and Dr. Mills would still be available to his clientele. The majority of the petition signers are not affected by the parking situation, Mr. Mizelle pointed out, but those homes directly across the street from Dr. Mills had suffered a great inconvenience - and with the present plan the problems would be increased.

Since Mr. Vranich has offered land for Dr. Mills' parking - it might be well for Mr. Vranich to consider offering land for a clinic, Mr. Vranich has a considerable amount of ground, which could take care of a clinic and parking without detriment to anyone.

Mr. Mizelle showed pictures of cars parked on both sides of Kings Highway and Shady Lane.

In view of conflicting testimony regarding other locations for Dr. Mills, Mrs. Henderson asked Mr. Mizelle to suggest available locations for office space. Along U. S. #1 - where there is already a great deal of business zoning, Mr. Mizelle answered, this would be about .4 of a mile from the present location.

Mrs. George Beaty, from 404 Kings Highway, (across from Dr. Mills) concurred in Mr. Mizelle's statements, emphasizing her concern over the affect this granting might have upon the undeveloped land a short distance from Dr. Mills.

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1-Ctd.

She also stated that she had no objection to Dr. Mills having his office in the dwelling - but she objected to the addition of the Dentist. If this is granted, Mrs. Beaty concluded, it should be for a limited time and to Dr. Mills only.

Mrs. Mizelle suggested that it was possible that those who have said there are no more than two or three cars parked in front of Dr. Mills' property have either not checked the parking over any substantial period of time or they have observed the area from a blocked angle. You have only to look out their living room window, Mrs. Mizelle noted, to see the cars coming and going and the crowded parking, Mrs. Mizelle agreed that it is a comfort to have Dr. Mills in the neighborhood, they like him and they want him to stay, their main objection is to the parking situation and the addition of the Dentist. However, Mrs. Mizelle mentioned several other doctors in the area within a few miles radius.

It was suggested that people were given the impression that there was a move on foot which would take Dr. Mills out of the neighborhood, Mrs. Mizelle stated, and that probably was the reason for the great amount of interest in this case - but, Mrs. Mizelle continued, that was never the intention - quite the contrary. But people signed the petition hoping to keep Dr. Mills in the area, but they were never informed of the parking situation which could endanger the lives of children, or which might devalue property in the area.

Mr. Wagner concurred in the objections made - objecting strenuously to the parking problem and the devaluation of property. Mr. Wagner also commended Dr. Mills both as a Doctor and as a member of the community. However, Mr. Wagner said he had talked with many petition signers who knew nothing of the parking situation, and who had thought the opposition was trying to run Dr. Mills out of the community.

Mr. White and Mr. Allen, who live across the street from Dr. Mills, had no objection to this case.

In rebuttal Mr. Clarke recalled to the Board that Mr. Moss had stated that the Board of Supervisors has taken the position that this is residential area, and that it will remain so. Therefore, Mr. Clarke assured the Board, the concern over a change in the character of this area if this request is granted, is unfounded. Mr. Clarke pointed out that the wide shoulders within the right of way give ample space for parking off the traveled way, but still within the right of way. There could not have been a serious traffic problem here or the police would have been notified, and would have been present at this hearing to testify as to the situation. However, if cars have blocked the driveways, that should be stopped.

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1-Ctd. This is a reasonable request, Mr. Clarke continued, there is no change from a residential status. Dr. Mills is asking to have a Dentist with him who will have appointments at 1/2 hour intervals - that will not add more than two cars at one time. There will be no night appointments and none on Saturday and Sunday.

Dr. Mills has a fine clientele, Mr. Clarke continued, he has achieved a reputable place in the community, both as an excellent Doctor and as an individual. As evidenced by the petitions and the testimony presented - the people want to keep him. Retaining Dr. Mills in this community will contribute greatly to the welfare of the community.

There is no other office space available, Mr. Clarke insisted, the only thing Dr. Mills could do would be to buy business ground and build, which is not practical for him to do at this time.

The parking situation can be controlled, Mr. Clarke assured the Board, either by the police or using the property offered by Mr. Vranich. He wished to emphasize, Mr. Clarke stated, that there will be no change in zoning, this will not encourage business development in the area - the Board of Supervisors will not allow that - it is merely a permit to continue using this dwelling as an office. There has been no question that all want Dr. Mills to remain - the only problem to be solved is the parking situation, which Mr. Clarke insisted can be resolved.

Mrs. Edward Meggs concurred in the objections presented.

Mrs. Henderson read a report from the Planning Engineer stating that the ultimate right of way of Kings Highway is proposed to be 160 feet.

Mr. Lamond noted that the road width is apparently carrying the traffic at present, and while it was well to keep the proposed 160 foot right of way in mind - he did not think it necessary to assume that the State is in the process of taking that right of way at any foreseeable future date.

That no doubt is the right of way the State would like to have - but there is no assurance that it will be taken, Mr. Lamond concluded.

Mrs. Henderson noted that the Clinics are not mentioned in the Ordinance, only hospitals and sanitariums. Since the Board has previously considered a clinic under the "hospital" section - which requires a 100 foot setback from all property lines - Mrs. Henderson asked, is that setback to be required in this case.....obviously it cannot be met. (Mrs. Henderson referred to pages 75 and 76 of the Ordinance).

Mr. Clarke agreed to file on the setbacks, if the Board so desired. However, Mr. Clarke recalled that when Dr. Austin obtained his permit for a clinic the 100 foot setback was waived. He had not asked for it in this application as he thought it was not necessary.

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1-Ctd.

Mr. Mooreland suggested that the Board could grant the variance in setback along with the granting of the application - if they chose to grant the case. Under any circumstances, Mr. Lamond thought the "hospital" section too restrictive and noted that the new Ordinance separates hospitals and clinics. It was noted that there is no room on this lot for expansion, and Mr. Clarke said there would be no structural changes in the building, which will serve as offices for just the Doctor and Dentist.

Mr. Lamond asked Dr. Mills if he would set up a parking lot on Mr. Vranich's property? Dr. Mills answered that the families across the street objected to that - but he thought parking on King's Highway where side parking is both legal and sufficient would perhaps be more satisfactory. He would put up signs to keep people from blocking Shady Oak Lane and driveways.

Mr. Lamond stated that in his opinion this is an instance in the Ordinance where the Board has some flexibility as this appears to be an exceptional and extraordinary situation - therefore, he moved that the application be granted including whatever variances as to setbacks necessary to put this project into operation. This is granted to Dr. Mills only, and a dentist - granted under Section 6-12-f. It is understood that Dr. Mills will see that the cars will not block Shady Oak Lane.

Seconded, T. Barnes

Carried, unanimously.

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2-

ALEXANDRIA WATER COMPANY, to permit erection and operation of a water pumping station, on east side of Rt. 617, on south side of Lot 1, Block 1, Yates Village, Mason District. (Urban Residence Class I).

Mr. Armistead Boothe represented the applicant. Mr. Boothe located the property showing that it is joined on the north by the property of Mr. Mullen (the owner of this parcel), across the street is an apartment development, and to the south is General Business zoning. (with the exception of Mr. Mullen's 50 ft. strip of Residential zoning).

This 100 ft strip of Urban zoning belonging to Mr. Mullen lies between the commercial property at Springfield and the Mullen residence - this use will occupy 55 ft of the Urban property nearest Mr. Mullen's residence.

This booster station will be put in to take care of the peak load in summer which runs about 26,000,000 gallons. The normal peak for other months is approximately 13,000,000 gallons. It has become obvious that this station is necessary to boost pressure into the 24 inch main which supplies this area, Annandale, and Springfield, etc.

This structure will be constructed of brick with glass block windows facing the street. It will be designed to look very like a small residence with a pitched roof and attractive landscaping. The door will open to the south.

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## NEW CASES - Ctd.

2-Ctd.

Specifications show that the building will be sound and dirt proof. Ventilation will come through the louvres near the floor on the <sup>south</sup> side of the building and the air will be discharged through a dormer on the south exposure. The equipment will be entirely electrically controlled. They will have a 200 horse power electric motor which will pump at low speed. It will create very little heat or noise.

The building will be set back the same distance from Backlick Road as the Mullen home - which is 57 feet from the right of way. If Backlick Road is widened to the 80 feet as proposed by the Highway Department the pump house will still be back a sufficient distance from the right of way.

They have planned to put \$15,000 into the construction of this building, Mr. Boothe told the Board, exclusive of machinery. It should be a neat looking little job and not out of keeping with the area.

They will take down only those trees necessary to locate the building, Mr. Boothe stated, and will plant trees or shrubbery in front of the building so when completed it will look very like a small dwelling.

The building will be un-attended, Mr. Dowdell, Manager of Alexandria Water Company, told the Board. It will be silent for eight or nine months of the year, as it will be needed only during the peak months - June through Sept.

The operation will be semi-automatic - it will be started manually and will stop when the load goes off. There may be times when it will run 24 hours a day, depending upon the demand. The building and grounds will be cared for - they will paint the dormers whenever necessary.

They have no other pumping stations as large nor as elaborate as this, Mr. Dowdell told the Board, most of the others are underground, but since their hydraulic studies have indicated that the proper location for this station is in this immediate area - they will make every effort to see that this building conforms to the area, and will not detract in any way from the good development around it. The Board can rest assured, Mr. Dowdell continued, that this installation will not be noisy nor a nuisance in any way.

There were no objections from the area.

Mr. Mooreland reported that he had had a telephone call just before the meeting from the Vice President of the Citizens Association at Springfield asking that this case be deferred for the Association to meet and determine if they might wish to oppose the application. Mr. Mooreland stated that he had advised the Association that he would relay the message to the Board, but also told the Vice President that he should appear before the Board with reasons for the requested deferral. The case has been properly advertised and posted, Mr. Mooreland stated. The Vice President was not in the room, therefore, no consideration was given to deferral.

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NEW CASES - Ctd.

2-Ctd.

Mr. Boothe pointed out that this is about as good a transitional use between residential and commercial property as could be found.

Mr. Lamond moved that the Alexandria Water Company be granted a permit for erection and operation of a water pumping station as requested. This is approved because it is a needed facility and it will be a benefit to people in the neighborhood and it is for the protection, use, and welfare of people living in the area. As shown on the plats presented, the station will be erected on the property of Ralph Mullen, being a 55 foot frontage of the 100 foot strip between the General Business zoning at Springfield and Yates Village Subdivision. This is granted as per plat prepared by Edward S. Holland, dated February 19, 1958, and presented with the case.

Seconded, T. Barnes

Carried, unanimously

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3-

FRED C. IKENBERRY, to permit erection of an addition to rear of dwelling and tied to side of garage--garage is located less than 25 feet from the rear property line, Lots 161 and 162, Section 2, Hollin Hall Village, (205 Bunker Hill Road), Mt. Vernon District. (Sub. Res. Class II).

Mr. Ikenberry stated that he had had this house built about six years ago at a cost of approximately \$25,000. The garage was connected with a breezeway. He did not know it at the time, but the garage was in violation of the Ordinance as far as setback was concerned, as it was located 20 feet from the rear line of the lot.

This addition is planned to be a dining room on the rear of the house which will be made by remodelling and extending the old screened porch, and tying in to the garage. Plans for this addition were made by an architect who did not know that attaching the addition to the garage would cause a violation. They paid \$240 for the drawings and received bids for construction. They discovered the error in setback when applying for the building permit. The home of the nearest neighbor is about 115 feet away, and the house which backs up to their lot is about 100 feet away, therefore it would appear that neither would be adversely affected. Both of these neighbors had indicated on the letters of notification of this hearing that they have no objection. Mr. Mooreland noted that the garage alone did not need a variance, that the violation was caused only by tying the garage to the dwelling.

It was suggested to Mr. Ikenberry that he re-arrange his addition to eliminate the connection with the garage. Mr. Ikenberry explained that the dining room, located as it is, gives excellent access from the breezeway and the flagstone terrace at the side of the house. He is using two side walls in the construction of the addition which saves him a considerable amount. The ends of the breezeway will be finished with jalousies. This

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## NEW CASES - Ctd.

3-Ctd. gives excellent protection for the terrace. It will not only be a convenient and less expensive way of construction, Mr. Ikenberry explained to tie the garage and house together as he is planning, but it will make an attractive home - he will continue the roof line of the garage to the new construction which will tie in with the house, making a well balanced unit.

While there is a hill along the rear part of his lot - a shear drop - which has been the cause of locating all the houses along Bunker Hill Road as far forward as possible, his lot is level, Mr. Ikenberry said. It could not be said that a topographic condition exists.

There were no objections from the area.

Mr. J. B. Smith moved to grant the application because it does not adversely affect anyone else in any way, the lot in back of the applicant's property being considerably lower than this property the location of this building would not be disadvantageous to that property owner. This is a most unusual case and it is the opinion of the Board that they have the jurisdiction to grant the variance requested.

Seconded, Mr. Lamond

For the motion: J. B. Smith, A. S. Lamond and Mrs. Carpenter and T. Barnes Mrs. Henderson voted "no", because this violation is not the fault of the Ordinance - the garage becomes non-conforming because it is the wish of the applicant to attach it to the house.

Motion carried

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4- THOMAS and MEREDITH, to permit dwelling as erected to remain within 49.5 feet of the Street property line, Lot 22, Poplar Terrace, Providence Dist. (Rural Residence Class II).

Mr. Thomas appeared before the Board, stating that this is his first slip in housing construction in the County, and he has done considerable building. The improper location of the house occurred, Mr. Thomas stated, when the Gas Company put the main line up the street. They knocked out the house location stakes and put them back wrong. The house was located on the incorrectly placed stakes and the violation was not caught until the construction was completed. The lot is large, Mr. Thomas observed and there was no objection from the area.

Mr. T. Barnes moved to grant the application since this is such a small variance and does not have an adverse affect upon the neighboring property. It is the belief of the Board that this was an honest mistake, as it is noted that the lot is large with plenty of room to locate the house without violation, and therefore obvious that the applicant was not attempting to evade the Ordinance.

Seconded, J. B. Smith

Carried, unanimously.

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DEFERRED CASES:

2- SCHOLZ HOMES, INC., to permit temporary sales office to remain as erected, to permit fence to remain as erected (temporary) and to permit one sign larger than allowed by the Ordinance to remain as erected (10' x 12' total area 120 sq.ft.), Lots 2 and 13, Block B, Kirk Subdivision, Mt. Vernon District. (Suburban Residence Class II).

Mr. Mizell was present representing the applicant.

Mr. Mizell explained his position with the Scholz Homes Company, stating that he is employed by the Toledo Ohio office as Project Engineer. His duties are to go from place to place in any part of the Country and erect Model Parks which have been planned by their engineers. This Model Park will be advertised and they hope will be ready for opening by the end of the week.

At the last meeting, Mr. Mizell stated, he had hoped to have the Company's promotion engineer present. He, the promotional engineer, was held up in New Orleans and could not get here. He himself had to leave and was unable to handle the case before the Board, therefore, he had requested the deferral.

The latter part of November 1957 he was given the plat of this Model Park, Mr. Mizell informed the Board, with instructions to have the Park ready for advertising within a certain time. He came here in December and started work.

Kane Court is a little dead end street off of Shenandoah Road, it carries no traffic except the few families who live on it. This little sales building is not located properly on the lot, Mr. Mizell admitted, but it is only a temporary expedient. When he goes into the field on a job, he assumes that all legal matters are taken care of. The fact that this building was placed in the wrong location is his responsibility, but it was located just as the plat that he was going by indicated. The plans are complete when he starts the job and he assumes that everything is in accordance with laws and restrictions of the jurisdiction in which he is working.

They have removed the part of the fence near the Ward property and have removed the gates across the road. The fence has been put on the right of way and is no longer in violation.

They are putting on an expensive advertising campaign now, Mr. Mizell continued, and within a few months they will remove the entire building. The building is on skids, but it is a very presentable little structure - they have taken great pains that it is attractive and well designed. They are so near the point of completion, Mr. Mizell continued, all they need is a reasonable period of time to take advantage of the large amount they are spending and the advertising. They are now right at the point where they can produce results - and they need the little building in this location.

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## DEFERRED CASES:

2-Ctd. Mr. Barnes asked how long they would need the building?

Until Fall, Mr. Mizell answered. They have 38 units to sell and they have 28 salespeople working. It should not take but a few months - certainly not later than Fall.

To allow these violations on this property would set a precedent for many other developers, Mrs. Henderson noted, and it would be difficult to refuse them once this is granted - even temporarily.

Mr. Mizell noted that the sign advertising this property is located 220 ft. from the intersection of Kane Court and Shenandoah Road - a 20 sq. ft. sign allowed by the Ordinance, would be meaningless at this distance. This sign affects only two residents, Mr. Mizell pointed out, Major Ward and Mr. Hacker - no one else is there to see it. The only other houses in the area are the exhibit houses which are within the fenced property. These houses will not be sold for occupancy until toward the end of their sales campaign.

Mr. Lamond asked Mr. Mizell to explain the term "Model Parks".

It is a group of residences furnished for display and enclosed by fencing to set it off by itself. It is not open to the public except for selling purposes. That is why the fence and gate are across the road leading in to these homes, Mr. Mizell explained.

But, Mr. Lamond explained, you cannot fence off a dedicated road.

He did not know that this was a dedicated road, Mr. Mizell answered, he thought it was private land just the same as that on which they were erecting the Park, and they had considered it a part of the Park.

Mr. Mooreland recalled to Mr. Mizell that any road shown on a recorded plat is a dedicated road - and therefore public. Mr. Mooreland insisted that that is always so - he could not understand why Mr. Mizell did not realize that this was a dedicated road.

Although the opposition was heard in full at the last meeting, the Chairman asked Major Ward if he wished to make a statement.

The Major recalled his questioning of the setback of the building when construction started. He notified Mr. Mooreland who advised the Scholz Company of the violation, and notified them to remove the building. Mr. Mizell at that time contended that the road was part of the private Park and not a dedicated road. The Company knew of this violation all along, Major Ward insisted, there is ample room to set the building on the lot, out of the street. It is a nuisance to him, Major Ward continued, and he also noted that the house on Lot 1 has been sold and will be occupied this month. This violation affects that property also, and two other dwellings on Shenandoah Road, both of whom object. These people have had notice of this violation since last November - still the house stands in this violating position.

Major Ward asked the Board to exercise its jurisdiction and rule that the applicant conform to the Zoning Ordinance.

DEFERRED CASES:

2-Ctd.

Mr. Mooreland told the Board that on December 12, 1957 he received the complaint on this. Inspection was made on December 16th. On December 17th he attempted to get in touch with Scholz and met Mr. Rodman. Mr. Rodman asked that the building be allowed to remain until January 20, 1958. Mr. Mooreland agreed to that. On January 20th Inspector Barry went to the property and that day was the first Mr. Mizell knew of the January 20th dead line for removing the house. Mr. Rodman had been connected with the Hill-side people who had - during this period sold some of these homes to Scholz. Mr. Rodman had not told Mr. Mizell that the building was in violation and that he had a dead line to move it by January 20th.

Mr. Mooreland recalled the noise and confusion at the last meeting when Mr. Mizell had spoken to him, explaining why he could not be present at the hearing. He, Mr. Mooreland, had probably misunderstood Mr. Mizell's exact words and had told the Board that Mr. Mizell had to leave and could not be present at the hearing. Major Ward later saw Mr. Mizell in the building and was considerably upset because the hearing was not completed.

Mrs. Henderson questioned the value of the 120 sq. ft. sign. The houses are attractive and well designed, Mrs. Henderson noted, and she did not believe they needed this over-sized sign to sell them. An office with a proper setback and a 20 sq. ft. sign (allowed by the Ordinance) would probably sell these houses more quickly than as it is.

In rebuttal, Mr. Mizell said he arrived on this job last December. The house was up when the inspector came. He was advised then of the violation. They ran into a heavy winter and were delayed with everything. They had been pushing for a January 15th opening. Now it is delayed until March 15th. They have been plagued with mud, the ground is a heavy sticky clay-like soil which takes a very long time to dry out. It is still saturated. They have been wanting to put in sod but they can't lay it over the soupy mud base. If they were to bring a bulldozer in there now and move the little house it would be like tearing the building apart - the building would never stand the move with the present ground conditions. The ground will have to dry out before they could bring the bulldozer in. Also if they set the building back to the required 40 ft. setback it would be completely hidden, Mr. Mizell stated. The small 20 sq. ft. sign would do them little good, and they would lose the value of their extensive advertising.

They are having signs prepared which will control the parking - Mr. Mizell assured the Board, and from now on neither Major Ward'd nor any other driveway in the area will be blocked. Mr. Mizell said he had talked with the people coming in to the new house on Lot 1 and had told them that the sales sign would be there for many months, and they had no objections.

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DEFERRED CASES - Ctd.

2-Ctd.

This sales campaign will not last a great many months, Mr. Mizell told the Board, and since the little building is not too strongly built it very likely would not stand up under more than one moving - therefore they would like an arrangement so they could move it only once - then destroy it or take it down. If they could wait and move it to their next location that would probably be the end of it. The building is attractive, Mr. Mizell pointed out, but it is fragile and would be impractical to move because of the ground conditions. They have removed the fence and will reduce the sign.

Mr. Mooreland and Mr. Mizell again discussed the dedication of the road (Kane Court), Mr. Mooreland contending that it is almost a universal fact that a building permit will not be issued on a road that is not dedicated to public use. Mr. Mizell contended that such a restriction does not always apply and cited States which do not make that requirement.

Mr. Mizell also called attention to the fact that he would have to cut many large trees on this lot if they moved the house back - trees that should not be taken down for a home.

Mr. Lamond moved that the office sales building be moved back to the right of way line of Lot 2 and that the 10 x 12 ft. sign now on the property be removed immediately. The moving of the office sales building shall be accomplished within 30 days from the date of this hearing (March 11, 1958) and the building shall be allowed to remain in its relocated position for a period not to exceed six months from March 11, 1958.

Seconded, Mr. T. Barnes

Carried, unanimously.

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Meeting adjourned

*L. J. Henderson*

Mrs. L. J. Henderson, Jr., Chairman

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The regular meeting of the Fairfax County Board of Zoning Appeals was held Tuesday, March 25, 1958 at 10 o'clock a.m. in the Board Room of the Fairfax County Courthouse, with all members present, Mrs. L. J. Henderson, Jr., Chairman, presiding.

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The meeting was opened with a prayer by Mr. J. B. Smith

DEFERRED CASES:

1-

SULGRAVE MANOR DEVELOPMENT CORP., to permit erection and operation of a community swimming pool with accessory structures thereto, Proposed Lots 42 and 43, Section 2, Sulgrave Manor, (on north side Route 624, 1400 feet east of Badger Drive), Mt. Vernon District. (Rural Residence Class I).

This case was deferred for report on parking area with relation to Swimming Clubs - report to be prepared by the Planning Office. No one was present to discuss the case and the report from the Planning Office was not at hand. Mr. J. B. Smith moved to place the application at the end of the list.

Seconded, Mr. T. Barnes

Carried, unanimously.

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ROBERT A. PERKINS, to permit erection and operation of a service station, approximately 500 feet east of Kirby Road, Route 695 on north side of Old Dominion Drive, Route 738, Dranesville District. (General Business).

Mr. Harris represented the applicant.

This case was deferred for new plats which would show the lot on which this use could be granted. Mr. Harris presented the plats.

Mr. Harris stated that the applicant has no present plans for the back lot. They have contacted the Highway Department who stated that they have no present plans for the widening of Old Dominion Drive - however, it was noted that the Planning Commission shows a future right of way on Old Dominion Dr. of 160 feet.

While the 160 foot right of way may be needed in the future, Mr. Lamond noted, the Highway Department have no such plans, and he questioned the right of the Board to tie a man's land down for a right of way which may never be taken. Mr. Lamond suggested that since the State is the one who takes the right of way, the Board should have a letter from the District Engineer stating that more right of way is needed - if right of way is to be reserved.

Mr. Mooreland said the new Ordinance would take care of a situation like this - no land can be held for future right of way unless it is known what will be done with the highway.

Mr. J. B. Smith suggested that the Board could ask for an additional 10 foot setback.

## DEFERRED CASES - Ctd.

2-Ctd.

Mr. Mooreland suggested that in the granting of filling stations, unless a definite reservation is put in the motion, that the property can be used for a filling station only - it is impossible for him to stop an additional business use on the property - since it is zoned for business. He noted cases where a trucking business and the parking of machinery has taken place on filling station property. This additional use creeps in, Mr. Mooreland continued, particularly when the filling station business doesn't go too well. If the Board grants such applications for use of a filling station only, that would preclude an additional business, Mr. Mooreland suggested.

Mrs. Henderson suggested moving the pump island a little farther to the east on this property, and set it back 35 feet - in view of the future plans for the highway.

Mr. Mooreland noted that while the plat shows the pump island to be located 25 feet from the right of way of Old Dominion Drive, the application does not ask for a variance on the pump island setback, therefore the setback would be 35 feet.

Mr. Lamond moved that the case be deferred so Mr. Perkins could apply for the 25 foot setback.

Mr. Perkins asked why the County requires such a wide setback on pump islands when the State requires only 10 feet? If the road is widened to 160 foot right of way, Mr. Perkins noted - it would take far more than the extra 10 feet.

Mr. Lamond thought pump island setbacks should be uniform and if and when the highway is widened, the pumps could be moved back.

Mr. Mooreland suggested that the Board could allow the 25 foot setback merely by resolution - amending the application.

It was noted that the application was advertised without requesting that variance. Since no opposition was present, Mr. Harris suggested that if there were opposition it would be directed at the 35 foot setback as well as the 25 foot.

Mr. Lamond moved that the applicant be allowed to revise his application to show a request to permit the erection and operation of a filling station with the pump island located 25 feet from the right of way of Old Dominion Drive.

Seconded, Mr. T. Barnes

Carried, unanimously.

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Mr. Lamond moved that the application of Mr. Robert A. Perkins, as amended, be approved for erection and operation of a filling station only and that the pump island be allowed within 25 feet of the right of way of Old Dominion Drive.

Seconded, J. B. Smith

Carried, unanimously.

NEW CASES:

2- DANIEL K. PHIPPEN, to permit carport to remain as erected within 9.4 feet of the side property line, Lot 17, Block 13, Section 8, North Springfield (5502 Joplin Street), Mason District. (Suburban Residence Class II).

441

Mr. Andrew Clarke asked that the case of Daniel Phippen, scheduled for 10:30 be deferred until April 8th, as they have not sent notices to adjoining property owners. The Board agreed to this deferral.

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DEFERRED CASES:

1-Ctd. Mr. Hiss came before the Board to ask withdrawal of the SULGRAVE MANOR DEV. CORPORATION'S request to permit erection and operation of a community swimming pool, etc., Section 2, Sulgrave Manor. MT. VERNON DISTRICT

Mr. Lamond moved that the Board allow the application to be withdrawn.

Seconded, Mr. T. Barnes

Carried, unanimously.

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NEW CASES:

1- GLEN FOREST COMMUNITY ASSOCIATION, INC., to permit erection and operation of a community swimming pool, bath house and related recreational activities, 6.75 acres of land at the end of Kaywood Place, approx. 1650 feet north of Leesburg Pike, Mason District. (Suburban Residence Class II).

Mr. John Aylor represented the applicant. Also Mr. Aylor stated that he lives in Glen Forest and is one of the Directors of their Association.

On December 20, 1957 this Association was granted a charter for a non-profit non-stock Corporation. They have had many meetings. The by-laws were drawn up and shown to the property owners in Glen Forest, and financial arrangements are being projected. There are now 52 families in Glen Forest and 35 are members of the Association. They have entered into a contract with the Lewis Pool Company for construction of the pool and have received bids to start work on the entire project. Mr. Oliver, developer of Glen Forest, has donated the property for this use with restrictions that the 6.75 acres will be used for this recreational purpose only. The pool will be of Olympic dimensions. There is no other pool in this immediate vicinity and they believe this is a greatly needed project. They will comply with all requirements of the present swimming pool ordinance, and all other County ordinances applying. The pool area will be fenced, flood lights will be installed, and they will have three life guards. It is planned to have a volunteer organization within the group to police the area and guard against vandalism.

Mr. Aylor pointed out that they have adequate land for off-street parking, however, it is their belief that a large portion of the users will be walk-in members.

MARCH 27, 1970

## NEW CASES - Ctd.

1-Ctd. Mr. Aylor called attention to the fact that they are leaving 50 feet of trees between the parking area and the nearest lots. Also he said, along the south of the property are trees which will be left. They can connect with the County sewers - so there will be no drainage problem. He noted that the pool is not located in the drainage area.

This recreational area is planned especially so the children from the subdivision can play in their own area.

This Association will be restricted to 110 members. They plan no snack bar but plan to have a tennis court and ball diamond. The parking space will take care of 50 cars, and no parking will be allowed on Kaywood Place. If they need more parking area, Mr. Aylor noted, it will be provided, but with the walkways leading to the pool - which Mr. Aylor pointed out - it would not appear that more parking space would be needed, at least for the present.

They will leave as many of the bordering trees as possible for protection against noise and parked cars. It was noted on the plat that the area is well located with relation to the subdivision, and convenient walkways make it very accessible.

There were no objections - several were present in support of the project. Mr. T. Barnes moved to grant the application for erection and operation of a community swimming pool to Glen Forest Community Association, as shown on plat dated January 26, 1956, prepared by Springfield Surveys. This is granted in accordance with the new County swimming pool ordinance, and all other County Ordinances applying.

Seconded, Mrs. Carpenter

Carried, unanimously.

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3- EARL M. GIBSON, to permit operation of a repair garage, on west side of Rt. 617 - 500 feet south of Rt. 644, Mason District. (General Business).

This is proposed to operate as a body and fender works and repair shop.

There is no such business in the Springfield area, Mr. Gibson told the Board, and it would appear that there is a need to service the community.

The building is already up - a plumbing and heating shop is in the front and a glass shop at the rear. The repair business would be in the building between these two operating businesses. Mr. Gibson said he would park the cars in front of his shop until such time as they are worked on. These buildings are all set back a considerable distance from Backlick Road. This is purely a commercial area, Mr. Gibson continued, with business zoning on both the north and south.

There were no objections from the area.

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NEW CASES - Ctd.

443

3-Ctd.

The Board was apprehensive about the possibility of this becoming an automobile grave yard, but Mr. Gibson assured them that he had no intention of creating a grave yard - and it is so specified in his lease.

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It was agreed, however, that since all cars received for work could not be housed - the cars waiting for work would be parked on the property but would be kept inside as soon as work on them starts.

Mr. Lamond moved to grant the application for a repair garage, which is not to be construed to be a storage yard for wrecked cars and that no wrecked cars are to be stored on the premises. This is granted in accordance with Section 6-16 of the Ordinance. It is also understood that the cars will be put in the back/<sup>yard</sup>until they are worked on.

Seconded, J. B. Smith

Carried, unanimously.

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4-

JOHN N. CAMPBELL, INC., to permit erection and operation of a motel (101 units) at the southwest corner of Rt. #7 and Glen Carlyn Drive West, Mason District. (General Business).

Mr. Campbell presented his evidence of notification to neighboring property owners and located the property. This would appear to be an ideal location for a motel, Mr. Campbell suggested, it is between the shopping center and the apartments. It will serve as an accommodation to the people living in the apartments who have guests, and it will make a good transition between the commercial development and the apartments. Mr. Campbell noted that no permit is required for the restaurant - which is included in the motel. This will be developed into a "plush" motel - they will concentrate on service and the ultimate in comfort. The building will be two story in front and three floors at the rear. They have designed a simple attractive sign - with only the name "Culmore House". The building will have 101 units and probably a meeting room for community use. Mr. Campbell presented a picture indicating the type building they plan.

The following report from the Planning Engineer was read: "If this property were to come under Subdivision Control at some future date, a service road would be required to be constructed within the proposed 160 foot right of way, which would require an ultimate dedication of 80 feet from the centerline."

Mrs. Henderson suggested that the recommendations from the Planning Engineer were too nebulous to be practical. She suggested that these reports be discussed later.

Mr. Lamond recalled that Route #7 has very recently been widened and the present right of way would probably carry the traffic for another ten years. There were no objections from the area.

March 25, 1958

NEW CASES - Ctd.

4-Ctd. Mr. Lamond moved that the Board grant the permit for the erection and operation of a 101 unit motel at the southwest corner of Route #7 and Glen Carlyn Drive West, as applied for. This is granted under Section 6-16 of the Ordinance.

Seconded, J. B. Smith

Carried, unanimously.

11 *March 25, 1958, page 444, Book #9*

5- JOHN H. & MABEL WAGNER, to permit erection and operation of gasoline pump island within 25 feet of the Street property line, S. W. corner of Kirby Rd. and Route #123, Dranesville District. (General Business).

Mr. Robert F. Daniel represented the applicant - who was also present.

The corner property was rezoned for location of the pump island, which will be used in connection with Mr. Wagner's non-conforming filling station on the adjoining lot.

The following statement from the Planning Engineer was read:

"If this property were to come under Subdivision Control at some future date a service road would be required to be constructed within the proposed ultimate right of way (220') of Chain Bridge Road, which would require a dedication of 110' from the centerline. Kirby Road is proposed as an ultimate 80 foot right of way, which would require dedication of 40' from the centerline."

Mr. Daniel stated that the State has already acquired a 50 foot right of way on Kirby Road, and they have not been informed what they are planning on Chain Bridge Road. But, Mr. Wagner noted, if the State takes an 80 foot right of way on Kirby Road, and 220 feet on Chain Bridge Road, it would include all of his usable property.

Mr. Lamond noted that if the pump islands are allowed on this property it would be, in effect, enlarging the business on the adjoining filling station, which is operating on a non-conforming use permit, and that Mr. Lamond observed, is not allowed under the Ordinance. A non-conforming use may continue to operate indefinitely, but it cannot be added to and the installation of this pump island at the intersection of Chain Bridge Road and Kirby Road would certainly increase the volume of business. Mr. Lamond suggested that Mr. Wagner should have requested a zoning from the Board of Supervisors on all of his property at the time he had the corner rezoned.

Mr. Wagner detailed the steps in his negotiations with the State Highway Department over this property - their widening of Route #123 and the subsequent damage to his business. He recalled that he had gone to Richmond on this and the plan of using the corner lot for the pump island was suggested by the State to compensate him for the loss of business caused by the location of the break through in the highway. Mr. Wagner also recalled that he had come before the Board of Zoning Appeals for setback relief on the non-conforming lot, and for use of the corner lot and had been refused on the latter - the

444

March 25, 1958

NEW CASES - Ctd.

5-Ctd.

Board stating that they could not grant the use on the corner lot unless it was zoned for business. He, therefore, went to the Board of Supervisors on that. This is a situation created not by himself, Mr. Wagner declared, but rather by the State. The corner lot is now zoned for business use and he would like a 25 foot setback for the pump islands.

Mr. Lamond still questioned why Mr. Wagner had not asked for the rezoning of the entire business area occupied by the business, so he could do away with the non-conforming use?

Mr. Wagner answered that he was under the impression that the Board of Supervisors would not wish to increase the business zone here. The very small corner lot is practically unusable for anything except the pump island, and he did not think that the Board would have granted his request on the entire property.

Mr. Lamond felt that a rezoning here is logical - he therefore suggested that the Board defer this case until after Mr. Wagner had made application to the Board of Supervisors for this rezoning - and when that is accomplished the pump island could be handled.

Mr. J. B. Smith thought the Board could go along on this small piece of ground - granting that use - and that Mr. Wagner could apply to the Board of Supervisors for his rezoning in his own time.

Mr. Mooreland read the requirements in the Ordinance on site distance - page 88, paragraph 10-c. According to the plat the pump island scaled about 11 or 12 feet from the right of way of both Route #123 and Kirby Road. However, Mr. Mooreland recalled the fact that if the island is located 25 feet from the two rights of way it would meet the site distance requirements.

Mrs. Henderson was of the opinion that since this little corner parcel is zoned for business the Board does have jurisdiction to grant the use requested.

There were no objections from the area.

Mr. Lamond moved to grant the application for erection and operation of gasoline pump islands, which may be located within 25 feet of the right of way lines of Kirby Road and Chain Bridge Road. This is granted under Section 6-16 of the Ordinance.

Seconded, Mr. T. Barnes

Carried, unanimously.

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8-

Mr. Bauknight came before the Board asking that the case of GILMAN UDELL, scheduled for 11:30 be deferred to April 8th, because he had been unable to get the material together to support the case - having relied upon the contractor and others who had not completed the necessary work.

Mr. Lamond moved to defer the case until April 8th.

Seconded, T. Barnes - Carried, unanimously.

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NEW CASES - Ctd.

6- ESSO STANDARD OIL COMPANY, to permit extension of Use Permit granted April 9, 1957 for erection and operation of a service station with pump islands within 25 feet of the Street property line, on north side of Route #738 - 85 feet west of Route #684, Dranesville District. (Rural Business).

Mr. Hanawalt from the Sales Department of Esso Standard represented the applicant.

This case was granted April 9th, 1957 to Jack Coopersmith, Mr. Hanawalt told the Board. In January of this year Esso Standard bought the property from Mr. Coopersmith. Under the present use permit they must start construction before April 9th, 1958. The Company feels that it is a little premature to build on the location at this time. While the area is building up gradually they feel it will not be in a position to support a filling station until perhaps next year. However, they will start construction before a permit, if granted at this time, expires. They could build now, but it would be difficult to get a good operator in view of the sparsely settled community.

Mr. Lamond asked what the status of the present permit would be if the Company took out a building permit now - with the intention to build later.

Mr. Mooreland answered that the Building Code allows six months but the applicant would have to start construction within the year - that is by April 9th of this year, in order to operate on the permit granted by the Board of Zoning Appeals last year.

They could make a start and delay completion, Mr. Hanawalt stated, but they did not wish to do that.

Mr. Lamond suggested that the Company take out a building permit now - and they would still have six months before they would have to start construction.

That is not the case, Mr. Mooreland informed the Board, the Zoning Ordinance says he must start construction within the year, and obtaining a building permit is not starting construction.

They do not want to put in the footings and delay on further construction, Mr. Hanawalt observed, they would rather delay any action until the rural area catches up to the demand for the filling station.

Mr. J. B. Smith moved that the requested extension of the use permit be granted for a period of one year from the expiration date - April 9, 1958.

Seconded, Mr. T. Barnes

Carried, unanimously.

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446

NEW CASES - Ctd.

7-

CHESTERBROOK WOODS COUNTRY CLUB, INC., to permit erection and operation of a community swimming pool, club house and accessory structures thereto, on north side of Route 689 at east side of Pimmit Run, Dranesville District. (Suburban Residence Class III).

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Mr. Lytton Gibson represented the applicant. Mr. Gibson stated that he had been informed that the County would want a certified copy of the Articles of Incorporation - which he does not have at this time, having been delayed in getting material together because of the snow, but he will furnish Mr. Mooreland's office with such copy within a short time. He suggested that if the case is granted it be made subject to presentation of the Articles.

Mr. Gibson presented proof of notification in the form of a petition signed by 100 people - all in the immediate vicinity, and at least five of whom are adjacent property owners. All signers of the petition have indicated that they have no objection to this use.

The plan for a recreational center for this area was started by the developers of this area, Mr. Gibson told the Board, and the people joined in wanting to become members. There are between 150 and 200 homes near the pool area - and they expect a membership of about 185 families.

There is a very narrow bridge on Chesterbrook Road, which the people in the area have been trying to have widened for some time - but without success.

The land will now be given to widen the bridge.

This is a tract of 6.5 acres and some of that land is not suitable for building purposes, Mr. Gibson observed, they will locate the tennis courts and badminton courts in this area where there will be no interference with the drainage. The flood plain takes in about 20 feet on the property, and all buildings will be located out of this flood plain area.

They plan space for 75 cars - however, they can provide more parking space if it is needed.

Mr. Lamond suggested that parking for 100 cars would be better - and he thought the Board should be assured that there would be no parking on Chesterbrook Road.

Mr. Gibson agreed to that.

They plan to have a snack bar in the club house, Mr. Gibson noted.

Mr. T. Barnes moved to grant the application to permit erection and operation of a community swimming pool, club house, and accessory structures as applied for and in accordance with plat presented with the case, dated March 4, 1958 prepared by Johnson & Williams, Engineers and Surveyors, of Washington, D.C. with the understanding that this project will conform to the County Swimming Pool Ordinance and all other County Ordinances applying. It is also understood that there will be no parking on Chesterbrook Road and that a certified copy of the Articles of Incorporation will be presented to Mr. William F. Mooreland's office before any permit will be issued.

Seconded, Mr. Lamond

Carried, unanimously.

MARCH 27, 1970

## NEW CASES - Ctd.

9- JOHN GEFRIK, to permit enclosure of porch within 32.5 feet of the Street property line, Lot 25, Section 1, Woodley Subdivision, (910 Manor Road) Falls Church District. (Suburban Residence Class II).

Mr. George Whitley represented the applicant. This is an existing porch, Mr. Whitley explained, Mr. Gelfrich wishes to enclose it with jalousies. It will be an attractive addition to the house and will give him an extra room which he needs.

Mrs. Henderson asked how many other houses in the subdivision have similar porches - which they would likely want to enclose? Many, Mr. Gelfrich answered, and many of them have already been enclosed. These additions have proved very satisfactory and have not been considered a detriment to anyone. The entrances to these houses are not directly in front, Mr. Gelfrich noted - but from the side of the houses. The addition of the room gives variety to the subdivision and does not detract from the symmetry of the development. Mr. Gelfrich said he will use this room for recreational purposes. These homes are not large, Mr. Whitley pointed out, and the existing porch is usable for a very short period of time. This will give added space for the children in winter.

Mrs. Henderson suggested that the Board look at this property and at the neighborhood.

Mr. Lamond moved to defer the case until April 8th, to view the property.

Seconded, Mrs. Carpenter

Carried, unanimously.

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10- WILLIAM B. HOOPER, to permit erection of dwelling with less setback from Street property lines than allowed by the Ordinance, Lot 10, Section 1A, Virginia Heights, Mason District. (Suburban Residence Class II).

Mr. Hardee Chambliss represented the applicant.

Mr. Chambliss located the property indicating that the lot is surrounded on three sides by roads, which makes it difficult to build a house of any size and come within the setback requirements of 40 feet from all road rights of way. This is an old subdivision, Mr. Chambliss noted, and some of the lots are small. This lot, however, is sufficiently large and by locating the house near the center of the lot there is ample space on all sides even though the setbacks are in violation.

Also, Mr. Chambliss called attention to the shape of the lot and the topography, which would make it difficult to locate the house farther back on the lot. There is a considerable difference in elevation between the front and the back of the lot.

It was noted, however, that five variances would be required.

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NEW CASES - Ctd.

10-Ctd.

Mrs. Henderson thought it was the design of the house that was at fault. She suggested elongating the plan, extending the home toward the rear of the lot rather than on the side toward Lee Court.

Under Section 6-12-g the Ordinance says that because of ".....exceptional topographic conditions.....the Board shall have the power.....to grant a variance.....", Mr. Chambliss noted, and since a condition does exist here which would make it impossible to push the house farther to the rear because of the topography, the Board could grant this. It does not violate the intent of the Ordinance, Mr. Chambliss continued, and it does appear that a practical difficulty is present. The reason for setbacks is to provide air and light between houses, and this lot does allow for sufficient open space between houses. It would appear that all beneficial results which the Ordinance desires to accomplish are - to all practical purposes - met in this case, Mr. Chambliss argued. This is a large attractive house and would most certainly be a credit to the neighborhood and to the County. Mr. Mooreland called attention to the fact that the house on Lot 9 (adjoining) is 29 feet from the front property line, and 52 feet from Forest Drive, and about 22 feet from the side line of Lot 10.

The Hooper lot contains 13,240 square feet.

Mr. Lamond moved to grant the application for erection of the dwelling as requested, because of the exceptional dimensions of the lot and because the lot is surrounded on three sides by streets and because of the topographic condition existing on the property.

Seconded, Mr. T. Barnes

Carried, unanimously.

Granted as per plat submitted with the case - plat prepared by DeLashmutt Associates, dated March 1957.

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11-

CLARENCE R. PAYNE, to permit erection and operation of a service station with pump islands within 25 feet of Street property line, N. W. corner of Route #7 and Harding Street, Mason District. (General Business).

Mr. F. A. Reagan and Mr. Multag from the Texas Company represented the applicant. Mr. Reagan stated that Mr. Payne owns all the land adjoining this lot except at one side - however, he had notified other nearby owners of this hearing.

Mr. Lamond told the Board that he had asked Mr. Multag to comment on pump island setbacks - especially with regard to comparison between the setback required in Fairfax County and Alexandria, Arlington, and the State - all three of whom require only a 12 foot setback - while Fairfax requires from 35 to 50 feet with the possibility of a variance <sup>to</sup> 25 foot setback.

Mr. Multag told the Board that it had been their experience that no matter how they try to control the cars coming in and out of filling stations the

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NEW CASES - Ctd.

11-Ctd. trade will park between the pump islands and the right of way if as much as a 25 foot setback is allowed. People drive in and leave their cars within this setback area while they make small purchases or for various reasons, and when the customers at the pumps are ready to leave these parked cars are in the way. The small-accident rate has been high. Also these parked cars obstruct the view of those driving out into the highway - this too has caused a hazard. You can't fuss with the trade, Mr. Multag contended, it is a condition which exists in many places which apparently cannot be stopped. They believe that a 15 or 16 foot setback would be more practical - it would leave sufficient room for the customers and yet not room enough for indiscriminate parking.

450

In the District the setback is about 10 feet between the curb line and the pump island and many other Ordinances have a similar setback, Mr. Reagan observed.

Mr. Lamond noted that Fairfax County is requiring more than twice the setback in other Jurisdictions.

But, Mrs. Henderson pointed out, so many of the roads in Fairfax have been and are being widened that many of the pump islands are already setting on the edge of the right of way, which is also a hazard.

In Maryland they have an Ordinance requiring that the pump islands and buildings will be moved back when the road is widened, that is done without cost to the State, Mr. Reagan told the Board.

Mr. Lamond moved that the application be granted for a filling station only and that the pump islands be allowed to come within 25 feet of the right of way line. This is granted under Section 6-16 of the Ordinance and in accordance with plat presented with the case, plat prepared by Walter L. Phillips dated May 27, 1957.

Seconded, Mr. T. Barnes

Carried, unanimously.

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Mr. Mooreland read a letter from the Calvary Presbyterian Church at Penn Daw Village, asking for continuance of the variance granted them on March 25, 1957 for an addition to the Church. They have been unable to complete financial arrangements for the addition. This case was first granted April 12, 1955 and subsequently the Board has given three extensions. Mr. Mooreland questioned how long the Board would continue to extend a case of this kind.

Mr. Lamond said the Church had had difficulty in getting the loan and he did not think they would be in a position to go ahead soon. It is a nice little brick Church, Mr. Lamond continued, but they don't seem to be able to get enough together to go ahead with the expansion.

NEW CASES - Ctd.

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Seconded, Mr. T. Barnes

Carried, unanimously.

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NEW CASES - Ctd.

Mrs. Henderson suggested allowing the application to lapse and for the people to re-apply when they are in a better financial position.

The Board agreed that a letter be sent to the Church stating the Board's position - that the application be allowed to lapse and for them to re-apply at a later date.

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The minutes of the meetings - January 14th and January 28th, 1958 were approved, with minor changes.

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Board  
Mr. Frank Gooding entered the Room with a group of school children, who wished to hear a portion of the Board's proceedings. Mrs. Henderson introduced the Board members, Mr. Price, Mr. Brookfield and Mrs. Lawson.

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The meeting adjourned.

*Mary K. Henderson*

Mrs. L. J. Henderson, Jr., Chairman

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The regular meeting of the Fairfax County Board of Zoning Appeals was held Tuesday, April 8, 1958 at 10 o'clock a.m. in the Board Room of the Fairfax County Courthouse with all members present, Mrs. L. J. Henderson, Jr., Chairman, presiding.

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The meeting was opened with a prayer by Mr. J. B. Smith

DEFERRED CASES:

- 1- WILLIAM JURGES, JAMES LEMON & OLIVER BESLEY, to permit operation of a stone quarry, adjoins Military Reservation Engineering Board on the south, approx. 3400 feet east of Rolling Road, Route 636, Mason District. (Agriculture). Mr. Wise Kelly represented the applicant. Mr. Kelly presented a letter sent to adjoining property owners on Rolling Road, all but three of whom stated they have no objection to the quarry. Also the following letter was sent from the applicant to General Tully at Fort Belvoir - General Tully's reply is also quoted:

"February 5, 1958

Gen. David Tulley:

Pursuant to your direction, we are enclosing herewith boundary survey of the property we propose to purchase for the purpose of a quarry adjoining the proving ground installation and the Fort. As soon as our Engineers have furnished us with a topographical map of the property, a copy of the same will be furnished you immediately.

If we are furnished a use permit for the purpose of a stone quarry on the premises, we agree to see that no chemicals will be put in the water as a result of our operation, nor will any rocks or boards be allowed to accumulate or remain in the stream so that the natural debris or trash of any nature will be allowed to flow down the stream from any of the operations taking place in connection with the quarry operation on our property.

We intend to build a bridge across Accotink Creek for the purpose of transporting the stone from our quarrying operation to the Shirley Highway. Before constructing a bridge across Accotink Creek, we will consult with you and your Engineers and before beginning the installation of the bridge, we will agree with you on the specifications for the bridge. The bridge will then be built upon the specifications mutually agreed upon between you and myself.

We further agree to use a controlled blasting operation approved and installed by the experts furnished by one of the major explosive manufacturers. It is our understanding that by the use of controlled blasting, no rock or debris will be thrown upon your land or cause any harm or damage to your installation.

We intend further to furnish you with a letter from the U. S. Coast and Geodetics Survey stating that dust is not a major factor or nuisance in the quarry operation of the type of stone found on our property. However, should a sufficient amount of dust develop from operation that the same would become objectionable, we agree to install forthwith the most modern and approved methods of prevention.

If we may furnish you with any further advice or information or should you have any further requests, please advise us at your earliest opportunity.

If the foregoing plan meets with your approval and you have no objection to the proper authorities in Fairfax County, Va., granting us the necessary permit for the operation of a quarry, kindly note your acceptance of this letter on the enclosed copy and return the same to us for submission to the proper authorities in Fairfax County.

DEFERRED CASES - continued

1- ctd.

Letter to Gen. David Tulley - continued.

Thanking you for this and past courtesies, I remain

Very truly yours,  
/s/ Oliver Besley"

"Headquarters  
U. S. Army Engineer Center & Fort Belvoir  
Fort Belvoir, Virginia

ECGD 679

21 February 1958

Besley Realty Company  
Annandale, Virginia

Gentlemen:

I wish to acknowledge receipt of your letter of February 5, 1958 concerning the establishment of a quarry adjoining the Engineer Proving Ground.

This headquarters would have no objection to quarry operations on the property described, if operated in accordance with your letter.

Trusting the above provides you with the desired information, I am,

Very truly yours,

/s/ David H. Tulley  
Major General, USA  
Commanding "

Copied furnished:  
ERDL  
ECPE

Mr. Kelly located the 37.9 acre tract showing it to be bounded on the east by Accotink Creek, and bordering the Army proving grounds on the north and east. There is a 50 ft. right of way from the quarry site to Rolling Rd. which could be used for ingress and egress. Also negotiations have been under way for a road from the site to the Shirley Highway. It would be necessary, Mr. Kelly continued, to construct a bridge across Accotink Creek which they will do. Therefore, they have two means of access. As part of their understanding with the Army they have agreed to submit plans and specifications of the type of bridge they intend to build in order that it may be approved by the Army.

Of the 37+ acres, they have asked that the use permit be granted on only 17.2 acres. That leaves about 205 feet from the Accotink Creek to the boundary line of the quarry site. The entire quarry site consists of a hill. Mr. Kelly told the Board, and topographically the operation is such that at no point will the rock ever be quarried more than 4 feet above the flood plain - therefore no pits can be left to create dangerous water holes. This would be about 6 feet above the Creek line.

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DEFERRED CASES - Ctd.

1-Ctd.

The nearest home is about 1/2 mile away.

Mr. Burroughs, who has been in charge of blasting at Belvoir, is present, Mr. Kelly stated, and his testimony would be brought to the Board. Mr. Burroughs will explain to the Board that the type of blasting planned to be carried on on this property will not affect any homes in the area. The blasting here will be of a primary nature, only, its purpose is to dislodge the rock and to crush the rock they will use a ball and crane. There will be no secondary blasting. They will work out a blasting time-schedule with Fort Belvoir - as suggested in their letter to General Tully.

Mr. Walter Brew, who is in the quarry business in Virginia, is also present Mr. Kelly told the Board, and he would later call him to further explain the nature of modern blasting. Mr. Brew will show that no dust will result from this operation, but if dust should occur they will install the most modern method of control.

On January 14th, they received a letter from the Upper Pohick Community League (from Mr. Lorin Thompson, President) expressing their attitude regarding the quarry operations. There are eight matters which they want considered by the Board in granting this case: limitation of three years; all safety precautions to be taken; operation to take place during normal working hours and not on Sunday; set time for blasting; only primary blasting; strict control of dust; proper restoration of the area upon completion of operations; limitation of truck capacity. All of these conditions they can and will meet, Mr. Kelly stated.

This is a sparsely settled area, it has good access and it adjoins the quarry on the Army proving grounds where they carry on test-blasting. The contours here are very rocky and the property therefore is not suitable for residential development.

With the proposed highway program in the County and the Cabin John-Jones Point Bridge road getting under way, and other roads, there will be a great demand for rock in the County. If there is a place in Fairfax County that is convenient to the need - that is it, Mr. Kelly urged. The area is little settled and it will not affect adversely any community.

If there is opposition to this use, Mr. Kelly continued, it could only be directed at the manner of operation - therefore he would ask Mr. Brew, Vice-President of Virginia Stone & Construction Company, who will operate the quarry to answer any questions that might arise.

The Chairman asked for opposition.

Mr. Lorin Thompson represented the Upper Pohick Community League, of which he is President, stated that the thinking on this had been changed to some extent, as the League had had no understanding that there would be access from Rolling Road. They had thought that the trucks would go through the Siegel property. Mr. Thompson asked - what caused this change? Their studies had been predicated on the assurance that access would not be over

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DEFERRED CASES - Ctd.

1-Ctd.

Rolling Road. He had understood the applicant to say that it was not practical to put the access over the Siegel property. The ingress and egress is very important, Mr. Thompson stated - it would increase their objection if Rolling Road is used.

If access can be had to the Shirley Highway they would not want ingress and egress over Rolling Road, Mr. Kelly told the Board, as it would increase the hauling distance. They are very sure they can get the access over the Siegel property - therefore, Mr. Kelly agreed that Rolling Road would not be used.

Mr. Thompson said - now that that is clarified and it is definitely understood that access will be across the Siegel property, he was satisfied.

However, he asked that the record show clearly that Mr. Kelly has agreed that there will be no access over Rolling Road.

Mr. Thompson presented the following letter to the Board, listing the items to which Mr. Kelly referred earlier in the hearing:

April 8, 1958

Board of Zoning Appeals  
County of Fairfax  
Fairfax, Virginia

Gentlemen:

The Upper Pohick Community strongly urges that the following requirements be made conditions precedent to granting of any use permit for stone quarrying and crushing operations on 16 acres of the Cranford property on Accotink Creek, approximately 3,400 ft. east of Route 638:

1. Said use permit be for a term not longer than three years, subject to re-evaluation of the then-existing conditions in the event of application for renewal.
2. That all operations be conducted in a manner to assure the safety and well-being of surrounding property without physical or economic depreciation of such properties.
3. That quarrying and related operations be conducted only during normal working hours six days a week and not on Sunday or at night.
4. Blasting operations to be undertaken only at a set time, preceded by a suitable air whistle or other warning device, and strictly regulated as to size and placing of charges, with minimal blast and tremor effect.
5. That primary blasting only be permitted, with weighted ball and crane reduction of rock size following blasting.
6. Strict control of dust resulting from the crushing operation.
7. Restoration of the tract following quarrying operations to greatest natural state possible, including filling of the area of operations.
8. Self-policing by the quarry operators in the matter of loading trucks only to their permitted gross weights and body capacities to insure safety of roadway users in the vicinity of ingress and egress particularly, but in the interests of the general welfare elsewhere as well.

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DEFERRED CASES - Ctd.

1-Ctd.

Letter from Upper Pohick Community League - continued

Should these recommendations be unacceptable for any reason, it is strongly urged that granting of the use permit be deferred pending further discussion between the applicants, the Zoning Appeals Board, other appropriate County Agencies, and the general public.

Respectfully,

UPPER POHICK COMMUNITY LEAGUE

/s/ Loren L. Thompson  
President"

They do not object to the quarry as such, Mr. Thompson told the Board, as they believe that a man should have full use of his property - but the League does want these guarantees written into the approval and therefore ask that these items in their letter be made a part of the terms of the granting. However, Mr. Thompson noted that the access through Rolling Rd. which they did not know of when the letter was written, should also be included.

(Mr. Besley stated that he had talked with the Resident Engineer, who had assured him that access to Rt. 690 is all right).

Under the statutes this Board has broad powers to control an operation of this kind, Mr. Thompson observed, the permit can be revoked if it is abused and the League hopes the Board would exercise that authority in the event of damage to property owners in the area.

Mr. Thompson called attention to the fact that the quarry operators are a corporation with limited liability and since they have this limited liability that should be considered in the bond.

Doctor Thorne, whose home is about 2400 ft. from the quarry site, stated that he is the one most affected, - perhaps the only one immediately affected. While he is also a member of the Upper Pohick League, Doctor Thorne said, being the only individual in the League who would be immediately affected by the blasting, he was therefore protesting for himself alone.

If these operations cause damage to his home, Doctor Thorne stated, he felt that the operators were liable, and if the dust becomes a problem he has understood from the applicant's statement that they will install modern methods of dust control. Doctor Thorne expressed the wish that these dust control methods could be installed before dust becomes a problem. The wind from the northwest and the sound will funnel through a channel in the direction of his home - he thought it inevitable that he would suffer damage. The blasting at Belvoir has damaged him, Doctor Thorne continued, and he has understood that the plans for blasting at this operation will be more extensive than that of the Army.

Also the use of Rolling Rd. would bring the trucks by his home. That would also damage the road and spilling gravel along the highway would be a hazard to cars. This would also prejudice and retard residential development in the area.

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DEFERRED CASES - Ctd.

1-Ctd.

Mr. Lamond asked about the ill affects of Fort Belvoir. Doctor Thorne answered that no blasting was going on now at Belvoir - not of any size - but in the past it was very bad - articles fell from shelves, pictures were put out of line, and the plaster cracked on the walls of his nearest neighbor. He felt an extreme vibration. Doctor Thorne recalled the quarry at Occoquan - which has been the center of considerable controversy.

Mr. Kelly admitted that there was a problem at Occoquan - a problem which could not arise in this area at such an isolated location. It is said that dust will not travel more than 1/2 mile, Mr. Kelly continued, and the nearest home is about 1/2 mile away. While they will put in the dust control equipment if dust arises sufficiently to become a problem, it will cost about \$10,000 and therefore unless it does become a menace they do not wish to install that expensive equipment.

Mr. Kelly stated that Mr. Burroughs (who was present) was in charge of demolition at Fort Belvoir at one time, and could readily explain the difference between the Fort Belvoir blasting and that which this company plans.

Mr. Kelly also stated that the Company who will operate this quarry is not a closed corporation which will duck its liability. The Virginia Iron and Coke Company is a large outfit (it is listed on the New York Stock Exchange) - they own the company which will operate the quarry. They will submit a financial statement, if the Board wishes, Mr. Kelly stated. They will be fully covered by bond which will require financial security.

Mr. Charles Burroughs of Atlas Power Company, Wilmington, Del., came before the Board, stating that he has had 29 years experience in explosives.

Blasting is strange to this area where it is little used, people have a horror of it - mostly because they know very little about it, Mr. Burroughs stated: In areas where it is used constantly people have little concern over blasting as the modern methods of handling explosives is controlled. Two types of blasting are used, Mr. Burroughs continued, confined and unconfined. In areas where there could be danger from flying rock the confined method is used exclusively. The unconfined method is used in areas like Fort Belvoir where they test to estimate the ultimate destruction resulting from various specified quantities of explosive. Confined blasting is used in the heart of cities where buildings are erected and where business must continue normally. He mentioned the great amount of blasting in New York City, where a building may be destroyed and a new construction carried on without disrupting pedestrian or vehicular traffic.

In this operation they will use delay caps, setting the charges at certain distances apart at a few seconds interval so a vein of rock could be dislodged like ripping a seam - many small charges following in rapid succession.

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400  
DEFERRED CASES - Ctd.

1-Ctd. This is the confined method used in New York and other congested areas where large buildings are constructed. With such an operation people are scarcely aware that blasting is being carried on. The rock is dislodged and broken in the primary shock - it is not noisy and there is no vibration. Economics have forced confined blasting methods.

In answer to the suggestion by Doctor Thorne that the blasting at Fort Belvoir cracked plaster - Mr. Burroughs thought that quite impossible - and noted that cracked plaster is not unusual in any home.

Mr. Lamond asked Mr. Burroughs to explain the difference between the Fort Belvoir blasting and the proposed operation on this tract.

Fort Belvoir is unconfined blasting, Mr. Burroughs explained. They experiment to learn how large a structure or object they can demolish. They are not concerned with any limitations on noise nor dust nor do they try to minimize the vibration and spread of material. Atmospheric conditions affect blasting - increasing the noise and vibration under certain conditions - Fort Belvoir pays no attention to atmosphere. There is practically no relationship between the type blasting carried on at Fort Belvoir and the confined method to be used in this operation.

It was noted that these operations will be about 1400 ft. from the VEPCO power line, and approximately 2000 ft. from the Shirley Highway.

Mrs. Henderson asked about disposal of the over-burden. Mr. Kelly answered that he did not know - much of the rock is protruding above the ground, and they do not know how much over-burden will result. Mrs. Henderson suggested that every precaution should be taken that the over-burden does not interfere with the Creek.

Mr. Walter Brew stated that the over-burden would be distributed over the area that had been worked. It would not be moved a second time. Mr. Brew also noted that Accotink Creek is taken care of by the Water Control Board and they would assure that no pollution occurs.

As to the length of time they wish to operate - that would be determined by the stone - however, they hope for enough rock to operate for ten years.

They should have from 8 to 10 million tons.

Mrs. Henderson asked the approximate number of trucks they would expect per day and what is the condition of the road they would use. Would it take the heavy trucking?

Mr. Besley answered that the Resident Engineer had said that the road is sufficient to take their trucks.

Policing the dust menace was discussed - Mr. Kelly saying that that is the function of the Board. However, Mr. Kelly also observed that if there were many complaints on dust or nuisance, the Company - in order to preserve its good public relations - would take immediate steps to correct such a condition. Also, Mr. Kelly continued, if the Company falls in their agreement the permit would not be extended beyond the three years.

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DEFERRED CASES - Ctd.

1-Ctd.

Not having received the plat on this case until the end of last week, the Public Works Department had not had time to make a field survey, and therefore had not submitted a report.

Mr. Thompson again impressed upon the Board the fact that the people would look to them to police this operation - that they are looking to the Board and the Board only for protection - as this Board has full responsibility for the proper operation of this project, and this Board can place restrictions which will keep this under strict control.

Mr. Lamond stated that he had missed the discussion on the other rock quarry (Siegel property) and he had understood that there was a report from the Public Works Department on that case. He thought the Board should have a similar report from Public Works on this case, therefore, Mr. Lamond moved to defer the case for two weeks for a report from Mr. Rasmussen.

Seconded, Mrs. Carpenter

Carried  
// NEW CASES:

5-

Mr. Mooreland announced that the case of AMERICAN LEGION POST 107, had been withdrawn.

1-

JACK STONE COMPANY, INC., to permit erection of 5 signs with larger area than allowed by the Ordinance, (650 sq. ft.), east side of Patrick Henry Drive, and north side of Arlington Blvd., Mason District. (General Business)

Mr. Jack Stone represented the applicant.

While the area requested appears large - it is actually less than the Board has granted on other stores in the immediate area, Mr. Stone told the Board, pointing particularly to the Giant store at 7-Corners. They have 13 Safeway stores in this vicinity which are using this same sign square footage. Mr. Stone discussed the inadequacy in the Fairfax Code, stating that business cannot exist on its rigid limitations. He showed pictures of other signs the Board had granted larger than these requested - Food Town, Giant, and other Safeways - therefore, Mr. Stone urged, this request is not incompatible with the Board's previous thinking, and not beyond the jurisdiction of the Board to grant. An Arlington store is exactly the same size and it is using this same sign. The Company wishes to make its advertising uniform and standardized in all jurisdictions - Arlington, Fairfax, and Alexandria. Mr. Stone pointed out that these signs are permissible in the District and in all other areas in the Metropolitan district - except Fairfax.

It was asked what the Pomeroy Ordinance would allow on this. Mr. Mooreland answered that Mr. Pomeroy puts a maximum on the amount of square footage but also he computes on the frontage of the building.

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NEW CASES - Ctd.

1-Ctd.

This store sets well back from the right of way of Arlington Blvd., and Mr. Stone called attention of the Board to the high bank to the east of Arlington Blvd.

In this case the sign is not of such great importance, Mrs. Henderson noted, as this is not a transient business - it is the store itself that brings the business. One doesn't go to a store of this type because of the sign.

But, Mr. Stone contended, they are not asking more than other similar stores have, and no more than has been granted to other Safeways. The Ordinance does not allow sufficient signs.

Mr. Lamond suggested that Mr. Stone re-study the signs and come back with something that conforms to the Pomeroy requirements.

The sign company will probably protest the Pomeroy Ordinance, Mr. Stone answered.

This is three times the Pomeroy requirements, Mrs. Henderson noted, and while that Ordinance may not be adopted exactly as it stands - it is probably very near what will be required. It would appear, Mrs. Henderson continued, that applicants coming before this Board know the regulations and they should make an effort to conform - at least within reason.

The Safeway wants to come in here, Mr. Stone stated, but they want to go into areas where they can have large signs - and this purchase contract is contingent upon the granting of this sign.

Mrs. Henderson called attention to the reduction in the sign area at Salona Village - which Mr. Stone agreed was done in the interests of public relations.

It was agreed that over-sized signs have been granted - and perhaps in error. They have generally been granted in case of topographic conditions or for some specific reasons, which do not exist here.

Mr. Stone noted that this store and sign would be so far back that people coming from the District would be unable to see it because of the hill to the east side of the property. The Ordinance under which the Board is now operating is antiquated, Mr. Stone continued, in that it does not allow the larger areas, and it does not consider the need. In this case they need the lofty identification on the pylon to be seen over the hill - however, Mr. Stone agreed that they could delete the interchangeable board on the lower part of the pylon - and they also could eliminate the parking sign. The store is about 290 feet from the right of way and the pylon would be 52 ft. from the curb line.

By removing the 80 sq. ft. interchangeable board on the pylon and eliminating the parking sign, the Board figured that the sign area could be reduced by about 200 sq. ft.

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NEW CASES - Ctd.

1-Ctd. Mr. Stone stated that they could reduce the area by drawing in the letters on the Safeway sign on the building, however, it is more attractive with the wide spacing, and in fact he would compute that by squaring off each letter rather than considering the entire background.

Mr. Lamond moved that the sign applied for by Jack Stone Company, Inc. be revised as follows: That the interchangeable board on the pylon be eliminated entirely but that the other portion of the pylon be allowed to remain as submitted, and the pylon shall be placed at least 50 feet from the highway right of way. The parking sign shall be eliminated. The sign, as shown, to be placed on the building as being computed by squaring off the letters rather than taking in the entire background area - therefore, the total sign area is granted in the amount of 416 square feet.

Seconded, T. Barnes

For the motion: Lamond, Barnes, J. B. Smith, Mrs. Carpenter

Mrs. Henderson voted "no".

Motion carried.

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2- JACK STONE COMPANY, INC., to permit erection of 2 signs with larger area than allowed by the Ordinance, (304.3 sq. ft.), west side of Shirley Highway adjacent to north side of Springfield Shopping Center, Mason District.

(General Business).

(For Howard Johnsons)

Mr. Stone and Mr. Thomas from Skylark discussed the case with the Board. These signs will advertise the combination of motel and restaurant. The restaurant portion of this project is not yet built, but the plans presented show the long range plans. The restaurant will be operated in conjunction with the motel, under one management. However, they are two separate businesses. They are asking for the two pylons - one for the motor lodge and one for the restaurant.

Since the two signs say the same thing, Mrs. Henderson questioned why not just the one sign?

They have made extensive traffic surveys, Mr. Thomas stated, and find that they get less than 2% of the south-bound traffic - people traveling 55 miles an hour do not have time to decide in time to turn off and they will not turn back once they have gone by the entrance road. The sign placed across Cumberland Avenue and the one on the motel property will give sufficient sight distance for the turn off.

Mr. Lamond noted that the Highway Department has placed signs in advance of the clover leafs - advertising fuel, food, lodging, etc., in order to alert the traveling public that these services are available at the next interchange.

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NEW CASES - Ctd.

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2-Ctd. That is for people who have no reservations, Mr. Thomas answered. People looking for a certain motel - have no means of knowing where it is without positive identification. They have had a great deal of competition from Marriott Motel - which project has an immense amount of sign.

Mr. Lamond moved that the application of Jack Stone Company be granted for one sign only, which sign will not exceed 169 sq. ft. in area.

Mr. Stone protested this - suggesting that if they are reduced to one sign that that sign be allowed more area.

It was noted that there are about 300 feet between the two proposed signs.

Mr. Stone called attention to the fact that if one of these businesses were leased to another person there would be no question about applying for two signs to cover the two distinct operations. Mr. Thomas stated that they would lease the restaurant, that Howard Johnsons will be the franchise operators.

Mr. Stone suggested increasing the sign on the building.

Mr. Mooreland called attention to the fact that they would be changing the sign on the building - by changing the name of the operator - and if that sign goes over 120 sq. ft. it would necessarily come before this Board.

Mr. Mooreland noted also that the sign permit, if granted, is good for only six months.

Mr. Lynch called attention to the fact that from the picture it would appear that the signs are very close together - but they are actually separated by a road. This is an application for two separate things, Mr. Lynch continued, and in his opinion should be considered such.

The following letter from Mr. Tom David, First Vice President of the Springfield Citizens Association, was read:

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"6603 Floyd Ave.  
April 6, 1958

Board of Zoning Appeals  
Fairfax County  
Fairfax, Virginia

Honorable Board:

I refer to the application filed by the Jack Stone Co., requesting a variance to permit installation of signs totalling 304.3 sq. ft. in an area west of Shirley Highway and adjacent to the north side of the Springfield Shopping Center, to be heard by the Board on April 8, 1958. It is our understanding that the signs are to advertise the Howard Johnson enterprise which is taking over the Skylark Motel areas. On behalf of the Executive Committee of the Springfield Civic Association I am instructed to advise the Board that although the Association welcomes Howard Johnson to the area as an enterprise, it is requested that the Board deny this application or any variation which relates to a larger sign area for this business tract than is permissible under the Zoning Code.

Our reasons are as follows:

a) Such signs will adversely affect residential property values in nearby Yates Village, a development of 22,000 dollar to 25,000 dollar homes.

Letter from Springfield Civic Association (continued)

b) 1) Although undoubtedly the purpose of the signs is to catch the eye of Shirley Highway traffic, the location of the enterprise is and should be treated as a part of the Springfield shopping center. Consequently, the sign variance if permitted would discriminate against individual stores in the Shopping Center and lead to requests for variances by stores in said Center to overcome the adverse competition caused by the larger Howard Johnson advertising display. The requested variance therefore adversely affects the current value of the Springfield Shopping Center and thereby indirectly affects the growth of all of Springfield.

b) 2) If there are real reasons why exceptions should be granted to "cloverleaf" business along the Highways, then it is requested that a freeze on such applications be declared and a study be made in order that such special situations may be codified and a uniform "turnoff" or "cloverleaf" section in the code as to size and quality for such signs be enacted. Otherwise such exceptions, if granted, will vary and will result in a wasteful hodgepodge of uneconomic and non-aesthetic displays.

Also the Springfield Civic Association Executive Committee has instructed me to advise the Board further that it supports the denial of an application by the Jack Stone Co. for a sign variance of over 1100 sq. ft. for the Holiday Inn Motel to be located on the east side of Shirley Highway south of Edsall Road, and supports such other suggestions as the Board may receive from the residents of the Bren Mar Park and Edsall Park areas, this case also to be heard by the Board on April 8, 1958.

Sincerely yours,

/s/ Tom L. Davis  
1st Vice President  
Chairman, Planning and County Affairs  
Springfield Civic Association, Inc."

Mr. Lamond moved that one sign be granted to the Howard Johnson Company, said sign not to exceed 169 square feet in area - sign to be located at least 200 feet west of the centerline of the Shirley Highway.

Seconded, Mrs. Carpenter.

The Board discussed the operation proposed, Mr. Barnes questioning if the two operations should not have two separate signs. But since the entire operation is carried on by Howard Johnsons, and the sign emphasizes that fact it was agreed that the one sign covers the entire project.

For the motion: Lamond, Mrs. Carpenter, T. Barnes, Mrs. Henderson

Mr. J. B. Smith refrained from voting, as he thought the applicant was entitled to two signs.

Motion carried.

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JACK STONE COMPANY, INC., to permit erection of 4 signs with larger area than allowed by the Ordinance, (1156 sq. ft.) east side of Shirley Highway Service Lane, south of Edsall Road, Lee District. (General Business)(Holiday House).

Mr. Stone represented the applicant.

This motel is located on level ground, it is a large building which can be seen from the highway, therefore, Mrs. Henderson did not think such a large high sign was necessary to be seen at the clover leaf.

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NEW CASES - Ctd.

3-Ctd. Mr. Stone noted that the Zoning Office computed the sign area on the pylon to be 500 sq. ft. - while he computed it at 200 sq. ft. However, this is a package deal - the sign and the advertising are sold to the applicant - the same type of thing used in other areas. Mr. Stone thought the pylon could be reduced without detriment to the advertising.

Mrs. Henderson noted that the building shown in the rendering Mr. Stone displayed is not the same as that granted by this Board at the time this motel came before the Board. Therefore, Mrs. Henderson asked - how can the Board approve the sign on a building which was not granted by the Board?

It was pointed out that the architecture shown at the time of granting the motel use was not two story - while the rendering presented with this case is a large 4 or 5 story building in front with the single story buildings to the rear, entirely unlike the original proposal. It was recalled that the application was granted contingent upon the motel following the type of architectural design presented at the hearing.

Mr. Stone called attention to the fact that this sign does not face the residential area - that it is directed immediately toward the Shirley Highway.

Mrs. Henderson suggested that the minutes of the original granting of this motel be reviewed before taking action on this case.

Mr. Mooreland noted that if the applicant had changed from a motel to a hotel it would not be necessary to have a permit from the Board. However, it was thought that the Board should be advised on just what the applicant is erecting on the property.

Mrs. Carpenter moved to defer the case until April 22nd for further study, and to review the minutes of the original motel case.

Seconded, T. Barnes

Carried, unanimously.

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4- ARDWIN H. & HELEN N. BARSANTI & JOHN D. & MARGERY BUNCE, to permit operation of a medical and dental clinic in a dwelling as non-residents, Lot 123, Section 3, Rolf Heights, (3003 Gallows Road), Falls Church District. (Suburban Residence-Class 2).

Mr. Lytton Gibson represented the applicant.

Mr. Gibson presented a petition to the Board containing approximately 150 names - representing the many families approving this application.

Three and one-half years ago the Board granted to Doctor Barsanti and Doctor Bunce a permit to carry on their professional business in this house - which was at that time occupied as a dwelling by Doctor Bunce and his family.

They have been practicing here since that time. During these three and one-half years changes have taken place which make it no longer practical for them to operate in this manner. A shopping center has been built and is operating across the street and a second shopping center is starting on property recently zoned to rural business. A filling station is going in in

NEW CASES - Ctd.

4-Ctd.

the immediate area, and a cemetery adjoins the rural business zoning. The business activity in the area has changed the character of the community. Also, when Doctor Bunce moved to this house he had one child, now he has three. Obviously there would not be room in the house for the two doctors to continue practice, and Doctor Bunce's family.

These men treat mostly children under 12. They run their business by appointments spaced to avoid waiting - therefore, the parking space would be sufficient. It has been observed that 50% of the patients coming to the doctors' offices use the shopping center parking area - that lot is never crowded. The road in front of the dwelling is sufficiently wide for reasonable parking. Under any circumstances, there are seldom more than 5 or 6 cars parked at one time for the doctors - and never over 10.

The Board heard a similar case last week, Mr. Gibson recalled, and heard from Doctor Kennedy at that time of the need to encourage this type of thing in the County.

Since both Doctor and Dentist handle children largely, this makes a very convenient set up for parents - to have them both under one roof. Since there are no laboratory facilities in this part of the County, it has been necessary to send tests to Arlington County or to the District. By having the laboratory technician in the building it will save both time and money for the patients.

The County should do all it can to encourage this type of development, Mr. Gibson told the Board, as the available space for professional services is very limited. There is a medical center going in at Annandale - it is very slow in building - but it is already full. The County has a shortage of doctors - especially doctors who will make house calls - and these Doctors will do that. They have found no objection in the area, Mr. Gibson told the Board.

Mrs. Henderson asked if there was not some place in Annandale zoned for business which the doctors might use? Mr. Gibson answered that there may be land they could buy and erect a building - but that does not appear practical at this time. There is so little space in Annandale - other doctors are crowded as it is.

It was noted that a dentist is operating his business in the house next door to the Doctor Bunce house. Both that dentist, Doctor Lysle, and Doctor Barsanti are well established in the neighborhood.

Mrs. Henderson asked if the dentist next door is likely to ask for a dental clinic - to include others in his office space?

That is possible, Mr. Gibson answered, it may prove that this is a very logical place for such professional services.

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NEW CASES - Ctd.

4-Ctd. It was noted also that people in the area who have recently sold their homes have taken a loss, because of the depreciation of property caused by the shopping center. It was also stated that there is no provision for office buildings in the shopping center.

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There were no objections from the area.

The County is so large, Mr. Gibson stated, that it is desirable to have these services where they can be reached - within communities - they are not detrimental to anyone, and it is a good use of land which is faced with a shopping center and with other business uses in the area. Mr. Gibson also called attention to the fact that this will carry on the same use that has taken place on this property - the only change will be that the building is no longer used for residential purposes.

Mr. Lamond moved that the application to permit operation of a medical and dental clinic be granted with the addition of two extra people as outlined by Mr. Gibson. This is granted to the applicants only, and is granted as per plat submitted with the case, prepared by Merlin F. McLaughlin, dated September 9, 1954 - showing the property on Gallows Road - Lot 123, Rolf Heights.

Seconded: T. Barnes

Carried, unanimously.

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6- VERNY S. & ALFRED J. BARRETT, to permit division of lot with less frontage than allowed by the Ordinance, Proposed Lot 23A, Section 1, Lake Barcroft, Mason District. (Suburban Residence-Class 3).

Mr. Andrew Clarke represented the applicant.

This change will divide three lots into two, Mr. Clarke explained. There are no buildings on the property; no question <sup>of</sup> setbacks is involved - the applicant simply wants a larger lot. Mr. Andrews is buying half of Lot 19 and the applicant is purchasing the other half. There are no objections from others in the subdivision.

It was noted on the plat that a narrow strip of the newly proposed Lot 23A runs to Lakeview Drive at the rear where it has a very narrow frontage.

The main frontage for this lot is on Lakeview Drive, abutting Lot 23A on the west.

Mr. Mooreland asked if this division of lots had been approved by the subdivision control and subject to recordation.

It was noted that the entrance to Lakeview Drive on the east - at the rear - could be used, but that the house would necessarily have its main access from the 90 foot frontage on Lakeview Drive on the west.

Mr. Lamond moved that the application be granted subject to approval of Sub-division Control and subject to this being recorded. Granted as per plat by Rupert Associated, dated February 17, 1958

Seconded, T. Barnes - Carried, unanimously.

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DEFERRED CASES:

2- DANIEL K. PHIPPEN, to permit carport to remain as erected within 9.4 feet of the side property line, Lot 17, Block 13, Section 8, North Springfield, (5502 Joplin Street), Mason District. (Suburban Residence-Class 2).

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Mr. Andrew Clarke represented the applicant.

Mr. Phippen bought this house from Mr. Carr, and before it was completed he asked to have the carport put on. The surveyor set the lines 8 inches short of the required setback. This was not discovered until the final house location survey was made. Now Mr. Phippen cannot make his final loan settlement until this is cleared. This is an open carport, Mr. Clarke pointed out it is not objectionable to the adjoining neighbor - who has so stated by letter.

Mrs. Henderson suggested moving the posts in to a conforming location - calling attention to the fact that the applicant could still have the 3 foot roof over-hang for protection. In case this ever came in for enclosure of the carport at least the carport would not be in violation.

Mr. Clarke questioned if the clearance for the car would be sufficient - however, he stated that he would be glad to discuss this with Mr. Phippen if the Board wished to defer the case to give him the opportunity of working this out with his client. It was noted that the front post is only about 3" over the required setback and the rear post 8" over.

Mr. Lamond moved to defer the case for one month - to May 13th - for Mr. Clarke to discuss moving the posts in to make them conform to setback requirements.

Seconded: T. Barnes

Carried, unanimously.

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3- GILMAN G. UDELL, appeal decision of Zoning Administrator RE: carport on Lot 253, Section 8, Sleepy Hollow Manor (413 Valley Lane), Mason District. (Suburban Residence - Class 2).

(Also indexed under Policy & Interpretation of the Ord.)

Mr. William Bauknight represented the applicant.

Mr. Bauknight called attention to the fact that this case has been filed for an interpretation only - not a variance. Jalousies have been installed on this carport and Mr. Bauknight contended that the addition of the jalousies does not constitute a room.

The carport of this house comes within 10 feet of the side line, a setback which is permitted. Also an open porch would be permitted with a 10 foot setback. The applicant has enclosed his carport with jalousies. Mr. Mooreland has ruled that a carport enclosed with jalousies is an enclosed structure and is therefore in violation of the Ordinance as it does not meet the setbacks required for the main building. The question then arises, Mr. Bauknight continued, what is an enclosed structure and what would be considered - not enclosed. If the applicant had installed screens on the carport

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3- DEFERRED CASES - Ctd.

it would still be considered open. There is nothing definite in the Ordinance, Mr. Bauknight pointed out, saying what the width of the screen could be nor the type of support allowed. 468

Mrs. Henderson stated that most of the carports in Sleepy Hollow Manor which are screened have wide removable screens, mounted so the carport can be used for a screened porch in summer. The screens lift out and the structure becomes a carport in winter. No matter how the screens are put on - whatever type of supports are used - there is no restriction in that, it is still an unenclosed structure. But when you install jalousies which open and close you create a room which could be heated in winter and for all practical purposes is an additional room on the house.

Then by the twist of the handles, Mr. Bauknight observed, a room is added to the house.....

Mr. Bauknight pointed out that by glassing in a carport or porch you do not obstruct light nor view - yet it is in violation. If you were to hang a tarpaulin or bamboo roll-up shade on a carport which would block both light and view - it would not be considered a violation. The jalousies are an installation which do not detract from the home in any way - but rather add to the beauty and utility of the home. They can be just as open as a screened porch, yet they are practical for winter, Mr. Bauknight continued - he therefore could not see what objection could be raised to an addition which improved the home and the neighborhood and yet causes no obstruction to visibility. He could see nothing in the Ordinance which would prohibit them or which would indicate that an area glassed in with practically removable glass should be considered an enclosed structure.

Mr. Lamond agreed that the jalousies (Mr. Bauknight displayed a sample of a jalousy window - demonstrating how it operates) were attractive, but he found it difficult to justify coming so close to the side line with an addition which brings the main structure so close to the side line.

But, Mr. Bauknight answered, this carport with the jalousies comes no closer to the side line than an open porch with a tarpaulin could come and surely Mr. Bauknight insisted, that is more objectionable than the jalousies. As a matter of fact a tarpaulin or bamboo curtain both of which block the view and light would come far closer to converting the carport into a room than the addition of glass, which can be opened almost completely, and which leaves light and view equal to an open structure.

It was suggested that an enclosed room was one which could be heated in winter and used the year round as a room. A bamboo curtain or a tarpaulin would not enclose the area to this extent.

Mr. Bauknight recalled that this case has been brought to the Board for interpretation only, and that this Board has more of a function than interpreting the meaning of a word - the end result of the use of jalousies as compared

DEFERRED CASES - Ctd.

3-Ctd.

with a tarpaulin or like curtain - should be considered.

Mrs. Henderson noted that there are probably more than a dozen other similar cases in this block in Sleepy Hollow Manor, which, if this is granted, may come to the Board for a like permit - or they may come in with redwood siding and windows, Mrs. Henderson suggested.

But, Mr. Bauknight contended, this is an in-between type of thing - it is not like redwood - and under any circumstances if the other cases do come before the Board - each must be decided on its own merits.

Mrs. Henderson could see no hardship in this case.

Again Mr. Bauknight stated that he was not asking for a variance at this time - merely the interpretation.

There could be cases, Mr. Bauknight suggested, that the Board might even grant redwood siding - if circumstances warrant it. Each case must stand on its own and justify the request. In this case the jalousies are no more objectionable than a screened porch, and they would not affect the neighborhood adversely.

Mrs. Henderson asked if the applicant obtained a building permit for this installation? Mr. Bauknight answered - "no". The builder who put in the jalousies operates in Mayland mostly where they do not require a permit to screen a porch, and where no footings are to be poured - as in this case - they did not think a permit necessary.

Mr. Mooreland stated that for interior work costing under \$100 no permit is required in Fairfax County.

Mr. Mooreland cautioned the Board that if they agreed with Mr. Bauknight in this they would doubtless hear from the next person who puts in storm windows. It is difficult to discriminate between metal frame storm windows and jalousies, Mr. Mooreland continued.

When jalousies first came in, Mr. Mooreland recalled to the Board that this question came up - how would they handle jalousies - would they be considered to be an enclosure - or would they be treated the same as a screened porch. The Board agreed at that time that jalousies did constitute an enclosure.

The Board discussed at length what would be considered an enclosure; french windows, storm windows, where does an open structure leave off and an enclosed structure start, what relation do air, light and view have to an enclosure, screen<sup>ed</sup>/porches, and the possibility of converting such areas into closed structures.

The Ordinance provides side yard setback to assure a reasonable amount of air and light and space between houses, Mr. J. B. Smith noted. By allowing an enclosure such as this - you are affecting the air, light, and space between buildings - as you are bringing the actual permanent living quarters

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710  
DEFERRED CASES - Ctd.

3-Ctd. closer together - whereas a screened porch is not an obstruction, it is used only a part of the year, and it is not heated in winter. This would be a permanently used room - it would be closed to the elements all the year. It would, therefore, have all the ear-marks of a bona fide room.

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Mr. Bauknight again emphasized the reasonableness of this request and the value of such an addition to a home and to the neighborhood. He noted that Mr. Udell has about \$1800 involved in the jalousies.

There were no objections from the area.

Mr. Lamond recalled that this same type of thing has happened before - he thought some way should be found to inform people of the County of regulations - as innocent home purchasers are made to suffer because of failure to get a permit for construction. It is unfortunate to penalize people, Mr. Lamond continued, but our regulations are of long standing and are no more restrictive than other jurisdictions.

Mr. Lamond moved that the ruling of the Assistant Zoning Administrator be sustained, as has been outlined in this case.

Seconded, Mrs. Carpenter

Carried, unanimously.

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4- JOHN GEFRICH, to permit enclosure of porch within 32.5 feet of the street property line, Lot 25, Section 1, Woodley Subdivision, (910 Manon Road), Falls Church District. (Suburban Residence-Class I).

This case was deferred to view the property. It was discovered that there is a hill at the rear of this property which would preclude further construction on the rear of the house. However, Mr. Mooreland called attention to the fact that the hill existed when the applicant purchased the property, and if he had ideas of adding to the house he knew at that time that it would be difficult to add to the front because the porch was too close to the front right of way for an enclosure.

Mr. J. B. Smith moved to deny the case because it does not conform to minimum requirements of the Ordinance.

Seconded, Mr. Lamond

Carried, unanimously.

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DEFERRED CASES - Ctd.

Mr. Mooreland discussed the progress he had made with Mr. Alward. If Mr. Alward wishes to continue the non-conforming grave yard, Mr. Mooreland stated, he will have to get rid of the repair garage - or if he keeps the garage he will have to conform to the Ordinance and remove the graveyard. Mr. Mooreland recalled the background of this - stating that the State had taken right of way and in doing so took the garage, which Mr. Alward was using for repairs. Mr. Alward came to the Board and was granted a repair garage - he promised to clean up the place and abide by the Ordinance. He was not allowed under the Ordinance, Section 6-16, to have wrecked cars on the premises. Mr. Alward is continuing the graveyard - and also the repair garage. Mr. Mooreland said he was still working with Mr. Gibson with the hope of working out something with Mr. Alward. He stated that he would report to the Board whatever they are able to do.

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The Board discussed the value of reports on Board of Appeals cases from the Planning Engineer. Mrs. Henderson stated that she thought they had value - but that perhaps they could be more specific or enlarged upon. It might be well to have the reports before the meeting - perhaps when the Board members get their agenda.

Mr. Mooreland thought the reports served nothing further than to confuse the Board.

His office cannot put people in the position of requiring too much to be shown on their plats before a case is granted by this Board, Mr. Mooreland continued. These reports bring up things to which there is no present answer - future highway right of way for example. There is no way under the Ordinance that contemplated additional right of way can be held from use by the owner of the property.

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The meeting adjourned.

Mary K. Henderson  
Mrs. L. J. Henderson, Jr., Chairman

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The regular meeting of the Fairfax County Board of Zoning Appeals was held Tuesday, April 22, 1958 at 10 o'clock a.m., in the Board Room of the Fairfax Courthouse with all members present. Mrs. L. J. Henderson, Jr., Chairman, presiding.

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The meeting was opened with a prayer by Mr. J. B. Smith

DEFERRED CASES:

1- THOMAS D. ALWARD, to show cause why the permit granted to you on January 22, 1957, to operate a repair garage, should not be revoked, on south side #244, approx. 1500 feet east of Bailey's Cross Roads, Mason District. (Gen.Bus.) Mr. Mooreland said he had been trying to make headway with Mr. Alward in getting his place cleaned up, but is not sure yet just where he stands. He has told Mr. Alward what he must do - either it will be necessary for him to operate the garage under the Board's motion - or he shall abandon that use and operate under the non-conforming graveyard use. Mr. Mooreland has suggested that Mr. Alward build a building to house the equipment he now has in his yard. Mr. Alward agreed to do that, but has not gone ahead with it. However, Mr. Lytton Gibson thinks he can get Mr. Alward to do this if he has a little more time.

It was recalled that Mr. Alward was operating the <sup>AUTO</sup> graveyard before 1941 and therefore could continue that use - if he abandons the garage. However, the non-conforming graveyard cannot be brought under the "Graveyard Ordinance". The Board agreed that it would be better if Mr. Alward could be induced to put up the building to house his materials and equipment and abandon the graveyard use.

Just when they can get Mr. Alward to conform to the repair garage requirements, Mr. Mooreland said he did not know, but he suggested that the Board defer the case - without date - and he would continue his attempts to work this out.

Mr. Barnes moved to defer the case indefinitely to give Mr. Mooreland more time in the attempt to work with Mr. Alward.

Seconded, Mr. Lamond

Carried, unanimously.

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Mrs. Henderson read the following letter from Mr. C. C. Massey - along with her reply - regarding the granting of over-sized signs:

"April 11, 1958

Mrs. Lawrence J. Henderson  
604 Juniper Lane  
Falls Church, Virginia

Dear Mrs. Henderson:

The Board of County Supervisors, at its meeting on April 9, requested the Board of Zoning Appeals to consider with caution any subsequent applications for variances in connection with the erection of signs and to grant such variances only when considered to be extreme hardship cases. This request is made by the Board in view of the fact that the proposed Pomeroy ordinance will more clearly provide for the erection of signs and that an unusually large number of applications for variances may be submitted in the near future.

Very truly yours,  
/s/Carlton C. Massey, County Executive"

"604 Juniper Lane  
Falls Church, Va.

April 16, 1958

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Mr. Carlton C. Massey  
County Executive  
County of Fairfax  
Fairfax, Virginia

Dear Mr. Massey:

This will acknowledge your letter of April 11th which I found on my return from California last night and which I shall bring to the attention of the Board of Zoning Appeals at our meeting next Tuesday.

I believe I speak not only for myself but for our entire Board in saying that we share the concern of the Board of County Supervisors over the mounting number of applications for variances to the sign ordinance. There is increasing pressure on behalf of national business chains to have us accept uniform signs which have been permitted in parts of the country having less high standards than Fairfax County.

The proposed Promeroy ordinance will give us more precise and realistic provisions for sign regulation than we now have and we all trust that its adoption will be forthcoming very soon. In the meantime, I hope we can make "consider with caution" our by-word in relation to sign applications.

Sincerely yours,

/s/ Mrs. L. J. Henderson  
Chairman, Board of Zoning Appeals"

2- NATIONAL SIGN COMPANY, to permit erection of three signs with larger area than allowed by the Ordinance, (163 sq. ft.), south side Route 644, 7 feet east of Hanover Avenue, Mason District. (Rural Business).

Mr. Richard Kinder represented the applicant. This case was deferred at his request, Mr. Kinder reminded the Board, because of a sewerage problem on the property which has been resolved. He was notified of this deferred hearing - but since he was not requested again to notify the adjoining property owners - he had forgotten to do so.

It is evident that the citizens in the area know of the case - since a considerable delegation was present to discuss the case - therefore, Mrs. Henderson asked the Board if they wished to waive the notification requirement. A letter from Mr. Tom Davis of Springfield had been filed with the case - objecting to the sign.

Both Mr. Lamond and Mr. J. B. Smith thought the requirements should be met - that the policy of notifying people in the <sup>case</sup> ~~case~~ has been established and it was not fair to waive that requirement because of failure to perform. This policy was set up because of necessity, and the Board has consistently requested these notices from others.

Mr. Lamond moved that the applicant notify the property owners as requested and that the case be deferred until May 13th.

Seconded, J. B. Smith

Carried

NEW CASES:

1- ALEXANDER S. ALEXANDER, to permit erection of an addition to dwelling within 15 feet of the side property line, Lot 21, Section 1, Oak Ridge, Providence District. (Rural Residence Class 2).

This is a corner lot and the applicant stated that his house more than meets both street setbacks. This extension will require a 5 foot variance. Mr. Alexander presented a letter from the Citizens Association in his subdivision, which letter represents 17 families, stating that they do not object to this requested variance.

"April 18, 1958

Chairman  
Board of Zoning Appeals  
County of Fairfax  
Fairfax, Virginia

Gentlemen:

I am writing with regard to an application filed with you by Mr. A. S. Alexander, Oak Ridge, Route 5, Box 104, Vienna, Virginia, for a variance with zoning regulations in order to construct an addition to his home.

Mr. Alexander presented the above matter, including a description of his construction plans, to a meeting of the Oak Ridge Virginia Citizens Association held on April 14th, 1958 at which representatives of 14 families were in attendance. The said association consists of 17 families who own houses in the Oak Ridge Subdivision.

Following a discussion of Mr. Alexander's application, a motion was made, seconded and passed that the president of the association be authorized to advise the Fairfax Board of Zoning Appeals of the association's approval of Mr. Alexander's application.

I am happy to so advise you.

Very truly yours,  
/s/ Bernard W. Lyons, President  
Oak Ridge Virginia Citizens Association"

Mr. Mooreland asked Mr. Alexander if the plat presented with this case shows a true picture of what is on the ground. The plat shows that the carport which is on the northerly side of the house to be 50+ feet from the right of way of Locust Drive. Mr. Mooreland thought the carport extends 8 feet into the front yard.

Mr. Alexander answered that he was not sure of the setback of the carport - it could be in violation.

Mr. Mooreland noted that the carport has been enclosed with glass and if that is in violation - the application does not cover that encroachment.

Mr. Alexander stated that the carport was built 5 years ago and was enclosed 2 years ago. Asked if he had a permit - Mr. Alexander said the contractor was supposed to get the permit.

It was suggested that it is the responsibility of the owner to know that a permit has been obtained.

Mr. Mooreland recalled that the law was changed so an open carport could extend into the front yard - but that does not cover a glassed in carport.

This carport has been enclosed with sliding glass doors.

Then the Board is asked to grant one violation which is applied for - and to grant another which has not been applied for, Mrs. Henderson noted.

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NEW CASES - Ctd.

1-Ctd.

The contractor was working on other carports in the area at that time, Mr. Alexander told the Board, and he had understood got permits on them, but apparently missed him. When he asked for the variance on the addition, the inspector picked up the violation on the enclosed carport. Mr. Alexander said he had not known of that encroachment.

Mr. Alexander called attention to the fact that the original survey of his property was made before the carport was put on and while he had had a permit for the carport, that extension into the front yard does not show on the plat he now has.

The Board has established a policy requiring true plats to be presented at the time application for cases to come before the Board are made - since these plats do not show what is on the ground, Mr. Lamond moved to defer the application until such time as the applicant can furnish proper plats - deferred until May 27th. The new plats should show the actual location of the carport.

It was agreed that a new application must be filed to cover the carport violation. That violation will be handled at a later date. The Board will consider only the application for the addition applied for in this case.

Seconded, Mrs. Carpenter

Carried, unanimously.

Mr. Mooreland stated that the applicant could either file a new application on the carport violation, or remove the glass doors.

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2-

JESSE A. FLEENOR, to permit duplex dwelling to remain as erected, northerly adjacent to Springmans Subdivision, Lee District. (Agriculture)

In 1935, Mr. Fleenor told the Board, he bought this property and moved in to the old run down 7 room house. Gradually he improved the house and added one room, two baths, and three porches. He rented rooms after the house was remodeled. They have city water, the place is clean, Mr. Fleenor went on, it is surrounded by woods, they have 2-1/2 acres in lawn. It is an especially good place for children. The tract contains over 6 acres. They got on well with their neighbors and there is no objection to the development on his property. The duplex is a two story building.

The Board members questioned Mr. Fleenor about the 6 buildings on his property in addition to the dwelling in which he has the duplex.

These were added gradually, Mr. Fleenor answered. However, the shed will come down. When he moved here the entrance came in from the west of the property but he now has access from Rt. 600 - the State put in the road on his property.

Mrs. Henderson asked what provision has been made for the houses scattered all over the tract - there appears to be no lot lines showing setbacks - nor access.

475

NEW CASES - Ctd.

2-Ctd. Mr. Mooreland checked the permits and found that one had been obtained for a house in 1950. Another house had been put up before that time - probably in 1946, which had been approved by Mr. White - who was Zoning Administrator at that time. Mr. Mooreland said he did not know of that until a permit was requested for the storage building in 1957. The inspector went to the property at that time, and saw these other buildings all over the property. His office has no record of when they were put up. However, Mr. Mooreland said the Commonwealth's Attorney had stated that the only violation on the property was the duplex.

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Mr. Fleenor explained that he had had two families in the one large dwelling - off and on - from 1935 until 1947 - part of the time he rented just rooms. In 1947 he remodeled the house into a duplex with separate entrances and two families have been in the building since that time.

The following letter was read:

"To Whom It May Concern:

The undersigned is one of the owners and attorney for the other owners of a tract of land consisting of approximately 18-1/2 acres, and lying directly north of the land of Jesse Fleenor in Fairfax County, Lorton, Virginia - adjoining Shirley Highway.

Please be advised that the said owners of the said 18-1/2 acres of property do not oppose or object to the proposed two-family dwelling contemplated by Mr. Fleenor for his said property.

It is agreeable that this statement be entered into the record of any hearing or procedure in connection with this matter.

Dated this 19th day of April, 1958

Signed: Ralph L. Payne"

In order to build a house, Mr. Lamond stated, he thought it was necessary to have a separate lot for each house and to show setbacks, and to obtain a building permit for such dwellings.

Mr. Fleenor said he had no intention of selling any one of these houses - in time, he continued, someone will want to put some kind of business on this property as it affords the only outlet in this area to the Shirley Highway. What he has on the property at this time is merely a means of paying taxes until such time as business will be needed in this area. His outlet now is directly to Rt. 600, which runs south to the Shirley.

There are two other houses on the property, Mrs. Henderson noted, how about permits on them?

Mr. Fleenor answered that he bought them from the Government and moved them to his property. He had contacted Mr. Lidell, who was an attorney, and Mr. Lidell stated that it was not necessary to get a building permit on these houses because the buildings were already built and they could be located on the property.

Mrs. Henderson noted that the two small houses toward the front of the property appeared to be too close to the Shirley Highway. Mr. Fleenor answered that those houses were put in before the Shirley was constructed.

These houses were bought and placed on the property in 1947 - but it was noted that they did not show on the plat of the property when the permit on the other house was applied for in 1950.

NEW CASES - Ctd.

2-Ctd.

It was recalled also that a one story "workshop" was started last year. That was an old barn, Mr. Fleenor stated, he got a permit to repair it but found it was impractical to do anything with it so he got a permit for a new storage building.

There were no objections from the area.

Mrs. Henderson read from the Ordinance (Page 94 - Paragraph 6 re duplex dwellings), and asked if the plans for this duplex had been before the Planning Commission for recommendation. (No plan of the duplex was presented with the case).

Mr. Mooreland said they have not enforced that provision of the Ordinance.

Mrs. Henderson stated that she would like to <sup>VIEW</sup> ~~see~~ this property since it appears to be a complicated situation. The Board agreed.

Mr. J. B. Smith moved to defer the case until May 27th to view the property and to study the case.

Seconded, Mr. T. Barnes

Mr. Fleenor stated that he had moved one family out of the duplex, pending the outcome of this case.

Motion carried to defer.

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3-

REET P. SMITH, to permit carport to remain as erected 8' 11" from side property line, Lot 20, Block 12, Section 8, North Springfield, (5502 Ivor St.) Mason District. (Suburban Residence Class 2).

Last Fall, Mr. Smith stated, he contracted with a Mr. Patch to erect a carport on his house. Mr. Patch was to obtain the building permit. They drew up specifications and Mr. Patch built the carport in conformance with the plans. Upon completion of the job he paid Mr. Patch, and a very short time later he was notified by Mr. Mooreland's office that this carport was in violation. The original plans showed the carport to be within all regulations. Mr. Smith said he did not know how this happened - he did not think that Mr. Patch realized that he had measured setbacks incorrectly.

It was noted that the rear of the carport is enclosed with a 10 x 4 foot storage space.

Mrs. Henderson suggested moving the posts in to conform - noting that the overhang of the roof would serve as protection for the car.

This would put the carport out of line with his driveway, and would therefore not be serviceable, Mr. Smith answered. As the carport is built now, the roof is tied in with the roof line of the house.

The following letter was read from the neighbor adjoining the Smith property on the carport side:

"5504 Ivor St.,  
Springfield, Va.  
April 21, 1958

Fairfax County Zoning Board

Subject: Deposition

I, George W. Connell Jr., reside at 5504 Ivor St., Springfield, Va.  
Having been properly notified of a public hearing to be held on

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NEW CASES - Ctd.

3-Ctd. Letter - continued

April 22 at Fairfax Court House concerning the carport erected at 5502 Ivor St., and being unable to attend such hearing because of official government business, I wish to make the following statement:

My lot is adjacent to the property of Reet P. Smith. The carport built on the property of Reet P. Smith is adjacent to my property line. I have no objection whatsoever to the existing carport remaining as erected.

GEORGE W. CONNELL, JR."

There were no objections from the area.

Mrs. Henderson called attention to the fact that the applicant is asking for something which cannot be granted except on proof of hardship. Because the carport was built according to specifications - yet it did not conform to setback requirements is not a hardship caused by the Ordinance.

Mr. Smith suggested that Mr. Patch might have realized when he was building the carport that it was not an adequate carport if he conformed to the setback requirements as shown on the permit. It would not be serviceable in that one could not ~~get in without~~ opening the <sup>Car</sup> door.

If the lot is too small to have a serviceable carport and meet the Ordinance,

Mrs. Henderson noted, there is apparently not room enough for any kind of a carport.

Mr. Mooreland noted that nothing would be gained by moving the posts back to the 10 foot setback line as the storage shed would still be in violation.

It was noted that this carport and storage shed is 13" in violation.

Mr. Lamond moved to deny the application as it does not conform to the minimum setback requirements of the Ordinance and it is noted that the applicant has used more than one half the side yard in the construction of a carport.

Seconded, Mr. T. Barnes

Carried, unanimously.

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4- ROBERT B. SPRINKEL & SON, to permit operation of a picnic area in conjunction with a riding school, on north side Routes 29 and 211 easterly adjacent to Hunter's Lodge, Centreville District. (Agriculture).

Mr. Sprinkel had left his proof of notification to property owners at home, and told the Board he would have such proof within a few minutes. Mr. Lamond moved that the Board proceed with the case.

Seconded, Mrs. Carpenter

Carried.

They plan to have 25 or 30 picnic tables, Mr. Sprinkel told the Board, with large tracts set aside for picnic areas. There are many trees on his property, which would act as a buffer between this use and other property. They will have fire engines, stage coaches, carriage rides and pony rides, and a merry-go-round with live ponies. They plan to cater to organized groups of children. The house will be remodeled so they can put on children's birthday parties and group gatherings. Mr. Sprinkel said he would live on the property. He has a 6 year lease.

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NEW CASES - Ctd.

4-Ctd.

Mrs. Henderson thought the Board should have a written statement of just what activities will take place on the property so the Board will have an adequate control. Mr. Lamond also suggested that the Board should have a statement from the owner of the property.

Mr. Sprinkel stated that he has a lease with the owner of the property which specifically states what he can do on the property, and he would be glad to file a copy of his lease.

Someone will live in the house on the property, Mr. Sprinkel continued, to take care of the grounds and to tend the ponies.

Since the land is owned by someone else, Mrs. Henderson thought the Board should see the owners approval.

Mr. Sprinkel said he had been all over the country collecting the things he will use for this project. He thought it would prove a fine thing for the children in the area and would not be detrimental to anyones property.

Mr. Lamond read from the lease. Mr. Sprinkel said he had a letter showing the terms of the lease which he would send to the Zoning Office.

Mr. Lamond moved to approve the application referring to the letter from Mr. Griffith W. Garwood, owner of the property, which letter contains the listing of the activities to take place on the property and from which letter the lease was made up. (This letter is made a part of the records in this case). This is granted to the applicant only.

Seconded, Mrs. Carpenter

Carried, unanimously.

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5- GROVER H. DODD, to permit erection of a building appearing as a single family

dwelling and to be used as offices for Doctors, nearer to street property line than allowed by the Ordinance, Lot 40, Buffalo Hills Subdivision, Mason District. (General Business and Suburban Residence Class 2).

Mr. Hapsbarger represented the applicant. Mr. Hapsbarger noted that most of the notices sent out to property owners were sent to business people because this lot is largely surrounded by business zoning. (Mr. Hapsbarger also stated that the interested parties in this case were present - in case the Board wished to question them - Dr. Alexander, purchaser, Mrs. Whitman, R. E. saleswoman, and Mr. Roan, the builder).

Mr. Hapsbarger displayed a plat of this immediate area around Seven Corners, indicating the zoning and showing that this property on Castle Road is located about 200 feet from Route 7 and Castle Road extended. Part of this lot the map showed is zoned General Business, the balance of the lot is residential. If only the portion of this lot zoned commercial is used the applicant would come up with an odd shaped, chopped off building (Mr.

Hapsbarger displayed a plat<sup>which</sup> indicated the type and shape of the building that could be located on the commercially zoned area), which would be a hardship for the applicant and would create an unattractive and inadequate structure. However, this building could be put on the property, but it would

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NEW CASES - Ctd.

5-Ctd. not appear as a single family dwelling and would not be in keeping with the neighborhood. There are covenants on the property which state that all lots are residential and only a single family one story building can be erected in this area. The plan of the building presented by the applicant showed the building projecting 30 feet into the residential area, coming 15 feet from Castle Road at one corner.

Lot 40 was a lot of record before the zoning ordinance and zoning map were adopted. When the zoning map was adopted it divided Lot 40 between the two zones.

Mr. Hansbarger read from the covenants on this Subdivision.

The covenants state that the only type building which can be erected here is one which appears as a single family building and that no obnoxious nor offensive trade or activity can be conducted which is detrimental to the neighborhood. Mr. Hansbarger quoted a case (52 SE 2nd Pg. 164) which shows that a similar activity to this could operate as long as no harm results to the neighborhood.

Mr. Hansbarger showed pictures of the Clinic which is located adjacent to this property, the filling station and other businesses in the immediate area. This is a legitimate application, Mr. Hansbarger contended, and is the best use that could be put on this property and it will be an improvement to the lot and the neighborhood. No one would wish to build a home on this lot, he continued, this is a good example of a transitional use between business and residential property. Mr. Hansbarger called attention to the fact that this building would be located entirely within the commercial zoning - as according to the Ordinance a 30 foot projection into a residential area, if it is in the same ownership, is allowed.

The building proposed to be built will have the appearance of a residence - from every standpoint.

There are two alternatives, Mr. Hansbarger continued, for development of a lot of this type - either leave it vacant - for it to grow up in weeds and remain unkept - or put up a building which appears to be a dwelling, but which is used for other purposes - a purpose which is not obnoxious but rather one that will provide a service to the area as well as develop the lot attractively.

Since the character of this area has completely changed since the lot was made of record in 1939, the owner could now bring suit to remove the covenants.

This property today is not recognizable as the same type of property which was covenanted in 1939, Mr. Hansbarger stated, it has become business rather than a residential area. He asked the Board to grant this application as a reasonable use of this property.

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NEW CASES - Ctd.

5-Ctd.

Mrs. Henderson noted that the covenants state that plans for any building in this subdivision must be approved in writing by the covenant committee - showing that such building is in harmony with existing structures in the subdivision - therefore, she asked Mr. Roan what type of building would be constructed.

The building will be in keeping with houses in the area, Mr. Roan answered, it will be larger but it will have characteristics of a home and will be attractive. This can be done very satisfactorily, Mr. Roan continued, as is evidenced by repeater stations which the Telephone Company locates in residential districts. They put these stations in home-like buildings and there have been no complaints about them. They can do the same thing here, Mr. Roan continued, make the building attractive and like a home - yet they will be able to construct the inside of the building to suit the doctors. Mr. Lamond thought the Board should have a rendering of just what the purchaser will build.

The Chairman asked for opposition.

Mr. John Mottoux told the Board that at a special meeting of the Citizens Association that group had gone on record as opposing this for the following reasons: It violates the residential character of Buffalo Hills; it would depreciate property values; and it is a violation of the covenants which run to 1967 with provision for renewal unless a majority of the lot owners agree that the covenants should not be extended.

Mr. Mottoux showed a plat of the zoning indicating that lots 37, 38 and 39 are business, but that Lot 40 is residential in part. Lot 40 was a very nice lot until the trees were cut down, Mr. Mottoux continued, it could be developed even now into a residential lot.

Mr. Lamond noted that this commercial zone on Lot 40 could be extended 30 feet into the residential area.

And they are not breaking the covenants, Mr. Hansbarger observed, they are conforming to them.

Mrs. Beck called attention to the entrance on Castle Road, which would have to be bulldozed down to road level and also it would probably be necessary to level another lot in order to make this property usable. (It was noted that the temporary road was put in to take care of traffic during construction of the Seven Corners underpass).

Mr. Hansbarger stated that the leveling process would have to take place even if a home were constructed here - the lot is high and considerable work would have to be done to make it usable for anything.

This is a subdivision of ramblers, Mrs. Beck explained, and now it is proposed to put up a two story building which would be out of place. Regarding the use of this lot for residential purposes, Mrs. Beck told of a couple who had bought near this location for the very reason that the lot is within walking distance of the shopping area. This lot could very well be just what some people would want for a home because of its proximity to shops.

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702  
NEW CASES - Ctd.

5-Cts. Mrs. Beck recalled that the zoning line which goes through this property has been under suspicion for a number of years. It has never been conclusively decided just where the centerline of the roads at Seven Corners is located and therefore it has not been known how far the business zoning extends from the Seven Corners intersection. Mrs. Beck said she had discussed this with Mr. Schumann many times in an effort to learn the location of the business zoning.

Mr. Hansbarger stated that a certified plat of this line has now been made and the zoning line is established. The plat presented with this case reflects that certified zoning line.

Mrs. Beck questioned the basis for information of that certified plat. The problem of topography on this lot will be taken care of by the covenants, Mr. Hansbarger recalled to the Board, as no building can be placed on the property until the design of the building and the location of the building with respect to topography have been approved by the trustees. The purchaser of this property will follow the same procedure as has been followed in this subdivision in the erection of dwellings.

It was noted that Lot 40 contains approximately 20,893 square feet.

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Asked where the parking would be located, Mr. Hansbarger answered that they planned to use the commercial area but they may use the residential portion of the lot as provided in the Pomeroy Ordinance. However, they do not anticipate many cars at any time as these men are specialists, their appointments are carefully scheduled and not many cars would be here at any one time. However, if they do not have adequate parking - they will necessarily come back to the Board - but they do not anticipate that. Mrs. Henderson thought it necessary to have the information now - as to the amount of parking space to be provided and the location. (It is planned that 4 to 6 doctors will occupy the building).

Mr. Lamond asked for a more detailed description of the building.

Their plans are not complete on this, Mr. Hansbarger answered, but they know it will be a two story building which will have the characteristics of a single family dwelling.

If the applicant could present a rendering or elevation of the building, Mr. Lamond observed, it might eliminate the opposition to this use. He thought it important to both the opposition and to the Board not only to know what type of building would be erected but also to see how the lot would be graded and the location of the building. An artists sketch could carry a good deal of weight in the final decision on this. Since this is the first picture one sees after coming into the subdivision from Route #7 Mr. Lamond thought it important that the building blend in with existing development.

This was a beautiful lot, Mr. Moutoux recalled, before the trees were cut - time would replace them and the lot could be used for an attractive residential site.

NEW CASES - Ctd.

5- Ctd.

It was noted that in the grading of this land - a drainage problem could result.

Mrs. Henderson thought the applicant was trying to put too much building on the business area of this lot, that the variance asked was too much.

The opposition agreed.

It has not yet been proved, Mrs. Henderson stated, that residential property cannot be developed along Route #7. The price of the land would make that prohibitive, Mr. Hansbarger answered. But in this case, he continued, there is a definite hardship - they have commercial land and if they cannot use it in a reasonable manner - such as planned - it is difficult to use at all. Mr. Lamond moved to defer the case until May 27th, at which time the applicant shall present a rendering which will show what the building will look like and in the event that removal of dirt takes place (which would appear inevitable) that a drainage plan be presented which will insure that no *unfavorable* drainage condition will result, and that the applicant show the location of the parking which will take place on the property.

Seconded, Mr. T. Barnes

Carried.

Mrs. Henderson noted that the meeting of May 27th will not be an additional hearing - and no testimony will be taken unless additional information is at hand.

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6-

THADDEUS J. HARTY, to permit erection and operation of a community swimming pool with bath house and structures accessory thereto, abutting Lots 6 thru 16 inclusive, Section 3, Warren Woods, Providence District. (Rural Res.-Class II)  
Case withdrawn.

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7-

WILLIAM G. SHOEMAKER, to permit operation of a stone quarry, on west side of Route #609, approximately 3200 feet south of Route #620, Centreville Dist. (Agriculture). Case withdrawn

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8-

BURTON BUILDING CORP., to permit erection of two dwellings with less setback from street property lines than allowed by the Ordinance, Lots 8 and 9, Block 2, Section 5, Fairfax Country Club Estates, Providence Dist. (Suburban Residence-Class II).

Mr. Lockowandt represented the applicant.

While the building permits have been issued on these dwellings, nothing has been started on the foundations, Mr. Lockowandt stated. This variance for less front setback is asked because there is a flood plain <sup>IN</sup> easement across the back of these two lots, and if the houses were put back the required distance they would be very close to the flood plane area, leaving a very small back yard. Both lots are larger than the required area. Also both lots are on the curve in the road (Cornell Street) and the less setback requested would not destroy the illusion that all the houses are in approximately the same alignment.

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NEW CASES - Ctd.

8-Ctd. This is a specially prepared swale, Mr. Holland told the Board, most of the area will be dedicated for recreational purposes. By allowing this front setback variance, Mr. Holland continued, it would eliminate a great deal of changing of lines - the curve in the road could remain the same and the houses would be askewed a little to give the appearance of the beginning of the curve and the difference in setback would be scarcely noticed. In order not to give a crowded appearance on this street they made two lots out of three, and while these lots would have less usable depth - they have more area and frontage than required.

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Mrs. Henderson asked about the location of the carport on Lot 8. It is planned - now 9 feet from the side line - and it should be 10 feet. They will move the house to make this conform to the 10 foot setback.

There were no objections from the area.

Mr. T. Barnes moved to grant the application - with the understanding that the applicant will askew the houses in such a manner that they will not be squared with the street line and that the applicant will also move the house on Lot 8 to be 30 feet from the side lot line on the carport side. This reduced setback is granted because of the flood plain<sup>IN</sup> at the rear of the lot.

Seconded, Mrs. Carpenter

Carried, unanimously.

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9- ESSO STANDARD OIL COMPANY, to permit erection and operation of a service station with pump islands within 25 feet of the street property line, north side Route #7, 1762 feet west of Haycock Road, Dranesville District. (General Business).

Mr. Ed. Gasson represented the applicant. Mr. Gasson identified the property as a portion of the Runyan tract zoned for business use several years ago. Mr. Gasson called attention to the fact that 100 feet separates this filling station lot from the school property.

The Esso people are looking for a filling station site which would replace the two presently operating stations which they will lose at Dunn Loring Road and Route #7 when the Circumferential Highway is put in. They have been looking for a site which would serve the area in which they are operating and this is about the only commercial land between Falls Church and Tyson's Corners on Route #7 which is available for this purpose - with the exception of the filling station within the Pinmit Hills shopping center. This is an area of about 6000 people - therefore there is a need for a filling station to serve this area, Mr. Gasson continued. Even beyond Tyson's Corners there are no filling stations on to Dranesville. This is a main artery - well traveled - it is a commuter's road and should be served adequately with filling stations.

NEW CASES - Ctd.

9-Ctd.

Mr. Hannewalt from Esso Company noted that this is a flat area, the site will have good visibility from both sides and the terrain is ideal for a station. Mr. Hannewalt showed a plat of a preliminary study of the site, indicating that from Falls Church to Tyson's Corners there are the three stations - two of which will be eliminated. This area has a potential of 9000 people or more.

It was suggested that these people are all within easy reach of Falls Church where there are many filling stations.

These large companies are definitely public-relations conscious, Mr. Gasson told the Board, they will do all they can to be sure they are welcome in a neighborhood. The building will be well set back from the right of way. The Board of Supervisors has zoned this land for business use, Mr. Gasson pointed out, and many other business uses could go on the property without a permit. Mrs. Henderson recalled that at the time of the rezoning of this property it was said that it was being rezoned for a <sup>PLANT</sup>nursery. That was not in the minutes of the Board of Supervisors, Mr. Gasson informed the Board. However, he did recall that this was a controversial case at that time.

A filling station can be obnoxious, Mr. Gasson agreed, but the major oil companies are very zealous in the care of their stations and he felt that no detrimental affects would result. This will be owned and operated by the Company which will assure that there is no question of proper care of the property.

It was asked - why the 25 foot setback on the pump island?

If the pump islands are located farther from the right of way, Mr. Mooreland said - people will park between the curb line and the pump island, which causes more of a hazard than if the islands are located closer to the right of way.

The Chairman asked for opposition.

Mrs. Esther Podolnick, who lives on Route #7 diagonally across from this property, recalled that this property has been the subject of many heated hearings. The property was rezoned by the Board of Supervisors - Mr. Runyan casting the deciding vote to grant the case. At that time, Mr. Runyan had said many times that he would never put a filling station on this property.

It was understood that this property was to be used for a nursery, which would include the sale of garden tools and garden accessories - therefore, Mr. Runyan got the rezoning on that basis. It is true that the Esso stations are neat and clean, Mrs. Podohick admitted, but they are so gleaming white and so out of keeping with the neighborhood - such a station would be out of place in this location.

Mrs. Podolnick read a letter from Mrs. Boyd Crawford, who was unable to be present, protesting this station because of the lack of good Faith on the part of Mr. Runyan who had stated that he would not put in a filling station and because of the traffic hazard and the lack of need.

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NEW CASES - Ctd.

9-Ctd.

Mr. Gasson again recalled the other commercial uses which could go on this property without a permit - he assured the Board and Mrs. Podolnick that the company operated station would not be detrimental. Mr. Gasson recalled the contest on this - but also pointed out that the rezoning was taken to Court and the action of the Board was sustained. A good filling station will be an improvement over what is on the property now, Mr. Gasson argued. He thought Mrs. Podolnick might even use the station in time and would appreciate its convenience.

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When Route #7 is widened - this building will not be so far back from the right of way, Mrs. Podolnick noted. She also recalled that the filling station at Pimmit Hills was located back off the highway because of the traffic hazard.

It was pointed out that there are two Esso stations at Falls Church as well as one at Tyson's Corners.

But in the four mile stretch between Tyson's Corners and Falls Church there would be only two stations - to serve a population of 8000 or 9000 people, Mr. Hannewalt observed. That area is now only about 30% settled. When this becomes 60 or 70% settled - the need will be here for at least this station and perhaps another. The stations at Dunn Loring will be abandoned within about one year.

Mrs. Henderson thought the Board should consider the need for a station. She did not think it necessary that Esso locate on Route #7.

Mr. Lamond suggested that perhaps the County could get together with Esso on the architecture of the building. He recalled that this has been done in Alexandria and in other places - where a special type of architecture is more in keeping with the neighborhood. There is a red brick station of Colonial design in Alexandria, and one in Fairfax - which might be more acceptable to the neighborhood, Mr. Lamond pointed out.

But Mr. Runyan will still have the nursery stand as well as the filling station, Mrs. Podolnick noted - he has plenty of room.

Mr. Gasson agreed that the Company would be willing to work out something architecture-wise, but he asked that not be made a condition on the granting. He assured the Board that the Company would do all they could to meet the objections to the "gleaming white" station.

Mr. Lamond moved that the case be deferred until May 27th, during which time the applicant and the property owners in the area could get together and agree on the type of building which would be acceptable to people in the area.

Mr. Hannewalt stated that the Company has worked out situations very like this - especially in Georgetown where they are very conscious of architecture. It is expensive and they prefer to have the standard station, but he could see in this case where it would create a far more harmonious situation if something could be worked out which would blend with the homes in the area.

9-Ctd.

If the Board is of a mind to grant this application, Mr. Hannewalt stated, that they would accept the condition of restriction on the architecture.

The Esso people have an option on this which will expire May 27th, Mr. Gasson explained, and if the Board grants this with the architectural restriction they will be glad to meet with the people and work this out.

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Mr. Lamond moved to grant the application for erection and operation of a service station, subject to the erection of a Colonial Type filling station with a hipped roof, which will get away from the standard type of white and red structure which is prevalent today in filling stations, and that the variance requested be granted according to the plat drawn by Patton and Kelly dated April 2, 1958.

Seconded, Mrs. Carpenter

For the motion: Messrs. Lamond and J. B. Smith, and Mrs. Carpenter

Against the motion: Mrs. Henderson and Mr. T. Barnes

Motion carried.

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Lunch: Mr. Lamond left the meeting after the lunch hour.

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10- ERNEST ROBSON, to permit operation of repair garage, part Lots 17 and 18, Section 1, Dowden Center, Falls Church District. (General Business).

Mr. Mooreland said he had understood that this case may be withdrawn - however, he had heard nothing from the applicant and no one was present to discuss the case. It was put at the bottom of the list.

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11- COUNTRY CLUB HILLS RECREATION CORP., to permit erection and operation of a swimming pool and recreation area and accessory buildings, approx. 750 ft. south of Route #237, opposite Old Post Road, Providence District. (Suburban Residence-Class II).

Mr. Ralph Louk represented the applicant. Mr. Louk displayed a map indicating the location of the property with relation to surrounding subdivision, the Town of Fairfax line, stream bed and the drainage area, and property owners. The applicants were chartered in 1955, Mr. Louk told the Board, the membership consists of people in the area. Two years ago they applied for a swimming club on land behind Greenway Hills and were refused - because of objections from the neighborhood. Land in this area is scarce for this type of use, Mr. Louk informed the Board. After the refusal of the one location the Club tried for two years to find another place which would serve them and which they could afford. This property is ideally located - it is on the Creek, 750 feet from Route #237, practically surrounded by vacant land, and is located so it can very well serve Fairview, Greenway Hills and Country Club Hills.

Mr. Louk presented a petition favoring this project signed by owners of approximately 382 homes. Sixty families in Greenway Hills signed the application. At the previous hearing Greenway Hills residents were the main objectors. The people in the area, including Greenway Hills, want this

NEW CASES - Ctd.

11-Ctd.

project, Mr. Louk told the Board - the Board of Directors are present - also the President of Country Club Hills Citizens Association. They all feel that this would be a great asset to their community and it is needed in the neighborhood. They hope to have this operating within 90 days. They have had the topographic study made of the flood plain<sup>ed</sup> area and have located the pool. Mr. Louk showed the plat prepared by the Paddock Swimming Pool people - which gives the entire layout of the project, pool, bath house, and parking area. They are now getting estimates from other pool construction people.

Mr. Louk called attention to the Z shaped pool - the long part of the Z is 42 x 82 feet. At one end of the Z is the deep end and at the other is the shallow water for younger children, which makes a good transition between the large pool and the wading pool. The total pool area is 37,000 sq.ft. They now have 280 families as members in Country Club Hills. They plan no more than 400 or 450 membership. The pool is designed to take about 450. The following letter was read outlining the study made by the Planning Commission on parking ratio on swimming pool clubs:

"April 22, 1958

TO: Mrs. L. J. Henderson, Jr., Chairman  
Board of Zoning Appeals

FROM: H. F. Schumam, Jr., Director of Planning

RE: Parking Space Requirements for Swimming Pools

One parking space for each four (4) persons of pool capacity. This is the requirement of the Arlington County Swimming Pool Ordinance, and of one proposed but not yet adopted in Montgomery County, Maryland.

The Fairfax County Ordinance relating to swimming pools requires 27 square feet of pool area for each person.

This produces one (1) parking space for each 108 square feet of pool area.

Our estimate is that 320 square feet of parking area is necessary for each parked automobile, plus maneuvering space necessary to get automobile into and out of each space.

This produces a ratio of approximately 3 square feet of parking area for each 1 square foot of pool area.

Very truly yours,

/s/  
FAIRFAX COUNTY PLANNING OFFICE  
H. F. Schumann, Jr.,  
Director of Planning"

They will be able to provide ample parking space, Mr. Louk assured the Board - they would not take more members than they could have space for. If they need more parking area 24 spaces can be provided from Fairview - across the Creek. (This was shown on their plat).

The entrance road has a recorded 50 foot right of way from Route #237. That was reserved by the owner of this land between the pool area and Route #237 for development purposes. The owner intends to develop this land and when he does so he will put in curb and gutter and black top the road. However, they are negotiating with the owner of this property to put in the black

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11-Ctd.

topping on this road now. They will grade and gravel the road for the present. They need about 20 feet of the road now, but the 50 feet are available and it will be that wide when development goes in.

Mr. Louk said he was very sure this land would be developed soon, as it is too valuable to be left idle for long. There were about 15 people present favoring this project, and no objectors present.

Mrs. Carpenter moved to grant the application in accordance with the plat presented with the case titled Paddock Engineering Company, Arlington, Va., and dated April 11, 1958. It is understood that parking space shall be furnished on the property for all users of the use.

Seconded, Mr. T. Barnes

Carried, unanimously.

Mr. Louk wanted it understood also that they will not put in the 24 parking spaces shown on the plat across the Creek, adjoining Fairview, unless those spaces are needed. They are not sure if they will get a sufficient number of members from Fairview to need this parking space.

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12-

HAZELTON LABORATORIES, INC., to permit operation of a scientific research laboratory, on northerly side Route #7, approximately 500 feet N. W. of Tyson's Corner, Dranesville District. (General Business).

Mr. Dick Henninger, General Manager of Hazelton Laboratories, represented the <sup>APPLICATION</sup> applicant. It is the plan of the applicant to lease the top floor over the frozen food locker of the Bless Building, Mr. Henninger told the Board, for the purpose of scientific research. A part of the business now operating in Falls Church will be moved to this location where they can have more space. Mr. Henninger called attention to the fact that this is a general business district, but the Ordinance requires a permit from this Board - under the scientific laboratories amendment to the Zoning Ordinance.

Doctor Tusing, Medical Director of the Company, stated that they would carry on research in food additives, drugs and chemicals. They have been doing this work in Falls Church - for five years - but they have outgrown the space and they need to be nearer the main plant on Route #7, where they have been in active research for ten years.

They will employ about 14 people - there is ample room to provide all the parking space they need. This is the only building they have been able to find in this area which is satisfactory for their needs.

Since this is applied for in a business district, Mr. Mooreland said the recommendation from the Planning Commission has been waived.

There were no objections from the area.

Mr. J. B. Smith moved to grant the application, as it appears to be a logical use for this property.

Seconded, Mrs. Carpenter

Carried, unanimously.

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NEW CASES - Ctd.

13-

JACK STONE COMPANY, INC., to permit erection of two signs with larger area than allowed by the Ordinance, 206 sq. ft., total area, Parcel G, Section 1, West Lawn, Falls Church District. (General Business). 490

Mr. Jack Stone represented the applicant.

The letter from Mr. C. C. Massey regarding request of the Board of County Supervisors on the granting of over-large signs (read earlier in the hearing) was read again.

Mr. Stone displayed a picture of the sign used on the Hybla Valley "McDonald's".

It was recalled that the pylon granted on the Hybla Valley restaurant was 150 sq. ft. and the 40 sq. ft. was allowed on the building. This request is for 166 sq. ft. on the pylon - with the 40 sq. ft. on the building.

It was noted that the restaurant would be adjacent to the used car lot, and McDonald's have an option to take over that area.

The arch is considered part of the architectural treatment, Mr. Stone stated, and not a part of the sign area.

Mrs. Henderson asked what Mr. Stone considered the hardship?

The fact that Fairfax County has no sign code - or at least no reasonable code, Mr. Stone answered. They consider the sign requested necessary for competitive purposes.

This is a flat area, Mrs. Henderson pointed out, one can see for miles in either direction. Mrs. Henderson recalled that other over-sized signs which the Board has granted were considered to have a topographic condition or some particular reason of hardship to justify the granting. In this case the lettering is very large and it would appear that the sign could be seen for 1/4 mile.

Means of access were discussed. (It was noted that this building would front on the service road.)

There were no objections from the area.

Mr. Mooreland called attention to the difference in the size of the pylon between the sign and the pylon on Route #1 which was granted for 150 sq.ft. The Board did not count the lighting above the sign on the Route #1 sign - but since the granting of that sign - the Board has ruled that this area should be computed. This makes 16 sq. ft. difference.

Mrs. Henderson stated that the Board has tended to treat signs on Rt. #1 and Route #50 a little differently - in that they have tried to keep the signs on Rt. #50 a little smaller and a little more conservative. She pointed particularly to Robert Hall and Kinney Shoes.

Mr. Mooreland questioned the reasonableness of considering signs differently on different roads. These are both major highways, he continued, and both have a 55 mile/hour speed limit. Where do you draw the line between the two roads, Mr. Mooreland asked?

NEW CASES - Ctd.

13-Ctd.

The character of the two areas is entirely unlike, Mrs. Henderson stated - the type of development on the Boulevard is not in keeping with over-large signs.

Mrs. Carpenter suggested removing the top part of the sign - the little man and the 15 cents.

That, Mr. Stone answered, is the basic part of their identification - used all over the country. The company had agreed to the reduction in sign on the Hybla Valley business, Mr. Stone continued, but he felt that they could not reduce it farther on this.

Mrs. Henderson suggested using the same trade mark - but simply reducing the size.

The lease on this property is contingent upon the granting of this size sign. Mr. Stone explained, these people are ready to go. He suggested that the Board grant the 150 sq. ft. pylon and not compute the supports in the overall size. This would give them the same square footage as the Hybla Valley business.

The requirements of the Pomeroy Ordinance with relation to this case were discussed.

Mrs. Henderson again pointed out that the Board had treated signs on Rt. #50 differently from U. S. #1, and there had been no objections from others such as Robert Hall and Kinney Shoes - who have stores on both highways. There are no trucks allowed on Route #50, she noted - and therefore the character of the highway is different.

Also, Mrs. Henderson recalled that the Board had discussed the idea of proportion of the sign with relation to the size of the building. This is completely out of proportion, she noted, a very small building with a large over-sized sign. Mr. Stone did not disagree with that.

The relationship of the sign to the building, the relation between the sign and the business it would attract, and the possibility of the Company taking a reduction in size were all discussed again.

Mr. Stone thought it would do no good to go back to the Company for their okay on a reduction in the sign size - they not only want what they are asking, but would like even a larger sign, Mr. Stone stated. These people are planning other like businesses in the County, he went on, the first place on Route #1 was a trial balloon - business has been good and now they have in the planning stage two other pieces of property in the County where they hope to locate.

Mrs. Henderson still thought Mr. Stone should contact the Company with the suggestion that the sign be cut.

Mr. T. Barnes moved to defer the case in order to give Mr. Stone the opportunity to contact the Company with regard to cutting the size of the sign - in view of the fact that the Board has consistently tried to keep smaller signs on Lee Boulevard. Deferred to May 13th.

Mrs. Henderson suggested that a 100 sq. ft. pylon, which would conform to

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NEW CASES - Ctd.

13-Ctd. the Pomeroy Ordinance, might be satisfactory. Also, Mrs. Henderson suggested that Mr. Stone give the Company the Board's reasons for the reduction in the sign - because of the precedent which has been established in sign sizes on Route #50.

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Motion seconded by J. B. Smith

Carried, unanimously.

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DEFERRED CASES:

3- WILLIAM JURGES, JAMES LEMON & OLIVER BESLEY, to permit operation of a stone quarry, adjoins Military Reservation Engineering Board on the south, approximately 3400 feet east of Rolling Road, Route 638, Mason District. (Agric.) Mr. Wise Kelly represented the applicant. This case was deferred for a report from Public Works.

The following letter, signed by Mr. B. C. Rasmussen, was read:

"April 21, 1958

Mr. William T. Mooreland  
Zoning Administrator  
County of Fairfax  
Fairfax, Virginia

Re: Proposed Stone Quarry Site -  
Part of William H. Grandord ✓  
Estate, Application #19650

Dear Mr. Mooreland:

On April 9, 1958, a field inspection was made on the above named quarry site by this office. This site is bordered on the east by Accotink Creek and the U. S. Proving Ground Eebee Field; on the north, by a parcel 205 feet wide now or formally in the name of Cranford; on the west and south, by a 50 foot right-of-way and additional property in the name of Cranford, and the following conditions were found:

- 1) The topographic map dated April 4, 1958, from the office of Patton and Kelly, certified engineers and surveyors, is apparently correct. The topography on this site is hilly and is covered with small trees and underbrush.
- 2) A gravel access road exists as shown on the topo and the westerly boundary of this site is approximately 3,200 ft. from Rolling Road, State Route #638. The site distance at the intersection of Rolling Road and the access road appears to be reasonably safe for approximately 300 feet in each direction.
- 3) No developed subdivisions exist in this immediate area, however, the land on both sides of the existing access road appears to be divided into large lots. We have no record of this land being subdivided.
- 4) A group of storage tanks containing fuel oil, gasoline, jet and missile fuel are located on the U. S. Government property approximately 430 feet east of the proposed quarry site. During our investigations for the proposed quarry site at the Siegel Tract, which was located south and east of this site and on the east side of the Accotink Creek, we were advised by the U. S. Army Engineers that they are installing an observatory tower and an electronic computer for testing night vision equipment and for satellite observation.
- 5) A cinder block building exists on the Cranford property approximately 450 feet west of the proposed quarry site on the north side of the access road.
- 6) We observed rock outcroppings at six locations on this site.

DEFERRED CASES:

3-Ctd.

Letter from Public Works - continued

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- 7) We have no knowledge of the amount of soil overburden which will be encountered on this site before the stone is exposed, and we have no information pertaining to the planned operation of this quarry except as shown on the attached topo, which indicates the proposed grading in conformity with the Gravel Pit and Stone Quarry Ordinance. The proposed grading plan indicates that the top of the future cut-slopes will begin at the northerly and westerly limits of this site.
- 8) The applicants' engineers have prepared the Flood Plain Study for Accotink Creek in conformity with the County subdivision requirements, and the proposed grading on this site indicates that no encroachment will be made within this Flood Plain, and that no excavation will be made on the site at an elevation lower than the designed Flood Plain.
- 9) The proposed grading on this site indicates that all natural drainage will be honored; however, since we have no information of the soil overburden on this site, it will be difficult to determine the extent of erosion that can be anticipated where the natural drainage enters this property. If erosion does occur, it will result in some siltation (or soils pollution) to Accotink Creek. The drainage ways thru this property indicate that very little erosion occurs on this site in its natural state. A flowing stream enters this property at the northwesterly corner. No provision has been indicated to protect the ultimate cut-slopes from erosion.
- 10) The proposed grading plan indicates that a strip of land 205 feet wide (included in the application on the southerly side of this site) will be used for crushing, screening, and grading equipment. Field topography has not been provided for this portion.

The following comments on the above are offered for your consideration:

- 1) Adequate provision should be made with the Virginia Department of Highways to insure safe traffic control at the intersection of the existing access road with State Route #638.
- 2) The Commanding Officer, Fort Belvoir, should be consulted pertaining to the effects on the U. S. Government property because we have previously been advised that their observation and testing operations could be hampered by vibration and dust.
- 3) The existing cinder block building west of this site was not being occupied at the time of the field inspection.
- 4) The existing rock outcroppings indicate a surface stone of poor quality; however, this does not necessarily indicate that the bed stone at lower elevations is of the same quality and can be determined only by test reports.
- 5) We would suggest that the quarry operations be limited to an area not closer than 50 feet from and parallel to the existing 50 foot right-of-way on the westerly side of this property, and every precaution should be taken to protect this right-of-way during blasting operations in the event that the road has a future public use.
- 6) The Flood Plain Study on Accotink Creek was determined by the use of the County's 10-13 year rainfall curve and the Flood Plain elevation could be exceeded after storms of a higher rainfall intensity.
- 7) Every precaution should be taken to prevent erosion on this site in conformity with the County Siltation Ordinance, and some permanent protection should be provided where the flowing stream enters this property at the northwesterly corner. Accotink Creek is a source of water supply for the Fort Belvoir Military Reservation.

3-Ctd. Letter from Public Works - continued

- 8) Complete field topography should be provided for the entire area covered by this application.

Please advise if this information is sufficient and if we can be of further service.

Very truly yours,

/s/ B. C. Rasmussen  
Subdivision Design Engineer"

The question of siltation and chemicals or foreign matter which might enter the stream was discussed. Mr. Kelly recalled the letter they had written General Tulley in which they agreed that no chemicals would be put in the water nor would the flow of water be impaired in any way.

The following letter to General Tulley and the General's reply were read:

"February 5, 1958

General David Tulley  
Commanding General  
Fort Belvoir, Virginia

Dear General Tulley:

Pursuant to your direction, we are enclosing herewith boundary survey of the property we propose to purchase for the purpose of a quarry adjoining the proving ground installation and the Fort. As soon as our Engineers have furnished us with a topographic map of the property, a copy of the same will be furnished you immediately.

If we are furnished a use permit for the purpose of a stone quarry on the premises, we agree to see that no chemicals will be put in the water as a result of our operation, nor will any rocks or boards be allowed to accumulate or remain in the stream so that the natural flow of water is impaired or impeded. We agree further to see that no debris or trash of any nature will be allowed to flow down the stream from any of the operations taking place in connection with the quarry operation on our property.

We intend to build a bridge across Accotink Creek for the purpose of transporting the stone from our quarrying operation to the Shirley Highway. Before constructing a bridge across Accotink Creek, we will consult with you and your Engineers and before beginning the installation of the bridge, we will agree with you on the specifications for the bridge. The bridge will then be built upon the specifications mutually agreed upon between you and myself.

We further agree to use a controlled blasting operation approved and installed by the experts furnished by one of the major explosive manufacturers. It is our understanding that by the use of controlled blasting, no rock or debris will be thrown upon your land or cause any harm or damage to your installation.

We further agree that blasting shall be done only at a given hour each day and before setting that hour, we agree to consult with you relative to a time mutually agreeable to the both of us.

We intend further to furnish you with a letter from the U. S. Coast and Geodetics Survey stating that dust is not a major factor or nuisance in the quarry operation of the type of stone found on our property. However, should a sufficient amount of dust develop from operation that the same would become objectionable, we agree to install forthwith the most modern and approved methods of prevention.

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DEFERRED CASES - continued

3-ctd.

Letter from Oliver Besley to General Tulley (continued)

If we may furnish you with any further advice or information or should you have any further requests, please advise us at your earliest opportunity.

If the foregoing plan meets with your approval and you have no objection to the proper authorities in Fairfax County, Va. granting us the necessary permit for the operation of a quarry, kindly note your acceptance of this letter on the enclosed copy and return the same to us for submission to the proper authorities in Fairfax County.

Thanking you for this and past courtesies, I remain

Yours very truly,

/s/ Oliver Besley

General Tulley's Reply:

"February 21, 1958

Besley Realty Company  
Annandale, Virginia

Gentlemen:

I wish to acknowledge receipt of your letter of February 5, 1958 concerning the establishment of a quarry adjoining the Engineer Proving Ground.

This headquarters would have no objection to quarry operations on the property described, if operated in accordance with your letter.

Trusting the above provides you with the desired information, I am

Very truly yours,

/s/ DAVID H. TULLEY  
Major General, USA  
Commanding"

The question of how much over-burden was discussed. Mr. Kelly said they did not know how much over-burden would result from these operations. After the core borings are made they will know better what they will have. If the borings show no rock the permit will become void. They have not made the core borings at this time, Mr. Kelly explained, as it costs about \$10,000 and they are waiting for the outcome of this hearing - the applicant has found that lawyers are cheaper than core borings - they are trying first for the permit.

Mrs. Henderson suggested that the crushing process might be located at the farthest point from the nearest house. If that were done, Mr. Kelly answered, it would be in the way of the pit in which they would be working.

Mr. Kelly recalled that there have been no objections (except from Dr. Thorne) and they are able to meet the restrictions set forth in the letter from Mr. Thompson, and in addition they will not use Rolling Road for their trucking. Before they begin operations they will built the road which will take the trucks out toward the Shirley Highway.

Mr. Kelly said he had gone over the property and it would appear that it is not usable for home development. This natural resource is here - it is needed in the County's road building program - they will use controlled blasting and dust control if that becomes necessary, and they will take every precaution that no one is injured by this operation.

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DEFERRED CASES - Ctd.

3-Ctd. The amount of stone to be removed will not be known until the core borings are made. They think there will be a minimum amount of over-burden and that there is plenty of rock. At least they hope it will be necessary to come back for an extension of this permit - which they will necessarily do if there is a sizeable amount of rock.

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Mr. T. Barnes moved to grant the application in accordance with plat presented with the case prepared by Patton & Kelly, dated Februar 6, 1958 and topographi map by Patton and Kelly, dated April 4, 1958, subject to any County regulations applying (siltation, etc.) and there shall be no use of Rolling Road for their rock and gravel trucks, and that the applicant will block off the 50 foot road leading to Rolling Road. The applicant will also use controlled blasting. This is granted for a period of three years.

Seconded, Mr. J. B. Smith

Carried, unanimously.

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NEW CASES:

14- W. E. WHORTON, to permit operation of a kiddie land, on north side of Bland Street, approx. 260 feet east of Backlick Road, Route #617, Springfield Shopping Center, Mason District. (General Business).

This is an operation especially for children, Mr. Whorton told the Board - they plan to have minature trains and planes, which will be added to the existing pony ring. This business operates on a yearly lease. The ponies are on the property from about 9 a.m. to 9 p.m.

(Mr. Mooreland stated that this case comes under Section 6-4-a-15-c as amended.)

Mrs. Henderson asked if there had been complaints on the pony ride at Bailey's Cross Roads? There had been none, Mr. Mooreland said. Someone had contacted him from Springfield asking why this pony ring had been allowed on this business property without a permit from the Board of Zoning Appeals. He had answered this by saying the pony ring would be allowed on business property without coming before the Board, but for an extension into a Kiddie Land - it is necessary for the Board to exercise some control.

Mr. Barnes was worried over the little animals being kept in the ring all day without water - but Mr. Whorton assured him that the ponies are well cared for, they are kept under cover and are fed and watered at regular intervals. The ring is cleaned every day, Mr. Whorton said - he has operated other similar projects and without complaints.

This parcel is surrounded by open fields - no operating business is near.

The following letter from Mr. Tom Davis regarding this activity was read:

"April 21, 1958

Board of Zoning Appeals  
Fairfax County  
Fairfax, Virginia

Gentlemen:

I refer to the application by Kiddie Land to be heard by you on April 22 for a permit to operate permanent recreation facilities on the tract located 260 feet east of Backlick.

14-Ctd. ✓ Letter from Mr. Tom David - continued

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At its last regular meeting on Wednesday night, April 16, the Springfield Civic Association passed a resolution directing the undersigned to request, on behalf of the Association, that this application be denied.

I was directed further in the same resolution to ask the Board to require the adjacent "Pony Ride" seasonal enterprise to desist its operations until such time as an application for such activity has been heard and approved by the Board, with ample opportunity for residents to be heard.

It was felt by the members that a seasonal Pony Ride in a business area should be subjected to every technical standard required by the Zoning Code, i.e., the requirements as to its offset location from the street which are prescribed in the sections relating to agricultural land and are incorporated into those sections relating to business tracts.

Sanitary questions were raised at this meeting, and also safety questions in the event of run-a-ways in a shopping area.

....."

Someone would be in attendance all day, Mr. Whorton explained, the saddles have safety straps and the ponies are kept within a fenced area. Regarding the safety item in Mr. Davis' letter, Mr. Whorton said someone had operated a ring at one time and one of the ponies got away. That could not happen in his ring as the ponies will be kept within a fenced area at all times. The only entrance to the ring is through a locked gate.

There were no other objections from the area.

Mr. T. Barnes moved to grant the application to the applicant only for a period of three years - granted in accordance with the plat submitted with the case - prepared by R. M. Lynch showing a parcel 210' x 90', containing 18,900 sq. ft. This project is limited to two rides and the pony ring.

Seconded, J. B. Smith

Carried, unanimously.

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DEFERRED CASES:

4-

JACK STONE COMPANY, INC., to permit erection of 4 signs with larger area than allowed by the Ordinance, (1156 sq. ft.), east side of Shirley Highway Service Lane, south of Edsall Road, Lee District. (General Business)

This case was deferred for the Board to discuss the original motion granting this motel, with the Commonwealth's Attorney. Mr. Mooreland said he talked with Mr. Fitzgerald who stated that if there was a question in the motion with regard to the architecture of the building - that could be worked out within the Board - the Board should determine what they mean by "architecture".

The following letter from Corning & Moore, Architects of the building, was read:

"April 16, 1958

Board of Zoning Appeals  
County Court House  
Fairfax County, Virginia

Re: Motor Hotel  
Shirley Highway & Bren Mar Drive

Gentlemen:

As Architect's for the above project, we wish to clarify the purpose of certain architectural exhibits presented to the Board of Zoning Appeals at the time of application for Land Use.

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DEFERRED CASES - Ctd.

4-Ctd. Letter from Corning & Moore - continued

At the time of Land Use request, only the most basic decisions had been made.

1. Number of rooms necessary for an economical set-up.
2. Minimum area of rooms.
3. Required area for parking per room.
4. 8 rooms per floor in 2 story buildings.
5. All rooms must face away from parking.

With the above information, we were able to arrive at the land area required and its form or outline.

Preliminary studies were underway on the 2 story buildings. We realized that because of their length and simplicity, they were going to be our chief problem architecturally; how to give them some character and at the same time, stay within the budget. Many elevation studies were being made at that time, two of which were submitted along with the Use Application. Their submission was for the purpose of indicating to the "Board" that we were thinking along "Contemporary" architectural styling.

We feel that our final design with the masonry piers honestly exposed on the exterior, where they become an architectural feature, is a successful one. The extended eaves give us a horizontal shade line and the piers an opposing vertical shadow. The grouping of windows at alternate piers prevents monotony. The turning of the buildings to meet at right or greater angles gives more privacy to the rooms and completely separates the auto parking from the view from the rooms.

We had not, at this preliminary stage, made any studies of the building which was to contain the office, restaurant and purely hotel type rooms. We had only located this building on the site in a controlling position in relation to the other buildings. However, we did keep it in the same spirit of design. Using the same colors and brick and allowing function to be expressed honestly as in the Elevator Shaft which becomes the dominating tower feature. As in the two story buildings, we have used a staggered window arrangement to add interest and prevent monotony. The whole project is really "Contemporary" design with no applied decoration.

We regret that these exhibits may have caused a misunderstanding as to their purpose.

Very truly yours,

CORNING & MOORE  
/s/ Vernon C. Elmore "

Mr. Lamond who made the original motion on this case, had read the above letter and attached the following statement:

"I agree with above statement, as I tied the resolution to architecture to be used and not height. A. Slater Lamond"

Mr. Mooreland told the Board that he had discussed this with Mr. Lamond before he left at the noon recess, and Mr. Lamond recalled that the intent of his motion was not to tie the architectural design to a particular picture or drawing and that he believed the architects had carried out the spirit of his motion and followed the thinking of the Board. Mr. Lamond said he hoped the Board would concur in this.

Mr. T. Barnes moved that the Board accept the premise that the present plan of the motel (Magazine Brothers - on Edsall Road) is in accordance with the original motion which states that it should follow the architectural design discussed at the time of the hearing.

Seconded, J. B. Smith

For the motion: Messrs. Barnes and Smith, and Mrs. Henderson

Mrs. Carpenter refrained from voting. - Mr. Lamond absent

Motion carried.

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DEFERRED CASES: continued

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With regard to the sign area requested on this property, Mrs. Henderson stated that in her opinion the Board had no jurisdiction whatever to grant such an excessive area, it is many times the square footage allowed by the Ordinance, and to grant such a request would be amending the Ordinance to such an extent that the Board would be subject to a Court action.

Mr. Stone pointed out that the pylon is within the Pomeroy limitations. Mrs. Henderson agreed that the pylon on the building is probably all right but the free standing pylon was entirely out of line. She questioned the need for it.

The pylon on the building takes care of the people on the highway, Mr. Stone agreed, but when they turn off the highway going toward the motel the tall sign is not visible. They need something on a low level to attract cars to the building. The tall pylon is so high it is above the eye level of the passenger in a car. It is too high to be of any value.

The Board agreed that the building pylon which houses machinery necessary <sup>the</sup> to/operation of the motel is an integral part of the building and therefore only the lettering should be computed, which would amount to 231 sq. ft.

Site distance of both pylons was discussed - it being suggested that the free standing pylon did not require a large sign nor large lettering as it was planned only to direct cars immediately approaching the motel.

Whether or not the clock on the free standing pylon should be computed as sign area was discussed - should it be considered as part of the advertising.

Computed sign areas for the building: Restaurant 45.5; office 8 sq. ft.; pylon 231 sq. ft. - making a total of 284.5 sq. ft.

It was agreed that "Holiday Inn" on the building pylon does not appear over-sized - that it is in good proportion to the building area. However, the standing pylon still presented the problem.....

Under the Pomeroy Ordinance, Mr. Mooreland informed the Board, an aggregate of 300 sq. ft. would be allowed on the building and 100 sq. ft. for the pylon.

Since the pylon has a limited use, Mrs. Henderson suggested, and it is visible only after the driver goes under the bridge to make the turn - it would not require more than the 100 sq. ft. area. She could see no hardship to justify granting the excessive pylon - other than the fact that it carries advertising which is nationally known by this Chain - which to this Board would not appear to be a hardship.

Mr. Mooreland said that - in his opinion - the word "office" is not advertisement and therefore should not be computed in the sign area. The restaurant could operate as a separate business and could apply for sign area in the amount of 120 sq. ft. In case of two businesses in one building each would be entitled to the maximum sign area. Mr. Mooreland recalled a case in point; a restaurant and a filling station located on one piece of property applied for 120 sq. ft. sign area for each business and he was forced to grant it. The same thing could happen in this case if the owners of this

DEFERRED CASES - Ctd.

4-Ctd.

property chose to lease the restaurant to another individual. He suggested that only the lettering on the building pylon be computed - which would be 231 sq. ft.

It was suggested that the interchangeable board on the standing pylon be eliminated and that the pylon be reduced to 200 sq. ft.

500

Total computations suggested:

Restaurant 45.5 sq. ft.  
Building 231 sq. ft.  
Pylon 200 sq. ft. - making a total of 476 sq. ft.

There were no objections from the area.

The paragraph from Mr. Tom Davis' letter regarding over-signed signs was read:

"April 21, 1958

.....  
Also the Association, by resolution, requested me to thank you for the Howard Johnson sign limitations. In this connection I am to refer to our previous letter to you concerning the Holliday Inn sign application to be heard April 22 and reiterate that the Association is opposed to the excess sign space request. In particular, it would be extremely unfair to permit this application in view of Springfield's cooperation in keeping signs to a minimum.

Tom L. Davis  
First Vice President and Chairman  
Planning & County Affairs  
Springfield Civic Association"

Mr. J. B. Smith moved that the applicant be granted a total sign area of 476 sq. ft. That only the letters on the building pylon shall be computed which amounts to 231 sq. ft. The sign "office" shall be deleted from sign area. Restaurant computed at 45.5 sq. ft. and the free standing pylon shall be cut to 200 sq. ft. - not including the clock in the computed area.

Seconded, Mr. T. Barnes

For the motion: Messrs. Barnes and J. B. Smith

Against: Mrs. Henderson and Mrs. Carpenter - resulting in a tie vote.

It was agreed to hold a special meeting Thursday evening at 7:45 for Mr. Lamond to break the tie.

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Mr. Mooreland read a letter from MR. C. H. FUGATE asking to have his permit to erect and operate a filling station at Routes #644 and #798 extended for six months. The Board agreed by motion made by Mr. T. Barnes, and seconded by Mr. J. B. Smith, to extend the permit for six months from the date of the expiration of Mr. Fugate's permit. Carried, unanimously.

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NEW CASES

10-

ERNEST ROBSON - No one appeared to support this case.

Mr. J. B. Smith moved to defer to May 13th

Seconded, Mr. T. Barnes

Carried.

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501

The Board discussed a better scheduling of the Board of Zoning Appeals cases in an attempt to eliminate the long wait for cases at the end of the agenda. Mr. Mooreland stated that they had tried estimating the time of cases which they know would be contested - but since the possibility of a withdrawal is always <sup>IMMEDIATE</sup> ~~immediate~~ - that could result in the Board having to wait for time to catch up with the schedule. His office schedules the cases in the order in which they are received. It was his understanding that that is the requirement.

Mr. C. C. Massey told the Board that this is the only jurisdiction in this area which schedules the exact time of hearings on cases of this kind. The other jurisdictions give only the beginning time of the hearings and the other cases follow with no time schedule. He thought it would be difficult to arrange the agenda to give any assurance that the time could be pinned down.

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The meeting adjourned

W. K. Henderson

Mrs. L. J. Henderson, Jr., Chairman

April 29, 1958

Special meeting of the Fairfax County Board of Zoning Appeals held Tuesday, April 29, 1958 at 10 o'clock a.m. in the Board Room of the Fairfax Courthouse, with all members present. Mrs. L. J. Henderson, Jr., Chairman, presiding.

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JACK STONE COMPANY, INC., to permit erection of 4 signs with larger area than allowed by the Ordinance, (1156 sq.ft.) east side of Shirley Highway Service Lane, south of Edsall Road, Lee District. (General Business).

Since the hearing on this case held April 22nd, 1958 resulted in a tie vote, this meeting was called for the purpose of breaking the tie.

The motion was to grant Mr. Stone 476 sq. ft. of sign area. Mr. Lamond, the absent member at the original hearing, was present and cast his vote against the motion - thus defeating the motion, with a 3 to 2 vote. The case was again opened for further discussion.

Since the free standing pylon would not serve to advertise the motel from the highway and the pylon on the building is sufficiently visible to the traveling public going both to and from Washington, Mr. Lamond could see no reason for the free standing pylon.

Mr. Lamond moved to grant a sign area on the building pylon of 231 sq. ft. The owner of this property is trying to find a tenant for the restaurant, which will be operated as a special business, Mr. Stone told the Board.

The Board was of the opinion that this sign request presents the same problem as the two signs on the Howard Johnson's motel and restaurant case which asked for two large signs which - placed close to each other - were practically duplicates. Mr. Lamond recalled that the Board had granted only the one large sign.

Mr. Stone said he had talked with the owners who feel that it is very necessary that they have some kind of pylon other than that on the building. They have asked him to do the best he can as to size, but they are very sure some identification is necessary after the public turns off the Shirley Highway. The emblem which is used and known throughout the country is shown only on the standing pylon. The building pylon is very satisfactory from the standpoint of visibility from the highway, Mr. Stone observed, but it does nothing on the lower level. The building pylon is about 72 feet high and it would not be visible to people riding in a car as they approach the building - it would be obscured by the car roof. If they had even 150 sq. ft. on the standing pylon it would be satisfactory, he continued. He called attention to the natural drop of the vision from the high sign to a lower level as one approaches the building and the necessity of having unmistakable identification of the motel at all times.

Mr. Lamond said he felt strongly that the building pylon could be seen from any approach to the building - he thought the free standing pylon cheapened the business and actually detracted from the good taste and dignity of the entrance.

Mr. Lamond recalled the long distance visibility of the bowling alley sign which is 40 feet high. However, Mr. Stone estimated that the motel sign would be considerably lower than originally planned if they take off the interchangeable board.

Removal of the clock was again discussed, Mr. Stone calling attention to the need for their nationally known emblem. Mr. Stone did agree, however, that the pylon could be reduced by probably one-half.

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The Board was reluctant to agree that the low level sign was necessary even if considerably reduced.

Mr. Lamond suggested that the Board should put more time on this - study types of signs used in other places and their relative sizes and locations. He felt this too important to either grant or deny without further thought. He suggested that perhaps Mr. Stone could bring illustrations to the Board which might be used for study.

Mr. Stone assured the Board that he would be glad to bring illustrations, samples and material which would be of interest to the Board.

Mr. Lamond suggested granting one sign - a given area - and for the applicant to use this area either on the building or for a free standing sign - whichever location would be most advantageous to him. He could see no value in the duplication of signs.

It is absolutely necessary to have the sign on the building, Mr. Stone insisted, there is no choice on that, but he thought 150 sq. ft. of pylon area for a two million dollar project was not out of line. Also that would be in agreement with the Pomeroy recommendations.

But the Board operates under the old Ordinance, Mrs. Henderson observed, and these requests for over-sized signs cannot be granted without amending the present Ordinance.

It doesn't make sense, Mr. Stone insisted, to spend money for a 60 sq. ft. sign when one needs 150 sq. ft.

By the same token, Mrs. Henderson answered, a man may need a room built on to his house which violates the setback - but he can't do it.

Mr. Mooreland suggested that the Board consider the desires of the County to attract business to this area, the money the Board of Supervisors has appropriated to encourage industrial development, and the need for taxes. He thought concessions must be made to help bring business to the County.

Mrs. Henderson stated that she was not convinced, in view of advance bookings in motels, that excessive signs would help to bring in more people.

Mr. Stone compared the size of these signs with relation to the size of the motel - to other signs granted by the Board with relation to other buildings, especially the Safeway which has much more sign area in proportion to its building.

About 70% of the motel business comes from advance bookings, Mr. Stone told the Board. This is a big project, with a tremendous investment, Mr. Stone noted. He thought the owners were taking a big chance on its success in view of strong competition. He felt that they need every assistance possible in putting this over financially.

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Mr. Lamond thought the sign business should be studied further and if the Board is out of line they should know it - but on the other hand business should not be allowed to run wild with signs. We are fast approaching the time, Mr. Lamond continued, when the Board must sit down and make a study of the sign situation as it relates to this Board and to the County. The Board has gone far out of line on many of these cases, and it is time to decide which way the Board is going.

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Mr. Keith Price stated that he spoke on this reluctantly, as he was in the room simply as an observer. He expressed a great interest in the sign situation, and told the Board that the Planning Commission will be discussing this same problem when they go into the Pomeroy Ordinance.

Mr. Price stated that he has been making a study of motels in Fairfax County and finds that most of them lost business last year because so many motels are being constructed in the Arlington and Falls Church areas. Those motels are going big. This business of getting industry in the County is a matter of "dog eat dog", Mr. Price continued, Fairfax County wants business - and badly. Here is a man willing to take a big chance in putting up a two million dollar project. He should be encouraged. Motels are popular and people are still stopping at them, Mr. Price went on, but they want to get close to the District, and the motels in Arlington and Falls Church are attractive from that standpoint. If we are not watchful in Fairfax County we will have many motels in financial trouble. A business of this magnitude should have more consideration than some business less profitable to the County. This project would appear to be good tax-wise - it should be encouraged.

Mrs. Henderson agreed but stated that the Board's hands are tied with the old Ordinance. Mrs. Henderson told the Board that she had asked Mrs. Wilkins if the Board of Supervisors would consider adopting a new sign ordinance now. The answer was that with the rezonings coming up, the budget, and the business and industrial plans to be handled, it would not appear likely that the Board of Supervisors would have time for consideration of a sign ordinance at the present time.

Mr. J. B. Smith recalled that this Board has been screaming for a new sign ordinance for six years.

Mr. Price recalled that a sign amendment was also mentioned in the Planning Commission meeting, and Mr. Massey had suggested that any amendment to the Ordinance wait for the new Ordinance, which Mr. McHugh was supposed to write. Mr. McHugh never wrote an ordinance. Now it was suggested that we wait for Pomeroy. That ordinance is still a long way from adoption.

It was agreed that this Board has been put in an untenable position with regard to signs: Mr. Pomeroy says the Board cannot grant large over-sized signs which would amend the Ordinance. The Commonwealth's Attorney says the Board can grant large signs, the Board of Supervisors asks the Board not to grant over-sized signs. The Board felt that it is ridiculous to go on on this basis and that it is the responsibility of the Board of Supervisors to adopt a workable sign ordinance - soon.

Mr. Price told the Board that the Planning Commission is going ahead with an important amendment to the Trailer Park Ordinance. He suggested that the best way to get a new Zoning Ordinance is to adopt it piece-meal - taking portions of the Ordinance which are of vital and of immediate importance and put through an amendment. He thought that might be the means of ultimately getting a new Zoning Ordinance. The Board agreed enthusiastically. Mr. Stone stated that Alexandria is in the midst of adopting a new sign ordinance, which has a very simple and workable formula for sign computation (1 sq. ft. of sign for each lineal foot of frontage).

In order not to hold up this project, and yet to give the Board more time for consideration on the standing pylon, Mr. Lamond moved that 231 sq. ft. of sign area be granted for the building, but that action on the other free standing pylon be deferred until a later date - deferred for further study. It is also determined that the "restaurant" and "office" signs are considered to be directional signs, and are not therefore included in the computed area.

Seconded, Mrs. Carpenter

It was agreed that the pylon on the building is an integral part of the building since it has a functional use and should not be considered in its entirety - but rather that the blocked letters only on that pylon are computed.

Motion carried.

The Board agreed to meet Wednesday, May 7th, at which time Mr. Stone would bring sign material which he thought might be of value and interest to the Board in their study of signs.

Mr. Lamond moved that Mrs. Henderson be requested to go before the Board of Supervisors at the earliest date time is available on the Board of Supervisors agenda to urge the Board to have prepared for them to adopt a realistic and appropriate sign Ordinance, and that the Board assure Mrs. Henderson of their unqualified unanimous support in this.

Seconded, Mr. J. B. Smith

Mr. Lamond put the motion - Carried unanimously.

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The meeting adjourned

Mary K. Henderson  
Mrs. L. J. Henderson, Jr., Chairman