

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, November 21, 1978. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes (arriving at 11:15 A.M.); John Yaremchuk and Barbara Ardis.

001

The Chairman opened the meeting at 10:20 A.M. led with a prayer by Mr. Harvey Mitchell.

The Chairman called the scheduled 10 o'clock case:

10:00 - DAVID HAWKS, appl. under Sect. 18-401 of the Ord. to allow sub-division into 3 lots, one of which has 15 ft. width (150 ft. required by Sect. 3-106), located 10600 Marbury Road, 47-2((1))1, Centreville Dist., 6.73873 acres, R-1, V-257-78.

Mr. Charles E. Runyon of Runyon Associates, 152 Hillwood Avenue, Falls Church, represented the applicant. Mr. Runyon stated that this was a request for a subdivision with an existing house on the property situated in such a way that the frontage requirements for three lots was not sufficient. Originally, Mr. Hawks had intended to divide the land into five lots as allowed under the R-1 zoning category. Instead, it was decided to divide the land into three lots. Mr. Runyon stated that because of the limited frontage, a variance was requested for a 15 ft. pipestem to allow frontage on Marbury Road for the back lot consisting of 3 acres.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

Page 1, November 21, 1978
DAVID HAWKS

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-257-78 by DAVID HAWKS under Section 18-401 of the Zoning Ordinance to permit subdivision into 3 lots, one of which has 15 ft. lot width on property located at 10600 Marbury Road, tax map reference 47-2((1))1, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 21, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 6.73873 acres.
4. That the applicant's property is exceptionally irregular in shape and has an unusual condition in the location of the existing building on the subject property.

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

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

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

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Barnes being absent).

002

10:10 - CHARLES & JOY RUNYON, appl. under Sect. 18-401 of the Ord. to allow subdivision into 3 lots with proposed lots 2 & 3 having width of 10.07 ft. (150 ft. required by Sect. 3-106), located 931 Walker Road, Hickory Run Subd., 13-3((7))B, Dranesville Dist., 6.84 acres, R-1, V-258-78.

Mr. Charles Runyon, an engineer at 152 Hillwood Avenue, Falls Church, stated that this property was zoned R-1 which would allow the user to have a maximum density of 6 lots. He stated that this parcel contained approximately 7 acres of ground and that because of the limited amount of frontage a variance was requested to provide frontage on Walker Road. Mr. Runyon stated that they have subdivided this property into 3 lots. He stated that the topography was such that it was difficult to develop the property in any other way. Mr. Runyon informed the Board that he had petitioned Preliminary Engineering for a waiver to the street frontage requirement and to have access along the existing easement but was informed by them that a variance was the better route. A variance was necessary for lots 2 and 3 each having pipestem access.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

Page 2, November 21, 1978
CHARLES & JOY RUNYON

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-258-78 by CHARLES & JOY RUNYON under Section 18-401 of the Zoning Ordinance to permit subdivision into 3 lots with proposed lots 2 & 3 having width of 10.07 ft. (150 ft. required by Sect. 3-106) on property located at 931 Walker Road, tax map reference 13-3((7))B, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 21, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 6.84 acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

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

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

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

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Barnes being absent).

10:20 - RODERICK M. & VIRGINIA M. GILLIES, appl. under Sect. 18-401 of the Ord. to allow subdivision into 2 lots, one of which has width of 20 ft. (150 ft. required by Sect. 3-106), located 3126 Barbara Lane, Oak Spring Village Subd., 48-4((6))19, Providence Dist., 88,759 sq. ft., R-1, V-259-78.

003

Mr. Richard Allison of Matthews & Wheatland, an engineering firm in Fairfax, represented the applicants. The required notices were in order. Mr. Allison informed the Board that Mr. Gillies was the owner of a 2.03 acre parcel of land in the Oak Spring Village subdivision. The zoning is R-1. He stated that the majority of the other lots in the area were in the R-1 zoning category. Mr. Allison stated that Mr. Gillies desires to divide the property into two lots, one of which meets the zoning regulations and the other which the variance was requested for as there was not sufficient frontage because of the configuration of Barbara Lane. Mr. Allison stated that Barbara Lane makes a 90 degree angle halfway through Mr. Gillies property. A pipestem access was requested to the back lot. Both lots would use the same driveway entrance off of Barbara Lane. There is no other access to the back lot as all of the land surrounding this parcel is developed into single family homes. In response to questions from the Board, Mr. Allison stated that most of the lots in this area are one acre or a little larger than one acre lots. He indicated that both of the proposed lots would be greater than one acre.

There was no one to speak in favor of the application. ~~The following persons~~ spoke in opposition to the application. Mr. Dennis Thurman of 8815 Arlington Boulevard, owner of lot No. 1 stated that he would like a continuance of this hearing in order to review the subdivision plat. He stated that he was unable to obtain one and was not mailed a copy of the plat with the notification letter. Chairman Smith explained the request and stated that the Board would like to handle the application today. Mr. Abe Spero of 3127 Barkley Drive stated that he was opposed to the change because he did not believe that this application met the conditions under which the Board of Zoning Appeals could grant a variance. He stated that there were no unusual conditions involved in this application. Chairman Smith explained that the owner was entitled to reasonable use of the land and that as this was a two acre parcel and the zoning was R-1, he could subdivide into two one acre lots. Mr. Spero argued that reasonable use should not mean the maximum amount of gain for profit. He also stated that this request would change the character of the surrounding area and deprive the other owners of the reasonable use of their land. Mr. Spero stated that he purchased his lot on the basis of the lovely wooded area surrounding his property. He stated that the owner does not have a hardship as he was aware when he purchased the property of the physical characteristics of the property. Mr. Spero stated that a pipestem was defined for a subdivision and should not be used for a small parcel. Ms. Ardis inquired if Mr. Spero's house backed up to this property ^{and} was informed that it does. When asked if the wooded area was between his house and the property line, Mr. Spero stated that the wooded area was off to the side. There was no one else to speak in opposition to the application.

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Board of Zoning Appeals

RODERICK M. & VIRGINIA M. GILLIES

R E S O L U T I O N

In Application No. V-259-78 by RODERICK & VIRGINIA GILLIES under Section 18-401 of the Zoning Ordinance to permit division of property into 2 lots, one of which will be 20 ft. wide on property located at 3126 Barbara Lane, Oak Spring Village Subd., tax map reference 48-4((6))19, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 21, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 2.038 acres.
4. That the applicant's property has limited road frontage because of its location at the intersection of Barbara & Chichester Lanes.

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

RODERICK M. & VIRGINIA M. GILLIES
(continued)

R E S O L U T I O N

004

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

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

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Barnes being absent).

Page 4, November 21, 1978, Scheduled case for

10:30 - JOHN O. BECK & CHARLES SAMPSON, appl. under Sect. 18-401 of the Ord. A.M. to allow subdivision into 11 lots with proposed lots 1, 2 & 3 having width of 10 ft., 4 having width of 12 ft. and 5 having width of 8 ft., (100 ft. required by Sect. 3-206), located 6836 Braddock Road, 71-4((1))29, Annandale Dist., 5.76 acres, R-2, V-260-78.

Mr. Charles E. Runyon, an engineer at 152 Hillwood Avenue in Falls Church, represented the applicants. The required notices were not in order as the property owners across the street were not notified. The Board deferred this application until December 12, 1978 at 11:20 A.M. for proper notification.

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Page 4, November 21, 1978, Scheduled case for

10:40 - MR. & MRS. ROY J. DEWEY, appl. under Sect. 18-401 of the Ord. A.M. to allow a 7 ft. fence to remain in front yard (4 ft. max. height provided by Sect. 10-105), located 8529 Betterton Court, Tysons Woods Subd., 39-3((28))46, Providence Dist., 11,229 sq. ft., R-4, V-261-78.

Mr. John Mardula of C.P. Montgomery engineering firm, represented the applicant. He stated that the fence was only 6 ft. high and was a cedar stockade fence. Mr. Mardula stated that the violation notice was given under a prior Ordinance. He stated that he was not aware of the new Code section regarding fencing. Under the previous Ordinance, the section stated that a side yard on the corner lot shall have the same setback as a side lot. Under the new Ordinance, it stated that both streets on a corner lot are front yards. He stated that he did not believe that this section was very clear before. He stated that this fence violates a front setback now instead of a side setback. Mr. Mardula stated that a strict application of the Code would cause undue hardship on the applicants. He indicated that the purpose of the fence was to provide some safety due to the size of the lot and the location of the house. The applicants believed that the front door was too vulnerable to burglars and felt that a 6 ft. high fence would impede anyone from entering the yard. Another reason for the 6 ft. fence was to provide some privacy as the rear yard is very small. The side yard is opposite the street. In addition the lot slopes down about 4 ft.. If there was only a 4 ft. fence, it would be level with the basement of the house. Another reason for the fence was because the neighboring children use the property as a shortcut after school when getting off the bus. He stated that a 4 ft. fence would not really put a stop to this problem as the children could climb over it but it was felt that a 6 ft. fence would definitely keep the children out. Also, a 6 ft. fence would help cut down on traffic noise and air pollution from the street. Mr. Mardula stated visibility would not be affected at this location.

In response to questions from the Board, Mr. Mardula stated that the applicants were not aware that they were in violation of the Ordinance when they constructed the fence. He stated that the applicants were informed by the fence company that it was no problem.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

005

R E S O L U T I O N

In Application No. V-261-78 by MR. & MRS. ROY J. DEWEY under Section 18-401 of the Zoning Ordinance to permit 6 ft. fence to remain in front yard on property located at 8529 Betterton Court, tax map reference 39-3((28))46, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 21, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-4.
3. The area of the lot is 11,229 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

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

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

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

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

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 0 with 1 abstention (Mr. Smith)(Mr. Barnes being absent).

Page 5, November 21, 1978, Scheduled case for

11:10 - THE SALVATION ARMY, appl. under Sect. 3-103 of the Ord. to amend existing use permit to allow day care center, located 4915 Ox Road, 68-1(1)11, Annandale Dist., 5.00544 acres, R-1, S-269-78.

Mr. Barnes arrived at 11:15 A.M. and was present for the remaining cases. Major Robert Griffin of 4915 Ox Road represented the Salvation Army Headquarters. He stated that the Salvation Army was granted a special permit on October 10, 1976, under Sections 5 and 6 of the Zoning Ordinance. The Salvation Army was under the impression that their day care center was covered by this special permit under Section 5 of the Code. They were informed by Mr. Knowlton of the Zoning Office that they were not covered and that is why they are now applying to the Board for an amendment to the existing permit to include the day care center. In response to questions from the Board, Mr. Griffin stated that the original permit allowed a church. Under the church category, the only limit on the day care center was a maximum of 60 children. Mr. Griffin stated that the problem with the church operated day care centers was that the minister of the church or volunteers of the church had to operate the day care center. He stated that is why they ran into difficulty. He indicated that nothing has changed with this request. The Health Department has stated that they could have a maximum of 120 children and that is what they were requesting according to Mr. Griffin. In response to questions regarding transportation, Mr. Griffin stated that the children would be brought by the parents at the present time. He stated that there may be a possibility of providing transportation in the future. Mr. Griffin stated that the ages of the children would be from 3 to 12 but would be primarily for preschool children whose parents work.

006

There was no one to speak in favor of the application. The following persons spoke in opposition to the application. Ms. Sara Harrison of 5114 Portsmouth Road stated that she has owned her property for two years and 9 months. She stated that she was fearful that if a day care center was granted that it would be turned into a rehabilitation center. She stated that at the previous hearing, Captain Geddings had stated that no children over the age of 12 would be using the complex as a temporary shelter. Mrs. Harrison was concerned about the storm drains. She stated that every time there is a heavy rain her property floods. She stated that this was caused by the Salvation Army property being raised 8 to 10 ft. which makes her property the recipient of all the runoff. She asked that the County solve the problem of the drainage and that a study be made to determine whether a day care center was needed in this area. She was informed by the Board to contact Preliminary Engineering regarding the problem with the drains.

The next speaker in opposition was Mrs. Buckley of 5116 Portsmouth Road. She stated that she has owned her property for ten years and that her property adjoins the Salvation Army complex. She stated that in 1976 she was informed by Mr. Eubanks that the buildings were to include a chapel and an emergency chapel for the housing of children for a maximum of 30 days. She stated that she was not informed that they would elevate these buildings. She stated that she also receives runoff from the property of the Salvation Army and that this is the first time in ten years that she has ever had a problem with flooding in her home. She stated that Mr. Eubanks had stated that the complex would be used for 150 parishners. She stated that she would like to make her position clear in that she would agree to a day care center for a maximum of 60 children not to exceed 12 years of age. She stated that she would willing to work on a volunteer basis.

The next speaker in opposition was Mr. Rodney F. Young of 10736 Marbury Road who lived just down from the Salvation Army complex. He presented the Board with his letter of opposition and read it into the record. He stated that he would agree to a limited day care and that he would not want any expansion of the use permit other than the day care center.

The next speaker in opposition was Mrs. William L. Evans of 5118 Portsmouth Road who lived east of the Salvation Army facility. She stated that she would like to offer support for the day care center provided that it was limited to no more than 60 children from the ages of 2 to 12 with operating hours of 7 A.M. to 6 P.M., Monday through Friday on a year round basis. She stated that she would support an open ended amendment without any future discussion with the surrounding area. She stated that she welcomed the Salvation Army into the community and felt that it should be maintained as in the original special permit.

The next speaker in opposition was Sharon T. Hedgepeth of 4926 Princess Anne Court whose property was directly adjacent to the Salvation Army facility. She stated that she supported the objections of the people who had spoken before her. She stated that she was in support of the day care center as long as it is limited to 60 children, ages 2 to 12. She stated that her property also gets the silt and the water runoff from the Salvation Army property.

The next speaker was Mrs. Sizemore of 10724 Marlborough Road who stated that the only thing that she had to add to the previous statements was the fact that her house was 17 years old and that now after the construction of the Salvation Army complex, every time it rains, her basement floods. In addition, she stated that her well has gone dry since the Salvation Army moved next door. She stated that she couldn't prove that the well on the Salvation Army was connected to her water line but she had always had water before even when everyone else's well ran dry.

The next speaker was Mr. Jim Polumbo who stated that he had lived directly behind the Salvation Army property. He stated that he was surprised that the day care center was open ended. He stated that he was in favor of the day care center.

For clarification purposes, Ms. Ardis inquired if the Salvation Army was requesting a day care center for a five day week, Monday through Friday and was informed by Mr. Griffin that that was correct. With regard to housing of the children, Mr. Griffin stated that the program was not in operation and that the Salvation Army had never housed any children. He stated that if the day care center was limited to 60 children that they would be under utilized and may not be able to get the program going at all. Mr. Yaremchuk inquired as to the size of the building and was informed that it was 21,000 sq. ft.

Mr. Yaremchuk stated that he could not see why the Salvation Army should be limited to a maximum of 60 children as they had a large building. He stated that he could not see any problem with a limit of 90 children. Mr. Griffin stated that the Health Department would allow up to 120 children. Chairman Smith suggested that the use be limited for a period of time and then allow the community to reexamine it. Chairman Smith suggested that it be limited to a maximum of 90 children to include the 30 day occupants if that program was ever initiated. He stated that when the time came that a greater number was needed, then the Salvation Army could come back before the Board or the Board could set an automatic reevaluation period. Mr. Griffin stated that the suggestion sounded reasonable as they could come back when they reached the limit of 90 children.

007

R E S O L U T I O N

Ms. Ardis made the following motion:

WHEREAS, Application No. S-269-78 by THE SALVATION ARMY under Section 3-103 of the Fairfax County Zoning Ordinance to permit operation of a day care center on property located at 4915 Ox Road, tax map reference 68-1((1))11, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and,

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on November 21, 1978; and

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

1. That the owner of the subject property is the Salvation Army.
2. That the present zoning is R-1.
3. That the area of the lot is 5.00544 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance; and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening shall be required and must satisfy Sect. 13-109 and Sect. 13-110 of the Zoning Ordinance.
7. The number of children shall be limited to no more than 90 at any one time, ages 2 to 12, including any children in the foster care program.
8. The hours of operation shall be 7 A.M. to 6 P.M., Monday through Friday.
9. This special permit is subject to all provisions of S-281-75.
10. This special permit shall require an automatic reevaluation in one year.

Mr. Barnes seconded the motion.

The motion passed by a vote of 5 to 0.

Page 8, November 21, 1978, Scheduled case for

11:30 - SYDENSTRICKER UNITED METHODIST CHURCH, appl. under Sect. 3-103 of the Ord. to permit construction of a new church sanctuary and educational unit, located at 8508 Hooes Road, 89-3((1))15, Springfield Dist., 4.9075 acres, R-1, S-264-78.

As the required notices were not in Order, this application was deferred until December 12, 1978 at 11:30 A.M.

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Page 8, November 21, 1978, Scheduled case for

11:30 - SYDENSTRICKER UNITED METHODIST CHURCH, appl. under Sect. 18-401 of the Ord. to allow gravel parking lot (dustless surface required by Sect. 11-102), located 8508 Hooes Road, 89-3((1))15, Springfield Dist., 4.9075 acres, R-1, V-265-78.

As the required notices were not in Order for this hearing, the application was deferred until December 12, 1978 at 11:30 A.M.

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Page 8, November 21, 1978, Scheduled case for

12:00 - REGLA ARMENGOL-LA DANSE ACADEMY OF BALLETT, appl. under Sect. 3-303 P.M. of the Ord. to permit school of special education (ballet), located 4319 Sano Street, 72-2((1))20, Mason Dist., 4.819330 acres, R-3, S-272-78.

Mrs. Armengol of 7300 Glen Carlyn Road in Falls Church informed the Board that the school that she owns operates out of the basement of her home and was very small. She stated that she had reached an agreement with the Sisters of the day care center to lease a room for the advanced students. She stated that it was her intent to operate at this location only for her advanced students which she limits to about ten students at a time. The proposed hours of operation were from 6:30 P.M. to 9:00 P.M. after the closing time of the existing day care center. She stated that these hours would be from Monday through Friday and sometimes on Saturday for a demonstration lesson.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

Page 8, November 21, 1978 Board of Zoning Appeals
REGLA ARMENGOL-LA DANSE ACADEMY OF BALLETT
R E S O L U T I O N

Ms. Ardis made the following motion:

WHEREAS, Application No. S-272-78 by REGLA ARMENGOL-LA DANSE ACADEMY OF BALLETT under Section 3-303 of the Fairfax County Zoning Ordinance to permit ballet classes in existing day care center on property located at 4319 Sano Street, tax map reference 72-2((1))20, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on November 21, 1978; and

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

1. That the owner of the subject property is Poor Sisters of St. Joseph Catholic Church.
2. That the present zoning is R-3.
3. That the area of the lot is 4.677 acres.
4. That compliance with the Site Plan is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

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1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening shall be required and must satisfy Sect. 13-109 and Sect. 13-110 of the Zoning Ordinance except as
7. The hours of operation shall be 6:30 P.M. to 9:00 P.M., Monday through Friday, 11:30 A.M. to 4:00 P.M. on Saturdays and occasional use on Sundays from 10:30 A.M. to 4:00 P.M.
8. This permit is granted for a period of three (3) years.

Mr. Barnes seconded the motion.

The motion passed by a vote of 5 to 0.

Page 9, November 21, 1978, Scheduled case for

12:20 P.M. - WALDEN GLEN SWIM CLUB, INC., appl. under Sect. 6-303 of the Ord. for addition of two (2) lighted tennis courts and paved parking lot to existing community recreation facilities, located P.O. Box 2452, Cardinal Forrest Subd., 79-4((9))90, 91 & part of 14P, Springfield Dist., 78,822 sq. ft., PRC, S-263-78.

As the required notices were not in order, the Board deferred hearing of this application until December 12, 1978 at 11:45 A.M.

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Page 9, November 21, 1978, EXECUTIVE SESSION

At 12:20 P.M., the Board convened into Executive Session to discuss legal matters with Philip Yates, Zoning Administrator; Mary Dricki; and George Symanski, Assistant County Attorney. At 1:35 P.M., the Board reconvened into public session to continue with the scheduled agenda.

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Page 9, November 21, 1978, Scheduled case for

12:45 P.M. BARRY D. STAEBLER, appl. under Sect. 18-401 of the Ord. to allow subdivision into 7 lots with proposed corner lot 3 having width of 172.96 ft. (175 ft. required) and proposed interior lot 6 having width of 125.03 ft. (150 ft. required), located 10300 Dumfries Road, Oak Knob Subd., 37-4((1))38, (68,095 sq. ft.), Centreville Dist., R-1, V-220-78. (Deferred from 10/31/78 for Notices).

The required notices were in order. Mr. Barry D. Staebler of 2621 Clyde Court in Oakton stated that he wanted to develop the property and make it economically feasible. In order to do that, he needed a variance on a typical pipestem lot. He informed the Board that he was proposing a subdivision with 7 lots and that proposed lot 6 needed a variance. He stated that his problem was that if he developed the property down the middle that all of the percolation area would be on lot 6 and lot 7 would not have any percolation area at all.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

R E S O L U T I O N

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In Application No. V-220-78 by BARRY D. STAEBLER under Section 18-401 of the Zoning Ordinance to permit subdivision into 7 lots with proposed corner lot 3 having width of 172.96 ft. (175 ft. required) and proposed interior lot 6 having width of 125.03 ft. (150 ft. required) on property located at 10300 Dumfries Road, tax map reference 37-4((1))38, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice the public, a public hearing was held by the Board on November 21, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 68,095 st. ft.
4. That the applicant's property is exceptionally irregular in shape, including long and narrow.

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

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

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

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 10, November 21, 1978, Scheduled case for

1:00 P.M. - GEORGE V. GRAHAM, JR., appl. under Sect. 18-301 of the Ord. to amend Zoning Administrator's refusal to approve building permit for a greenhouse for a commercial nursery on property in an RE-1 district, located 10614 & 10618 Leesburg Pike, 12-3((1))11 & 12, (3.5776 acres), Dranesville Dist., R-1, A-217-78. (Deferred from 11/14/78 for Zoning Administrator's reconsideration of issuance of building permit).

Chairman Smith informed Mr. Graham that the Board had arrived at a decision and inquired as to whether he had seen a copy of Mr. Yates' memorandum regarding the request for reconsideration. Mr. Graham stated that he was aware of the memorandum. Chairman Smith stated that regardless of any decision of the Board in this matter that Mr. Graham would still be required to apply for a special exception to the Board of Supervisors before a building permit could be issued.

MS. ARDIS MOVED THAT THE BOARD OF ZONING APPEALS FINDS THAT NO ERROR HAS BEEN MADE BY THE ZONING ADMINISTRATOR GIVEN THE FACTS PRESENTED TO HIM AT THE TIME OF THE DECISION. MR. YAREMCHUK SECONDED THE MOTION FOR DISCUSSION PURPOSES.

Mr. DiGiulian stated that it was his understanding that Mr. Graham was to be given an opportunity to speak at this hearing.

MS. ARDIS WITHDREW HER MOTION AND MR. YAREMCHUK WITHDREW HIS SECOND TO THE MOTION.

Mr. Graham informed the Board that he did not believe that Mr. Yates' memorandum had any relevancy to his appeal. He stated that if it was relevant, he felt he should be allowed to appeal that decision today. Mr. Graham was informed by Chairman Smith that it was not a decision of the Zoning Administrator but of a provision under the Zoning Ordinance that requires a special exception. He further stated that the only thing before the Board today was whether the Zoning Administrator erred in making the decision that he did back in August when he denied the building permit. He stated that the Board could only rule on that issue.

Mr. Graham stated that he questioned Mr. Yates' interpretation. He stated that he still did not where he had violated the Zoning Ordinance on August 11th when Mr. Yates refused to sign the building permit.

In response to questions from the Board members as to whether he had anything new to add, Mr. Graham read a statement as to the history of his application for the benefit of Ms. Ardis who was absent from the previous meeting. Mr. Graham stated that no one was opposed to his proposed greenhouse. He further stated that he could show that it was his intent to operate a greenhouse at this location since April of 1978. He stated that the land was useless to him if he could not operate a greenhouse. Again, Mr. Graham stated that no one has shown him where he is in violation of the Zoning Ordinance.

Chairman Smith agreed that no one has stated that Mr. Graham was in violation. He indicated that apparently the Zoning Administrator made his decision based on an action of the Board of Zoning Appeals on an earlier case back on July 20, 1978 where it was indicated to the Zoning Administrator that the majority of the Board did not feel that this was a use allowed by right. Chairman Smith explained that a shadehouse was a use allowed by right under the old Ordinance. He indicated that he did not support the resolution in the previous case. Chairman Smith informed Mr. Graham that the Board would like to wait in making its decision pending the final order from Judge Middleton in the DeAngelis case. He further stated that whatever the outcome of the Board, that Mr. Graham would still be required to file for a special exception before the Board of Supervisors. Chairman Smith stated that he would be willing to appear before the Board of Supervisors on Mr. Graham's behalf and that there was nothing else that the Board of Zoning Appeals could do in this matter.

Mr. DiGiulian stated that even though the Board did not have a final order from Judge Middleton that there was a long letter from him regarding the DeAngelis case. Mr. DiGiulian stated that he had a problem with the earlier motion stating that the Zoning Administrator made a correct decision. He stated that he made a correct decision based on the information at the time but now there is a letter from Judge Middleton that says that the Board made an erroneous decision in the DeAngelis case.

Chairman Smith stated that Mr. Graham's situation was different in several aspects. All Mr. Graham was putting in was a greenhouse. He stated that he understood the Zoning Administrator's position and that that was the only way to interpret it but stated that it does not meet the criteria of the Ordinance at this time. Mr. DiGiulian stated that it was permitted under the old Ordinance by Sect. 30-2.2, Column 1 uses. He further stated that as far as he was concerned that Judge Middleton's letter has to be taken into consideration. Chairman Smith stated that the Zoning Administrator did not make his decision based on Judge Middleton's decision. Judge Middleton's decision was written just a few days before Mr. Graham's appearance before the Board of Zoning Appeals. He stated that Mr. Yates made his decision based on the Board's action of July 20, 1978 and that this Board has to make a decision based on the information that Mr. Yates had at that time. He stated that Mr. Yates could not have made any other decision at that time. Chairman Smith stated that he agreed with Judge Middleton.

Mr. Graham argued that Mr. Yates made his decision before the adoption of the New Zoning Ordinance. He stated that he applied for the building permit before the effective date of the Ordinance. In addition, Mr. Yates refused the building permit before August 14th. Chairman Smith stated that Mr. Yates refused the permit based on the information from the Board of Zoning Appeals. The memorandum from Mr. Yates states that Mr. Graham would have to apply to the Board of Supervisors for a Special Exception.

For clarification purposes, Ms. Ardis inquired as to the scope of the Board in an appeal decision. She inquired as to whether the scope was to decide whether the Zoning Administrator made a correct decision given the information that he had before him on August 11th or whether it was broadened to say that the information that was relied on may not have been accurate. She requested

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the Clerk to provide some directive from the County Attorney's Office in this matter.

Chairman Smith polled the Board to determine whether they had arrived at a decision yet or whether this hearing should be deferred. Mr. DiGiulian stated that he thought a decision should be made today as he did not see how the Board could ignore Judge Middleton's decision. He further stated that the Board had heard testimony today and the week before on information that was not part of the information that the Zoning Administrator based his decision on.

Ms. Ardis stated that she was not satisfied with making a decision until she could determine the scope of the Board in appeal cases.

Mr. Yates stated that Judge Middleton's decision was not germane to the appeal before the Board. Chairman Smith agreed with Mr. Yates and stated that the decision from Judge Middleton should not be made a part of this record.

The Board discussed a possible deferral of this hearing so that the County Attorney's Office could participate in the discussion. After much discussion, the Board deferred this case until December 12, 1978 at 11:45 A.M. as an after agenda item. Chairman Smith stated that additional oral and written testimony would be allowed.

Mr. DiGiulian stated that he felt this case was important and moved that it be deferred until December 12, 1978 and that the Board leave the record open for additional oral argument from all parties. Mr. Barnes seconded the motion. The motion passed by a vote of 4 to 0 with 1 abstention.

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Page 12, November 21, 1978, After Agenda Items

John P. Forest, D.D.S., S-203-78: The Board of Zoning Appeals granted a use permit for a home professional dental office to Dr. Forest on November 7, 1978 subject to revised plats showing the location of the required ten parking spaces that the Board made a condition of the permit. The plats were submitted to the Board showing a 10 ft. setback for parking from the property line. The Board deferred action on the plats until staff could present with the setback requirements for parking under the new Ordinance.

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Page 12, November 21, 1978, After Agenda Items

Vernon M. Lynch & Sons, S-196-77: The Board was in receipt of a letter from Wayne M. Lynch regarding a special permit granted by the Board on October 18, 1977 for a golf course. Mr. Lynch was requesting permission from the Board to change the location and design of the golf green. It was the consensus of the Board that Mr. Lynch would have to submit revised plats showing what was originally granted and how he proposes to change the design. It was stated that at that time, the Board would consider the request to determine if it was a minor engineering change.

// There being no further business, the Board adjourned at 2:45 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals
Submitted to the BZA on MAY 10, 79.
Submitted to the other departments,
Board of Supervisors and Planning
Commission on MAY 10, 79.

Daniel Smith
Daniel Smith, Chairman
APPROVED: MAY 15, 79
DATE

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The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, November 28, 1978. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes; John Yaremchuk and Barbara Ardis.

The Chairman opened the meeting at 8:05 P.M. and Mr. Barnes led the prayer.

The Chairman called the scheduled 8 o'clock case:

8:00 - REHEARING - JAMES D. ASHBAUGH & JERRY SCHRAGER, appl. under Sect. 18-401 of the Ord. to allow subdivision with proposed lot 3 having 15 ft. lot width (200 ft. required), located 1442 Crowell Road, Whispering Pines (future) Subd., 18-4((2))1, (7.73 acres), Dranesville Dist., R-E, V-216-78. (Original hearing held on October 17, 1978 and denied.

Mr. David Lane, of Lewis, Mitchell & Moore, 8320 Old Courthouse Road in Vienna, represented the applicants. He presented the Board with a letter from the surrounding property owners stating that they were in favor of this application. Mr. Lane informed the Board that this property was trapezoid in shape. The property is located adjacent to an extension of Browns Mill Road. There are several lots located on this road extension. As the road was private, these property owners were not in a position to dedicate or construct a new road. In addition, the property owners stated that they enjoy the privacy of this road and do not want it changed. The Board previously denied this application because of information from Preliminary Engineering that dedication for the construction of a road to serve the back lot #3 should be a condition of the granting. Mr. Lane pointed out that it would not be in the best interest to require such a condition. He stated that the property adjacent to lot #3 was recently subdivided and that there was an easement granted across the front two lots to the serve lot #3. In addition, he stated that the property immediately behind the subject property is undergoing development and access will be provided by Hunters Mill Road. Mr. Lane stated that it was felt that the most reasonable use of the property was to grant a variance for the pipestem drive. He indicated that for the Board to require dedication would be a severe hardship on the applicant and would not serve any lot and, therefore, he requested the Board to give favorable reconsideration and grant the variance.

There was no one to speak in favor of the application and no one to speak in opposition of the application.

Page 13, November 28, 1978
REHEARING - JAMES D. ASHBAUGH
& JERRY SCHRAGER

Board of Zoning Appeals

RESOLUTION

In Application No. V-216-78 by JAMES D. ASHBAUGH & JERRY SCHRAGER under Section 18-401 of the Zoning Ordinance to permit subdivision with proposed Lot 3 having 15 ft. lot width on property located at 1442 Crowell Road, tax map reference 18-4((2))1, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 28, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 7.73 acres.
4. That the applicant's property is exceptionally irregular in shape and has an unusual condition in that the configuration of the property will not allow development in accordance with the existing zoning without this variance.

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

R E S O L U T I O N

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

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

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Yaremchuk being absent).

Chairman Smith stated that the reason that he changed his vote since the last hearing was because it was apparent that there was no other way to develop the property in a reasonable manner.

Page 14, November 28, 1978, Scheduled case for

8:10 - PATRICIA A. BERARDI-HARRIS, appl. under Sect. 18-401 of the Ord. to
 P.M. allow a 6 ft. privacy fence in a front yard (4 ft. maximum height provided by Sect. 10-105), located 8101 Viola St., Winter Forest/Rolling Forest Subd., 89-2((12))274, Springfield Dist., 10,384 sq. ft., PDH-3, V-275-78.

Ms. Pat Harris of the above address stated that when she moved to this house in April 1978 she had been assured that there were no restrictions in having a 6 ft. privacy fence installed in the back yard. Ms. Harris stated that for safety purposes, a 6 ft. fence would be better than a 4 ft. fence as she has two small boys who could climb over a 4 ft. fence. The unusual configuration of the lot is that her back yard fronts on Rolling Road and is considered to be a front yard. In addition, there is a 12 ft. drop from her property to Rolling Road. It is at this point, that Viola Street intersects with Rolling Road making this hill a blind curve. Ms. Harris stated that traffic is very dangerous at this location with the large trucks rolling by. She was concerned for the safety of her children when they were out playing near the 12 ft. drop. Ms. Harris stated that her house sits at an angle on the property and that she has 3 front yards. She informed the Board that the lot next door was owned by the Ward Corp. and that they did not object to her proposed 6 ft. fence. In addition, she had submitted the plans to the Architectural Review Board. She stated that there were plans to raise Rolling Road flush with her property in the future. In summation, Ms. Harris stated that because of the topographic condition of her property and the fact that she has three front yards, she was requesting the Board to grant the variance in order to construct the 6 ft. fence.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

Page 14, November 28, 1978
 PATRICIA A. BERARDI-HARRIS

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-275-78 by PATRICIA A. BERARDI-HARRIS under Section 18-401 of the Zoning Ordinance to allow construction of a 6 ft. fence in the front yard area contiguous to Rolling Road on property located at 8101 Viola Street, tax map reference 18-4((2))274, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 28, 1978; and

R E S O L U T I O N

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

- 1. That the owner of the property is the applicant.
- 2. The present zoning is PDH-3.
- 3. The area of the lot is 10,384 sq. ft.
- 4. That the applicant's property has an unusual condition in the location of the lot bordering and fronting three streets.

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

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

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

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

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Yaremchuk being absent).

Page 15, November 28, 1978, Scheduled case for

8:20 - BOWL AMERICA, INC., appl. under Sect. 1-400 of the new Ord. and
P.M. Sect. 30-7.2.10.7.12 of the previous Zoning Ord. to permit Bowling
Center, located 5615 Guinea Road, 77-2((1))32, Annandale Dist.,
2.97 acres, I-5, S-268-78.

Mr. Robert Lawrence, an attorney in Fairfax, represented the applicants. As Mr. Yaremchuk was not present for the hearing, Mr. Lawrence requested a deferral until there was a full Board. Mr. Gary Donegal of the Glen Cove Community Association spoke to the deferral. He asked that if the Board granted the deferral that the hearing be scheduled for a night meeting. As the next available night meeting was not until January 23th, Mr. Lawrence requested that the Board hear the application but defer decision in order for Mr. Yaremchuk to participate. Chairman Smith stated that in view of the number of people attending this hearing, that the Board would proceed with the case and, if possible, make a decision. If that decision resulted in a tie vote, then Mr. Yaremchuk would be contacted to participate in the decision.

Mr. Lawrence stated that this application was for a special permit to allow a bowling center. He stated that the property was rezoned with certain proffers under the old Zoning Ordinance. The bowling center is permitted in this zone under the old Zoning Ordinance. Mr. Lawrence explained that Bowl America had filed for a special permit for a bowling center on Burke Lake Road which is still pending in the Circuit Court. Subsequent to that, Mrs. Pelletieri of the Planning Commission suggested that Bowl America contact Mr. Simon, the owner of this parcel, to see if he would be interested in selling the property for a bowling center. During the contract discussion, the subject property came up for rezoning. It was clearly brought out at the rezoning hearing that the property was being considered for a bowling center. It was made evident to everyone at that rezoning hearing, that an application for a special permit for a bowling center would be applied for after the rezoning.

Mr. Lawrence stated that the property next door is owned by Mr. Joyner and is a warehouse for a beer distributor. The property to the west was recently rezoned and proffers were made that the land would be recreational ground. Mr. Lawrence stated that residences would never be built on this particular parcel. He stated that there was a Site Plan submitted for basketball courts for this property. The southern portion of the property would have a large pond to control drainage. Immediately to the south is the Southern Railway Line.

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Mr. Lawrence read excerpts from the new Ordinance stating what the zone would allow. He informed the Board that these particular uses were very intense uses; much more intense than what is being proposed. With regard to the development plan, 147 parking spaces are required. The proposed hours of operation are 8:30 A.M. to 2 A.M. Mr. Lawrence stated that they originally wanted a 24 hour operation but because of the citizen concern, they had reduced the hours. In response to questioning from the Board, Mr. Lawrence stated that the reason for remaining open past midnight was because of the leagues. He stated that the bowling center was dependent on the leagues and that the peak period ends around 11:30 P.M. If there was a midnight closing time, the leagues would stop. Mr. Lawrence stated that they needed additional time to practice. Mr. Lawrence did state that Bowl America would be willing to close at midnight on weekdays and close at 2 A.M. on weekends and holidays. He stated that it was very important to stay open until 2 A.M. as all of the other bowling centers remain open until then and that in order to compete with them for the leagues they would also have remain open until 2 A.M. In response to a question from the Board, Mr. Lawrence stated that the ABC Law has a 2 A.M. closing time. He informed the Board that Bowl America could only sell beer and nothing else at this center.

Mr. Lawrence showed slides of the facility built in Florida and informed the Board that this proposed facility would look identical. It would have a brick facade in front. With regard to the sign, he stated that the lighting would be in the interior of the sign and be illuminated at night. Mr. Lawrence submitted a sketch of the free-standing sign and the building sign. The square footage of the free-standing sign was 70 and Mr. Lawrence informed the Board that the Ordinance would allow 80 sq. ft. Mr. Lawrence stated that the proposed height was 20 ft. and 7 ft. width. For the building, the sign proposed was 116 sq. ft. and the Code allows up to 300 sq. ft.

Mr. Lawrence distributed a traffic study with regard to the impact that this use would have on the surrounding area. He stated that the bowling center might generate a higher number of traffic but that the peak hours would not occur during the normal peak hours for traffic. Mr. Lawrence stated that this would not be the case if the property was used for residential purposes or for the industrial use provided under the Ordinance. Mr. Lawrence stated that the bowling center would not generate truck traffic like an industrial use would and that only vendors would be servicing the facility. In conclusion, Mr. Lawrence stated that it has been determined that this use would be less hazardous than the uses allowed in the industrial zone and that the bowling center would be a reasonable use of the site from a traffic impact standpoint.

In response to questions from the Board, Mr. Lawrence stated that the lighting in the parking lot would be directed towards the property and that the applicants would adhere to the directional lighting as required by the Site Plan Office. He stated that the reason for the poles being so high was because of vandalism. Chairman Smith stated that he felt a height of 9 ft. would be adequate so that the signs would not be damaged by trucks or cars. Mr. Lawrence stated that they were mainly concerned with vandalism but agreed to work out a height with the Board. Mr. Fall stated that one concern about the height of the sign was that this site was located in such a topographic area that 20 ft. would not have lighting directed towards the property owners to the north and should not be objectionable because of the topographic situation. After discussion with the Board, Mr. Lawrence stated that the applicants would agree to a sign area of 32 square footage and a height of 10 ft. The 32 sq. ft. was for the free standing sign and the building sign would be 116 sq. ft. When questioned the location of the free standing sign, Mr. Lawrence stated that they proposed to place the sign at the northeast corner of the property.

Mr. Russell Rosenberg, an attorney located at 9401 Lee Highway, representing Mr. Simon and the Guardian Construction Company spoke in favor of the application. He stated that Mr. Simon was the owner of the subject parcel and that Guardian Construction Co. was the owner of the vacant property zoned R-8 located across Guinea Road to the west of the subject property. He informed the Board that when the property was rezoned to R-8 in 1972, the Board of Supervisors approved the development of 3 multi-purpose courts for the property. He also informed the Board that he recalled sessions with the Planning Commission and the Board of Supervisors when the discussion of having a bowling facility nearby arose. He stated that several uses for the property were listed as proffers at the time of rezoning and that a bowling facility was not excluded from this list.

There was no one else to speak in favor of the application.

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The following persons spoke in opposition of the application. Mrs. Audrey Moore of the Annandale District, Board of Supervisors, informed the Board of the history of the application. She stated that the Board had fallen down on its planning in allowing residential on one side and industrial uses on the other. She stated that there was a problem in having townhouses next door to industrial property. She felt that because it was zoned industrial that the less intense industrial use should be on the property. There was a meeting held with the Planning Commission, the County staff and the citizens in the area. It was recommended to restrict the property to commercial recreation use or warehouse use. Prior to this meeting, Bowl America attempted to locate a facility on Lake Braddock Road and was denied. Mrs. Moore attempted to help them find another site in Burke and stated that she was looking for a site in the Burke Center complex. Mrs. Moore informed the Board that no discussion regarding Bowl America took place at the Board of Supervisors meeting at the time of rezoning. Instead, the property was downzoned and rezoned to I-L. At another meeting with the citizens it was determined that a warehouse use would be preferred over recreation use as there would not be any beer drinking. Mrs. Moore stated that she thought that the Burke Center complex would be the better location for a recreation facility. She stated that if the Board felt that the use was justified, then she would recommend that the conditions be very restrictive as far as screening and alcoholic beverages and the hours of operation.

Chairman Smith informed Mrs. Moore that the Bowl America would only be allowed to sell beer and that if this was prohibited the facility would not be very successful. He stated that the 7-11s in the area also sell beer so that it would still be available to the kids in the area. He stated that he did not believe it was practical to restrict the beer in the bowling center. He informed Mrs. Moore that Bowl America had agreed to limit their hours until 2 A.M. which also restricted the sale of beer.

Mrs. Moore again stated that she believed that the Burke Center complex would be a better location for the bowling center. In response to questions from the Board as to a suggestion regarding the hours of operation, Mrs. Moore stated that 8 A.M. to 11 P.M. would be best for the citizens in the area. Ms. Ardis stated that the staff report suggested 8 A.M. to 12 A.M. Ms. Ardis also requested a response from Mr. Lawrence as to what the economic difference would be to lease property from the Burke Center Complex. Chairman Smith stated that they could respond to this question later in the meeting.

The next speaker in opposition was Mr. Gary Donergal of 5070 Long Bow Court, President of the Glen Cove Citizens Association. He presented the Board with a statement from the association and informed the Board that they were in opposition because of the excess traffic which be coming from Burke Center to Guinea Road. They were also opposed to alcoholic beverages being served. They also opposed a 24 hour operation. He stated that if the Board grants the permit, that the citizens would prefer hours from 9 A.M. to 12 A.M., seven days a week. He stated that a free standing sign was not needed as it would not be difficult to miss the townhouses surrounding the bowling center. He suggested that the facility be moved to the Burke center complex. He presented the Board with a petition signed by the residents in the area.

The next speaker in opposition was Ms. Lu Wright from the Planning Commission. Ms. Wright questioned whether the application had gone through the county offices for staff input in the proper fashion. She stated that she understood that the application had been accepted under the Old Ordinance but stated that she was unclear as to whether the existing restrictions of the new Ordinance would apply. She was concerned about the setback regulations. In addition, Ms. Wright stated that Burke has had some problems with the beer licenses and indicated that the local 7-11 had been found to be selling beer to minors. She was also concerned about the lighting and stated that the existing shopping centers light up the area for 4 to 5 miles.

The next speaker was Mr. James Young, an attorney in Fairfax, of 4406 Glen Cove Street in Fairfax. He stated that the proposed hours of operation for Bowl America until 2 A.M. was totally incompatible with the surrounding residential area. He stated that most of the citizens were against the late hours and the selling of beer and the area being lighted. It would be more appropriate to have a warehouse located on the property according to Mr. Young.

A citizen of the Glen Cove Community presented a petition to the Board signed by residents in the area who were opposed to the application of Bowl America for the following reasons: (1) will bring excess traffic into the residential community; (2) will serve alcoholic beverages and beer; (3) will have an

Page 18, November 28, 1978
 BOWL AMERICA
 (continued)

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adverse effect on the youth of the community; (4) will operate 24 hours a day; and (5) will otherwise disrupt a residential community of approximately 2,000 homes.

Another citizen of the Glen Cove community was concerned about the large signs for the Bowl America. He stated that if the signs had to be placed so high because of vandals, he worried about the type of individuals coming into the community. When the representative from Bowl America was questioned by the Board regarding the signs, he stated that the large signs were necessary for the people travelling to the site in order to locate the Bowl America. The citizen argued that if the majority of the people coming to the Bowl America were in leagues that they would know where the bowling center was located already; therefore, the sign would not be necessary.

A speaker from the Village Park homeowners association spoke in opposition to the Bowl America. He was concerned that the recreation facility for Village Park located adjacent to the Bowl America would sustain damages which the homeowners association would be liable for. He also indicated that if the majority users of the bowling center would be leagues then the center would not be beneficial to the community. He was also concerned about drag racing in the area by the teenagers who would frequent the bowling center. He presented the Board with a petition signed by residents from Village Park.

The next speaker was Gary Synder of 5512 Village Park. He stated that the traffic pattern for the bowling center was more of a non-working hour situation. He was concerned about the safety of the children playing after school. He stated that the increased traffic would create a safety hazard.

The next speaker was Pete Campano of 5508 Paxford Court in Village Park. He stated that the majority of the people coming to the facility would be motorists and as a jogger he was concerned about that many vehicles. He stated that the citizens from Village Park would have an unobstructed view of the bowling center and questioned whether there would be any screening provided. He also stated that Guinea was a very narrow road. He was also concerned about the selling of beer and the littering of the cans or cups.

The last speaker in opposition was Mr. Noel Sumner of Kings Park West. He stated that he was concerned about the selling of beer or liquor on the premises. He asked that the sale of liquor be restricted and that the hours of operation be restricted until midnight. He also suggested that the facility not open until 10 A.M. He stated that if these conditions could not be met then the special permit should not be granted.

During rebuttal, Mr. Goldberg stated that they never got a firm price from Burke Center which is why they located down the road. In addition, by building the facility rather than leasing the facility they could realize more of a profit in the future years. In the beginning, they would not make out quite as well. Mr. Lawrence stated that the reasons negotiations started for this piece of property was because Mrs. Pelletieri suggested that they get in touch with Mr. Simon. He stated that the problem with the Kinchloe property was that even though it was zoned industrial there were no industrial uses on the property. The Simon property was zoned industrial and warehouses were already existing. Mr. Lawrence stated the court case regarding the Kinchloe property was scheduled for January 16th. He stated that the Simon property was a more proper place for a bowling center. He stated that the reason Mrs. Moore would like to see the use located at Burke Center was because then it would not be in her district. Mr. Lawrence stated that the Zoning Administrator had determined that this use was grandfathered because of the proffers made at the time of rezoning. He also stated that the Planning Commission did not choose to pull this application. With regard to the petitions in opposition, Mr. Lawrence stated that some people probably signed because they did not want a change. With respect to the beer, he stated that was licensed by the State and controlled by the ABC Board. If there were any violations, then they would lose their license. Mr. Lawrence showed the Board some plats of the storm drains in relation to the elevation of Guinea Road. He indicated that they would do anything reasonable to make the use compatible. He stated that they have already modified the sign and reduced the size and amended the hours from a 24 hour operation to 8 A.M. to 2 A.M. on weekends and from 8 A.M. to 1 A.M. on weekdays. Mr. Lawrence informed the Board that this was not an unreasonable request and urged the Board to grant the special permit.

Mr. DiGiulian moved that the Board defer decision in this matter to allow the members to view the site and to allow Mr. Yaremchuk time to review the tapes of this hearing so he could participate in the decision. Mr. Barnes seconded the motion. The decision was deferred until December 12, 1978. The vote was 4 to 0 on the motion.

//

019

The Board was in receipt of a memorandum from Harvey Mitchell regarding the parking space setback requirement for home professional offices. The staff had been requested to research this matter and advise the Board of its findings. The memorandum was addressed to Philip Yates for his interpretation of the staff findings.

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Palmer Hartl, S-212-78: This case was deferred from November 7, 1978 for a decision and to request information from the Gulf Reston Association. The Board was in receipt of a letter from the attorney for the Reston Home Owners Association and this letter was placed in Mr. Hartl's file.

// There being no further business, the Board adjourned at 10:20 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

APPROVED: _____
DATE

Submitted to the BZA on June 5, 1979
Submitted to the other departments,
Board of Supervisors and Planning
Commission on May 30, 1979.

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, December 5, 1978. All Board Members were present: Daniel Smith, Chairman; John DiGiullian, Vice-Chairman; George Barnes; John Yaremchuk and Barbara Ardis.

The meeting opened at 10:10 A.M. led with a prayer by Mr. Barnes.

The Chairman called the scheduled 10 o'clock case.

10:00 - LAWRENCE R. & ELAINE M. FLAKE, appl, under Sect. 18-401 of the Ord. A.M. to allow subdivision into two (2) lots, one (1) of which has a width of 10.57 ft. (225 ft. required), by Sect. 3-E06), located 416 Werner Way, Beach Mill Hill Subd., 2-4((2))9, Dranesville Dist., 5.2233 acres, R-E, V-266-78.

The required notices were in order. Mr. Lawrence Flake of Cinnamon Circle Drive in Vienna informed the Board that he desired to divide lot 9. His justification was because this was an odd shaped lot. He informed the Board that Preliminary Engineering had no objections to the proposed division and in addition, he submitted a letter of support from the neighbor across the road. Mr. Flake stated that by dividing the lot into two lots it would be more compatible with the surrounding lots. Mr. Flake stated that there was a t.v. cable which bisects the property and stated that this was where they proposed to divide the property. He stated that the area was cleared of trees Mr. Flake read the letter from the property owner across the road, Fugate, who was in favor of the application. In addition, Mr. Flake indicated that two other property owners were also in support of his application; these being the Lopezes and the Rices. Mr. Flake stated that this property division would not add any traffic to the subdivision because this was the only lot in the subdivision which fronts on Seneca Road and that they would use Seneca Road for ingress and egress. Mr. Flake stated that he desired to build his home and raise his family on the back portion of the property on the 3 acres and asked the Board for their favorable consideration in this application.

In response to questions from the Board, Mr. Flake stated that Goodall Street and Werner Way are private roads now existing in the subdivision.

There was no one to speak in favor of the application. The following persons spoke in opposition to the application. Chairman Smith informed Mr. Flake that the Board had received letters in opposition from Mr. Nye, Mr. Curtis, Mr. Durrane and Mr. Curry. Mr. Curry informed the Board that he was speaking on behalf of the Homeowners Alliance of Beechmill Hill and Great Falls. He stated that there were three reasons why this variance should not be granted. (1) discrepancies exist in Mr. Flake's letter of justification, (2) the applicable Zoning Ordinance would prohibit the granting of this request, and (3) the general feeling of the citizens in the area are in opposition to the request. Mr. Curry stated that less than 15% of the lots in the area are two acres or less. Mr. Curry stated that subdivision of this five acre parcel of land would destroy the scheme of the surrounding area in that 90% of the lots in Beech Mill Hills are made up of five or more acres. With respect to the cable running through the property, Mr. Curry stated that same condition exists for all of the lots in the subdivision and, therefore, does not constitute an unusual hardship for Mr. Flake. Mr. Curry stated that Mr. Flake's primary reason for requesting this variance as stated in the justification was because he suffered financial hardship. Mr. Curry reminded the Board that they cannot consider financial hardship. Mr. Curry stated that this pipstem lot request was not in accordance with the Comprehensive Plan. Mr. Curry stated that the area residents are in opposition to this application and stated that this was supported by the number of letters of opposition received by the Board. He presented the Board with a petition signed by approximately 50 residents who were in opposition to this request.

Mr. Burt Nye of 421 Old Dirt Road spoke on behalf of the Great Falls Citizens Association who were in opposition to the application of the Flakes. He stated that this property was in the Jefferson Branch Water Shed. He stated that the Master Plan calls for 10 acre zoning. Mr. Nye stated that Mr. Flake could make reasonable use of the land as it now exists. He informed the Board that this property was up for downzoning at the present time to protect the water shed.

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021

During rebuttal, Mr. Flake stated that there was a precedent for two acre lots. He stated that some of the lots had just been divided recently along the length of Seneca Road. With regard to the cable dissecting other people's property, Mr. Flake showed the Board aerial photographs which showed that the cable followed their property lines. Mr. Flake stated that as he desired to build on the back lot he had perc tests done on the property. He stated that he was genuinely interested in building a home on the property. The property is zoned R-2.

In response to questions from the Board, Mr. Flake stated that he purchased the property in April of 1978. There were no other questions from the Board.

R E S O L U T I O N

In Application No. V-266-78 by LAWRENCE R. & ELAINE M. FLAKE under Section 18-401 of the Zoning Ordinance to permit subdivision into two lots, one of which has a width of 10.57 ft. (225 ft. required by Sect. 3-ED6) on property located at 416 Werner Way, tax map reference 2-4((2))9, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 5, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 5.2233 acres.

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

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

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

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Ms. Ardis).

10:10 A.M. - T. M. BAKER COMPANY, INC., appl. under Sect. 18-401 of the Ord. to allow reduction in side yard requirements as provided by Sect. 2-417 for a group of three (3) contiguous lots in the same ownership, located 1634, 1636 & 1638A LaSalle Ave., Hunting Ridge Subd., 30-3((2))198, 199 & 200, Dranesville Dist., 6,500 sq. ft. each, R-1, V-267-78.

Mr. Patrick Gallagher of 1333 Park Street in Vienna represented the applicant. The required notices were in order. Mr. Gallagher stated that the subject land was subdivided in the 1920s and that all of LaSalle Avenue is now sub-standard lots. The lots are 50' x 130' deep. The most recent construction was four houses built in 1966. The size of the houses were 30' x 42'. An administrative variance was granted in order to build these particular homes. Mr. Gallagher stated that the property is presently zoned R-1. The total side yard requirement for this zone is 40 ft. The property was purchased in March of 1977. They are buildable lots but only if the house was 10' x 55' long. Mr. Baker has plans for such houses but it would be very difficult. Such construction would not conform to the type of homes already existing in the area and, in addition, would have severe market value. The structure that Mr. Baker proposes to build would be 30.6' x 40' which would leave 11' on one side and 8 1/2' on the other side. Mr. Gallagher stated that this was not an unusual request as the Board had granted similar variances on identical lots.

He indicated that the homes that Mr. Baker proposes to build would be in the \$112,000 to \$125,000 range. This construction would be in keeping with the neighborhood of large, nice homes.

In response to questions from the Board, Mr. Gallagher stated that this subdivision was recorded prior to 1941. In response to how the other homes were built, Mr. Gallagher stated that he believed an administrative variance was granted. He indicated that Mr. Baker could not obtain an administrative variance as he owned three contiguous lots. He stated that 65% of the land was developed.

There was no one to speak in favor of the application. The following persons spoke in opposition to the application. A speaker from McLean Hamlet stated he represented his mother who was an adjoining property owner. He indicated that she has cancer and that this property was her only income. She rents the property. He stated that they might have to sell the home. It was his belief that a project such as proposed by Mr. Baker being located next door would detract from and decrease the property values of the surrounding lots. He stated that he was 100% opposed to a building 8' from the property line.

The next speaker was Mrs. Vera Carter of 1612 Colonial Lane in McLean, Hunting Ridge Subdivision. She stated that she has owned her property since 1929. She stated that the landowners in the area take pride in their homes. She stated that each of the homes have a certain charm. Mrs. Carter requested that the Board look at the homes built on LaSalle Avenue and further requested that the Board disapprove the variance. She indicated that the property owners own several lots in this area. Mr. & Mrs. Fisher own 3 lots; Mrs. & Mrs. Barnes own 3 lots; Mr. & Mrs. White own 3 lots; and Mr. and Mrs. Herbert own 5 lots. Mrs. Carter stated that she was the oldest property owner in this area.

The next speaker was also in opposition to the application. She stated that she owns five lots on the Corner of Seneca and Old Courthouse Road and does not plan to construct a house on this property in the future.

The next speaker was Ward Cobb who stated that he owned three lots on Chain Bridge Road and was also opposed to this variance request.

The next speaker was Raymond Wells of 1610 Great Falls Street in McLean. He stated he owns lots 14 and 15. He was in opposition to the application because it would ruin a good neighborhood. Mr. Wells stated that the community was being threatened with a 10 ft. house. Mr. Wells complained about the way the T. M. Baker Company was doing business in this area.

The next speaker was Jeffrey Kidwell of 1629 Hunter Avenue. He stated that he was in opposition to the variance application. He Comprehensive Plan calls for a maximum density of 2 to 3 dwelling units per acre. He indicated that people in this area have to use several lots in order to obtain a buildable lot. In response to questions from the Board, Mr. Kidwell stated that he owned 6 lots on Hunter Avenue with only one house on them. He indicated that he intended to stay at this location. In addition, he stated that the average number of lots owned by one person were about three and that on La Salle the average was two to three lots.

The next speaker stated that Mr. Baker would ruin the neighborhood if he put up small houses on these lots.

During rebuttal, Mr. Gallagher stated that the opposition was considerable but not substantial. He stated that there were letters in the file from contiguous property owners who were in favor of this application. He stated that Mr. Cobb and Mr. Carter both live on Chain Bridge Road and were holding out for commercial zoning to come through. Mr. Gallagher stated that the proposed houses were not cheap houses as they would sell in the \$125,000 range. He stated that what they planned to build may not be to the taste of the people in the area. Mr. Gallagher stated that if the emotional and well organized civic opposition resulted in the denial of this application that Mr. Baker could still construct a 10 ft. x 55 ft. house on the lot. He stated that this was not a threat to the neighborhood but only what is allowed under the Zoning Ordinance. He requested that the Board grant the variance application.

R E S O L U T I O N

In Application No. V-267-78 by T. M. BAKER COMPANY, INC. under Section 18-401 of the Zoning Ordinance to permit reduction in side yard for three (3) contiguous lots in the same ownership on property located at 1634, 1636 and 1638 LaSalle Avenue, tax map reference 30-3((2))198, 199 and 200, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 5, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 6,500 sq. ft.

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

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

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

Mr. Barnes seconded the motion.

The motion passed by a vote of 5 to 0.

Page 23, December 5, 1979, Scheduled case for

10:20 - RANDALL C. FOLTZ, appl. under Sect. 18-401 of the Ord. to allow
A.M. - construction of garage 3.5 ft. from side lot line (8 ft. side yard required by Sect. 3-407), located 2310 Malraux Drive, Tysons Woods Subd., 39-3((28))81, Providence Dist., 8,407 sq. ft., R-4, V-270-78.

The required notices were in order. Mr. Foltz of the above address informed the Board that he would like to construct a two car garage. He stated that the shape of his property was irregular and that would prevent one corner of the proposed structure from meeting the requirements of the Ordinance. He stated that the other corner does fall within the 8 ft. setback requirement. He requested that the variance application be approved. In response to questions from the Board, Mr. Foltz stated that he has owned the property since July of 1978. He further indicated that he has an existing carport and that he proposes to construct a 18 ft. garage. He indicated that he had verbal approval from his neighbors. Again, he stated that three corners of the structure met the 8 ft. requirement but that one corner did not.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

Page 23, December 5, 1978
RANDALL C. FOLTZ

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-270-78 by RANDALL C. FOLTZ under Section 18-401 of the Zoning Ordinance to permit construction of a garage 3.5 ft. from side lot line (8 ft. side yard required by Sect. 3-407) on property located at 2310 Malraux Drive, Tysons Woods Subd., tax map reference 39-3((28))81, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 5, 1978; and

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023

R E S O L U T I O N

024

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

1. That the owner of the property is the applicant.
2. The present zoning is R-4.
3. The area of the lot 8,407 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

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

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

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

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

Mr. Barnes seconded the motion.

The motion passed by a vote of 5 to 0.

Page 24, December 5, 1978, Scheduled case for

10:30 - WILLIAM B. BECKER & ROBERT E. STEIN, appl. under Sect. 18-401 of the Ord. to allow a subdivision with proposed lots 23, 24, & 33 each having a width of 10 ft. (80 ft. required by Sect. 3-306), located 1756 Greek Crossing Road, Wexford South Subd., 28-4((1))40, Centreville Dist., 14.0 acres, R-3, V-271-78.

The required notices were in order. Mr. Charles Runyon of 152 Hillwood Ave. in Falls Church represented the applicants. Mr. Runyon informed the Board that this property had been recently rezoned. At the time of rezoning, Mr. Becker's attorney agreed to contribute some land for open space to the Wexford community. In return for this, Mr. Becker was allowed to request pipestem lots for the project. Mr. Runyon stated that they could not get a public street to serve this area because of the location of the house on lot 33. He stated that the justification for the variance was the location of the existing house and the construction of the street between the house and the street would not permit another additional street.

There was no one to speak in favor of the application. The following persons spoke in opposition to the application. Mr. Charles F. Burhenne of 9108 Ridge Road in Vienna, informed the Board that this property had been rezoned earlier in the year from R-1 to R-3. He stated that this was quite a distinctive revision. He did not feel that the pipestem lots being only 10 ft. wide should be allowed to add to the disparity. He stated that he was not clear whether these three lots were included in the 36 lot subdivision or whether they were in addition to it. He stated that the Board of Supervisors turned down the pipestem situation earlier this year.

The next speaker in opposition was Mr. Eugene Crichfield of 9104 Ridge Road. He stated that this property had been downgraded and that under the previous zoning category, pipestem lots would not have been allowed. Mr. Crichfield stated that Mr. Becker ruined the neighborhood and he felt that the zoning laws should not be varied. He indicated that Mr. Becker could have developed this property under the R-17 category. He further indicated that the reason the Wexford community approved this plan was because they were awarded \$18,000.

The next speaker was Mr. Russell Thompson of 800 Park Street, owner of lot 11 in Vienna. He stated that his only opposition was the 10 ft. pipestem lots which would detract from the project. He stated that this was an area of single family homes and that by pipestemming these lots, it would jam everyone together too closely.

During rebuttal, Mr. Runyon stated that he was not aware that the Board of Supervisors turned down any pipestem lots at the time of rezoning. He stated that the intention was that they come to the Board of Zoning Appeals for approval. The Board of Supervisors granted the rezoning on the basis of this project being 36 lots. He indicated that the density of this project was slightly above the middle density. The property is ~~not wide enough~~ for two lots without a variance and too wide for one lot by itself. In addition, Mr. Runyon stated that because of the physical constraints of the property, the owner of the property had agreed to convey some of the land to the Tysons Briar Swim and Racquet Club in order to help with the traffic situation. Mr. Runyon informed the Board that he himself lives on a pipestem lot in Great Falls. Mr. Runyon stated that the 36 lot development remains the same. He stated that the property was zoned R-3. Mr. Runyon stated that he sympathized with Mr. Crichfield but that Fairfax County has changed and would get even denser. Mr. Runyon stated that his justification for the pipestem lots were reasonable and urged the Board to grant the variance.

Page 25, December 5, 1978 Board of Zoning Appeals
WILLIAM B. BECKER & ROBERT E. STEIN
R E S O L U T I O N

In Application No. V-271-78 by WILLIAM B. BECKER & ROBERT E. STEIN under Section 18-401 of the Zoning Ordinance to permit subdivision with lots 23, 24 and 33 each having a width of 10 ft. (80 ft. required by Sect. 3-306) on property located at 1756 Creek Crossing Road, tax map reference 28-4((1))40, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 5, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 14 acres.
4. That the applicant's property is exceptionally irregular in shape including narrow and has an unusual condition in the location of the existing structures on the subject property.

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

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

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

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

025

Page 26, December 5, 1978, Scheduled case for

10:40 - WILLIAM & VIOLET HAUNSTEIN, appl. under Sect. 18-401 of the Ord.
A.M. to allow enclosure of existing carport such that side yards total
21.5 ft. (total min. of 24 ft. required by Sect. 3-207), located
4317 Wakefield Drive, Truro Subd., 70-1((12))20, Annandale Dist.,
10,548 acres, R-2(c), V-273-78.

Mrs. Violet Haunstein of the above address informed the Board that she was requesting a 2 1/2 ft. variance to enclose the existing carport into a garage. She stated that the garage was desperately needed for security and storage.

There was no one to speak in favor of the application and no one to speak in opposition to the application. There were no questions from the Board members.

Page 26, December 5, 1978
WILLIAM & VIOLET HAUNSTEIN

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-273-78 by WILLIAM & VIOLET HAUNSTEIN under Section 18-401 of the Zoning Ordinance to permit enclosure of existing carport such that side yards total 21.5 ft. (total min. of 24 ft. required by Sect. 3-207) on property located at 4317 Wakefield Drive, tax map reference 70-1((12))20, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

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

1. That the owner of the property is the applicant.
2. The present zoning is R-2(C).
3. The area of the lot is 10,548 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

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

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

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

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

Mr. DiGiulian seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 26, December 5, 1978, Scheduled case for

10:50 - JOHN R. MOYSEY & MARY H. MOYSEY, appl. under Sect. 18-401 of the
A.M. Ord. to allow addition to dwelling 27.9 ft. from front property
line (30 ft. min. required by Sect. 3-107), located 1011 Cup Leaf
Holly Court, Holly Knoll Subd., 6-3((4))81, Dranesville Dist.,
21,563 sq. ft., R-1(C), V-274-78.

Mr. John Moysey of the above address stated that his house was next to a pipe-stem drive. With the construction of the addition, they would encroach on the setback by 2.1 ft. He indicated that the proposed addition was similar to other additions in this neighborhood. In response to questions from the Board, Mr. Moysey stated that the addition would be a 14'x18' library. He stated that he would not be encroaching on anyone's property. Mr. Moysey stated that his house sits at an angle and that the house was parallel to the road. This addition would balance the effects of the house and would not be detrimental to the neighborhood.

026

There was no one to speak in favor of the application and no one to speak in opposition to the application.

Page 27, December 5, 1978 Board of Zoning Appeals
JOHN R. MOYSEY & MARY H. MOYSEY

R E S O L U T I O N

In Application No. V-274-78 by JOHN R. & MARY H. MOYSEY under Section 18-401 of the Zoning Ordinance to permit addition to dwelling 27.9 ft. from front property line (30 ft. min. required by Sect. 3-107), on property located at 1011 Cup Leaf Holly Court, tax map reference 6-3((4))81, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 5, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1(c).
3. The area of the lot is 21,563 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

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

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

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

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

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 27, December 5, 1978, Scheduled case for

11:00 - MARTIN D. & BARBARA A. COOK, appl. under Sect. 18-401 of the Ord.
A.M. to allow 6.8 ft. high fence to remain in front yard (4 ft. max. height required by Sect. 10-105), located 6219 Bren Mar Dr., Bren Mar Park Subd., 81-1((4))(B)3, Mason Dist., R-4, 10,312 sq. ft., V-234-78.

The required notices were in order. Mr. Martin Cook of the above address requested the Board to allow the 6.8 ft. fence to remain as they had no prior knowledge of height restrictions for fences in the front setback area. Mr. Cook informed the Board that he had contacted Montgomery Ward for the fence and was advised that there was not any problem. Mr. Cook stated that the fence was only a small section erected between two hedges to connect them. Mr. Cook stated that part of the hedges had died out and they decided to replace it with a fence. Mr. Cook stated that the hedges have been this high for some years and were there when he bought the house. After being assured by Wards that there was not a problem with the fence, Mr. Cook constructed it himself.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

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027

R E S O L U T I O N

In Application No. V-234-78 by MARTIN D. & BARBARA A. COOK under Section 18-401 of the Zoning Ordinance to permit 6.8 ft. fence to remain in front yard on property located at 6219 Bren Mar Drive, tax map reference 81-1((4)) (B)3, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 5, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-4.
3. The area of the lot is 10,312 sq. ft.
4. That the applicant's property by the granting of this variance will not impair the intent and purpose of the Zoning Ordinance.

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

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

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

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

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 28, December 5, 1978, Scheduled case for

11:10 - EDWARD M. STATLAND & BADMAN TEIMORIAN CO., TR., appl. under Sect. 18-401 of the Ord. to allow subdivision into three lots, two of which have lot width of 12 ft. (200 ft. required by Sect. 3-E06), located at 8612 Old Dominion Drive, 20-1((1))56A, Dranesville Dist., 5.794 acres, R-E, V-255-78.

Mr. Henry Mackall, an attorney representing the applicants, informed the Board that he had a petition from the neighbors supporting this application which he presented to the Board. He stated that this property was long and narrow and as a result was very difficult to divide it according to the present zoning category. Mr. Mackall stated that there were topographic problems. In response to questions from the Board, Mr. Mackall stated that the property slopes off steeply and that a common drive would be utilized for the lots. With respect to construction, Mr. Mackall stated that even with the topographic problems it was possible to construct a house on the flat knoll.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

Page 28, December 5, 1978
EDWARD M. STATLAND & BADMAN TEIMORIAN CO., TR.

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-255-78 by EDWARD M. STATLAND & BADMAN TEIMORIAN CO., TR. under Section 18-401 of the Zoning Ordinance to permit subdivision into three lots, two of which have lot width of 12 ft. (200 ft. required by Sect. 3-E06), on property located at 8612 Old Dominion Dr., tax map reference 20-1((1))56A, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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029

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 5, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 5.794 acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow and has exceptional topographic problems.

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

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

NOW, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED IN PART *(to allow subdivision into two lots, each lot having lot width of 12 ft.) with the following limitations:

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.
3. A common entrance to ~~serve both~~ lots shall be in accordance with the standards for pipestem lots.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 29, December 5, 1978, Scheduled case for

11:20 - DALE L. THOMPSON, appl. under Sect. 18-401 of the Ord. to allow addition to existing dwelling to be completed and to remain 26.6 ft. A.M. from front property line and to a height of 18.8 ft. instead of 14 ft. as approved in the granting of V-106-77, and for clarification on Board's previous intent regarding sundeck on rear of dwelling, located 6422 Deepford Street, Monticello Woods, 81-3(13)(D) 232, Lee Dist., 14,309 sq. ft., R-3, V-262-78. (Deferred from November 7, 1978 for Notices).

The required notices were in order. Mr. Claude Kennedy, Zoning Inspector, was present to answer any questions from the Board. Mr. Royce Spence, attorney from 311 Park Avenue in Falls Church, represented the applicant.

For the purpose of informing the new Board members, Mr. Smith stated that the Board had heard a variance request on this property back in July of 1977 and granted a variance by a vote of 3 to 1, there being only four Board members present. He further stated that Mr. Swetnam was very specific in his resolution that in granting the variance that the height and the location was conditioned on it being built according to the plans submitted and that the sundeck be removed. Mr. Smith stated that since that time, apparently a zoning violation was issued. Mr. Smith asked Mr. Kennedy to bring the Board up to date in this matter.

Mr. Claude Kennedy, Zoning Inspector, stated that Ms. Kelsy started the case just before the zoning violation was issued. He stated that they issued the violation in a letter form based on the condition that the variance was granted in accordance with the plats and drawings submitted to the Board. The structure that Mr. Thompson built did not comply with what was granted by the Board. Mr. Thompson raised the roof 4 ft. Mr. Kennedy stated that when Mr. Thompson did not comply with the original plats that he no longer had a variance.

030

Mr. Smith stated that Mr. Swetnam had inquired of Mr. Thompson at the earlier hearing if the roofline would continue even with the old roofline and was assured that the new addition would continue the same roofline.

Mr. Yaremchuk inquired if the height of the new addition was in violation of the Zoning Ordinance and was informed by Mr. Kennedy that it was not. Mr. Kennedy stated that the only concern was that it did not comply with the original conditions of the variance granted by the Board.

Mr. Royce Spence submitted photographs to the Board showing the new addition and the roofline. He stated that Mr. Thompson raised the roof because of the rear elevation. There is a garage on the front and in order to keep it from being flooded, Mr. Thompson had to raise the structure 4 ft. in height.

Mr. Smith stated that Mr. Swetnam had originally asked about the roofline and was assured that Mr. Thompson would continue the same roofline. The reason for these questions was because there were objections at the original hearing to the addition being built. Mr. Spence said that only one lady objected at the original hearing. He further stated that the addition was not any higher than other homes in the area.

Mr. Smith stated that he was present at the original hearing and Mr. Swetnam was concerned that the addition be constructed in harmony with the surrounding community.

Ms. Kelsy informed the Board that the reason the inspectors had issued the zoning violation was because Mr. Thompson did not build the addition in accordance with the Board's resolution.

Mr. Spence stated that Mr. Thompson had circulated a petition recently and everyone signed stating they did not have any objection to his addition. Mr. Spence went on to state that Mr. Thompson has spent over \$10,000 on the construction of the addition. The work is not completed because of the issuance of the violation. Damage has already begun on the unfinished work. He stated that Mr. Thompson would like to complete the work as soon as possible. He went on to state that the only injury being done was to the applicant.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

R E S O L U T I O N

In Application No. V-262-78 by DALE L. THOMPSON under Section 18-401 of the Zoning Ordinance to permit addition to existing dwelling to be completed and to remain 26.6 ft. from front property line and to a height of 18.8 ft. instead of 14 ft. as approved in the granting of V-106-77, on property located at 6422 Deepford Street, tax map reference 81-3((13))(D)232, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 5, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot 14,309 sq. ft.
4. That the applicant's property has exceptional topographic problems and has an unusual condition in the location of the existing buildings on the subject property.

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

R E S O L U T I O N

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

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED to amend V-106-77 as above with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. All provisions of V-106-77 are incorporated by reference except as amended above.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Chairman Smith inquired about the sundeck as the Zoning Inspectors had asked for clarification on the deck. Mr. DiGiulian stated that the deck was built without a building permit and that Mr. Thompson had stated at the last hearing that he was going to tear it down. Mr. Kennedy informed the Board that at the last meeting, one of the BZAMembers had inquired if the deck met the setback requirements. Mr. Kennedy stated that it meets the setback but that Mr. Thompson did not have a building permit for the deck. Mr. Thompson had previously indicated that he would remove the deck. The question arose that on the building permit for the addition, it was also requested to allow the construction of a deck. There is no problem with any setback. Ms. Kelsey stated that there was no problem with the construction of a deck as long as the setback was met and he obtained a building permit.

Page 31, December 5, 1978, Scheduled case for

11:30 - EARLY LEARNING, INC., appl. under Sect. 3-103 of the Ord. to permit private school of general education for maximum of 120 children, located 9012 Leesburg Pike, Woodside Estates Subd., 19-4((4))A-1, 5.000 acres, Dranesville Dist., R-1, S-231-78. (Deferred from November 7, 1978 for revised plats and for decision only.)

Mr. John Aylor, attorney for the applicant, submitted the revised plats to the Board. He informed the Board that the plats met the setback condition discussed by the Board in connection with moving the building and the private drive.

Mr. Smith inquired if anyone was interested in examining the new plats. Mr. William Solomon of 8970 Brook Road, an immediate neighbor, came forward. He questioned the large amount of land and inquired as to its future use. He was informed by Chairman Smith that the entire five acres would be under the use permit and that no other use could be made of the property without coming back before the Board. Mr. Solomon questioned whether any other school would be allowed on this property and he was informed that any change would require future consideration of the Board.

There were no other questions from the audience and none from the Board members.

Page 31, December 5, 1978
EARLY LEARNING, INC.

Board of Zoning Appeals

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-231-78 by EARLY LEARNING, INC. under Section 3-103 of the Fairfax County Zoning Ordinance to permit private school of general education on property located at 9012 Leesburg Pike, tax map reference 19-4((4))A-1, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

R E S O L U T I O N

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WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on November 7, 1978 and deferred to December 5, 1978 for decision; and

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

1. That the owner of the subject property is Elizabeth Bell and that the applicant is the contract purchaser.
2. That the present zoning is R-1.
3. That the area of the lot is 5 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-000 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening shall be required and must satisfy Sect. 13-109 and Sect. 13-110 of the Zoning Ordinance except as qualified below.
7. The maximum number of pupils shall be 120.
8. The maximum number of employees shall be 10.
9. The hours of operation shall be 7 A.M. to 6 P.M., Monday through Friday. Parent/teachers meetings shall be until 9 P.M., Monday through Friday.
10. The number of parking spaces shall be 20.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Barnes being out-of-the-room).

Page 32, December 5, 1978, Scheduled case for

11:50 - ST. BERNADETTE'S CATHOLIC PARISH, appl. under Sect. 3-203 of the A.M. Ord. to permit a church, located 7600 Old Keene Mill Road, 90-1(1)1, Springfield Dist., 24.7310 acres, R-2, S-276-78.

The required notices were in order. Monsignor Edward Brown of 7600 Old Keene Mill Road in Springfield appeared before the Board to present the application. He stated that this was an application for construction of a church. In response to questions from the Board, Magr. Brown stated that there was a school presently on the site and that the church was using gym for services at the present time. The church was to be constructed of brick. There were no more questions from the Board.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

R E S O L U T I O N

033

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-276-78 by ST. BERNADETTE'S CATHOLIC PARISH under Section 3-203 of the Fairfax County Zoning Ordinance to permit a church on property located at 7600 Old Keene Mill Road, tax map reference 90-1((1))1, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and,

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on December 5, 1978; and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-2.
3. That the area of the lot is 24.7310 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses In R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required and must satisfy Sect. 13-109 and Sect. 13-110 of the Zoning Ordinance except as qualified below.
7. The hours of operation shall be normal church uses.
8. The number of parking spaces shall be 419.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 33, December 5, 1978, After Agenda Items

APPROVAL OF MINUTES: Mr. Barnes moved that the Minutes of the Board of Zoning Appeals Meeting of June 20, 1978 be approved as amended. Mr. DiGiulian seconded the motion and it passed by a vote of 4 to 0 with 1 abstention as Ms. Ardis was not a Board Member at this time.

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S-203-78 Dr. John Forest, D.D.S.: The Board was in receipt of revised plats pertaining to the application of Dr. Forest for a home dental office. At the hearing of November 7, 1978, the Board requested that the plats be revised showing ten parking spaces. Mr. DiGiulian moved that the revised plats be accepted and it was carried.

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034

Page 34, December 5, 1978, After Agenda Items

S-233-77 Rose Hill Baptist Church: The Board was in receipt of a letter from the Rose Hill Baptist Church requesting an extension on the permit granted by the Board on November 29, 1977. Mr. Barnes moved that the church be granted a six month extension. Ms. Ardis seconded the motion. The motion passed by a vote of 5 to 0.

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Page 34, December 5, 1978, After Agenda Items

Central Christian Church: The Board was in receipt of a request from the church to allow the relocation of the building in order to move it back further from the street. It was the consensus of the Board that this would be a minor engineering change. Mr. Yaremchuk moved that the church be allowed to make this change. Mr. DiGiulian seconded the motion. The motion passed by a vote of 5 to 0.

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The Board was in receipt of a request from Mr. Patrick Gallagher, an attorney for Mr. and Mrs. Hicks of Vienna, requesting that the photographs submitted with the variance application be returned to his clients. After this application had been processed and advertised, the Board received a request from Mr. and Mrs. Hicks to withdraw the application. The Board directed the Clerk to return the photographs to the applicants.

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There being no further business, the Board adjourned at 1:00 P.M.

BY Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

APPROVED: _____
DATE _____

Submitted to the BZA on _____.
Submitted to the other departments,
Board of Supervisors and Planning
Commission on _____.

035

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, December 12, 1978. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes; John Yaremchuk and Barbara Ardis.

The meeting began at 10:10 A.M. led with a prayer by Mr. Barnes.

The Chairman called the scheduled 10 o'clock case:

10:00 - JOAN H. GRIFFITH, appl. under Sect. 3-403 of the Ord. to permit group Day Care Facility, located Belfield Rd., Hunting Creek Subd., 83-3(1)63, 16,186.5 sq. ft., Mt. Vernon Dist., R-4, S-278-78.

JOAN H. GRIFFITH, appl. under Sect. 18-401 of the Ord. to allow other than a paved parking area and driveway as required by Sect. 11-102 for a group Day Care Facility, located 2001 Belfield Rd., Hunting Creek Subd., 83-3(1)63, 16,186.5 sq. ft., Mt. Vernon Dist., R-4, V-277-78.

The required notices were in order on both applications. Ms. Elizabeth Lewis, an attorney of the firm, Boothe, Prichard & Dudley, represented the applicant. In addition, Mr. Lee Fifer was also present. Ms. Lewis informed the Board that Mrs. Griffith cares for her daughter. She stated that Mrs. Griffith was born and raised in Alexandria and grew up at this residence. She stated that Mrs. Griffith graduated from Groveton High School and has been babysitting for the past nine years.

Ms. Lewis stated that the proposed day care facility would be compatible with the surrounding area. She indicated that the local civic association has already supported the plan. Mrs. Griffith plans to sit on a regular and an occasional basis. There is a great need for sitters for the working parents. Mrs. Griffith's home would be an ideal site for a day care facility as there would not be a direct impact on the neighbors. Ms. Lewis stated that there was a large play room in the basement and a large play area outside with over 3,000 sq. ft., being three times the required size.

The property is located behind the Statesmans Motel which fronts on Richmond Highway. The number of vehicular trips was estimated to be 18 trips per day. In most of the families, there would be two or more children. The property could be reached by driving to the cul-de-sac at end of Belfield Road and off of Rt. 1.

The justification for the requested variance was because the roads leading to & from the property are gravel and the volume and speed of the traffic would not be sufficient enough to create dust. Traffic coming over the bridge must travel very slowly. Ms. Lewis stated that this was a rural road and that it would not make sense to pave it.

Ms. Lewis informed the Board that Mrs. Griffith would not have any employees and that she wouldn't post signs on the property. In response to questions from the Board, Ms. Lewis stated there would not be any weekend babysitting. She stated that Mrs. Griffith is requesting permission to keep 8 children outside of her own family. In response to a report from the Health Department, Ms. Lewis stated that the water meter has been installed but that they were awaiting the outcome of this hearing before calling the plumber because of the expense involved.

The following persons spoke in favor of the application. In addition, the Board was in receipt of approximately 30 letters in support of this application. Mr. John Hume stated that he had submitted a letter in support of this application. He stated that Mrs. Griffith babysits his children at the present time. He indicated that the community needs this service and that it does not bear any burden on the surrounding area. He stated that the traffic impact would be minimal.

The following persons spoke in opposition to the application. Mr. Lewis Bolger of 2003 Belfield Road stated that he lived next door to Ms. Griffith. He stated he was in opposition because there was only 30 ft. between his porch and the porch belonging to Mrs. Griffith. He informed the Board that he does not work a normal five day week. He stated that he did not feel that a day care center was needed for this area. He stated that he would have to bear the burden and the noise if it was granted. Mr. Bolger stated that the Belle Haven Civic Association had requested that all traffic go

over the private road and the bridge. No repairs have been made to the bridge for the past fifteen years. He indicated that anyone using the bridge would be well advised to do so with caution. In addition, the private road is full of potholes and has been that way since 1975. Mr. Bolger advised the Board that a proposal had been made to the Va. Dept. of Highways to have the bridge removed. This proposal was approved by the three property owners. Mrs. Griffith's father who owned the property at that time refused the proposal. Mr. Bolger stated that he maintains the bridge without any cooperation from any other people in this area. Mr. Bolger stated that he wants to live on his property in peace and quiet. Since most of the children Mrs. Griffith keeps are kept on the back porch from April to late fall, he stated that he would not be able to do so. He stated that Mrs. Griffith has been keeping as many as 8 to 12 children all day long during the past summer. In response to a question from the Board as to whether a violation notice had been issued, Mr. Bolger stated that one had been issued to Mrs. Griffith.

The next speaker in opposition was Paul Connole of 6018 Grove Drive who stated that the rear of his property adjoins the Griffith's property. He stated that he agrees with everything Mr. Boley stated to the Board. He informed the Board that no one in support of this application lived anywhere near this property. As this was his back yard, he stated that it would bother his family to have a day care facility next door. In addition, it would lower property values and he didn't feel that the neighbors should have to pay for it.

The next speaker in opposition was Mary Gallagher of 1909 Belfield Road. She stated that she has two grown sons who grew up in this area. Mrs. Gallagher informed the Board that until Mrs. Griffith contacted her in August that she had no idea that a day care facility was operating down the street and she lives a 1/2 block away. She stated that she agreed with Mrs. Griffith that this would be a great service for the area. However, to be able to continue the service Mrs. Griffith needs the support of the surrounding neighbors. Mrs. Gallagher was concerned for Mr. Boley who needs his rest and peace of mind. She stated that the facility would create noise pollution as well as other inconveniences. There was the bridge to be considered. She stated that it was a financial burden on Mr. Boley and that she could not let the matter be; therefore, she was changing her support to opposition. She stated that she believed the privacy and peace of mind for everyone concerned outweighed the interests of one individual. She stated that when her children were little she had to arrange for sitters but that she had always managed quite well. Mrs. Gallagher didn't deny Mrs. Griffith's qualifications but stated that they should have some kind of conscience and refrain from this facility for the sake of common courtesy. She stated that she did not think it would cause a hardship on either Mrs. Griffith or Mr. Boley if a compromise could be worked out. She stated that Mrs. Griffith should be allowed to do what she wants to do but by only keeping a total of four children besides her own. She stated that Mr. Boley could cope with a maximum of four children and still maintain peace of mind. She stated that she personally would not be affected by the outcome as she lived 1/2 block away. She did state that anyone living next door would be greatly affected. Mrs. Gallagher questioned the Board regarding the results of this application if it was granted as to whether it would set a precedent for other similar operations in the neighborhood. She was informed by the Board that each case is considered on its own merits.

The next speaker in opposition was Ron Harbower from the Statemans Motel. He stated that he opposed the application of the Griffiths as they had turned him in twice for his dog barking for five minutes. When asked how long he had owned the motel, he replied that he was only the manager of the motel and not the owner.

The next speaker in opposition was Mrs. Brunhilde A. Eggleton of 1915 Belfield Road. She stated that she was opposed to this application and has lived here for 23 years and has owned her home for 17 years. She stated that she has two grown children. She stated that her home was the most expensive item she had ever purchased and felt that Fairfax County owed her a quiet residential neighborhood. She stated that she had known Mrs. Griffith a long time and does not hold any grudges against her. She stated that the residents in the area should be given the first consideration. Mrs. Eggleton stated that Mr. Griffith was a Vice-President of a bank and, therefore, they were not poor. In addition, Mrs. Eggleton was concerned about the cul-de-sac turn-around area with vehicles parked there. If there was emergency, the emergency vehicles could not turn around. Mrs. Eggleton was also concerned for Mr. Boley as he works shift work and would be annoyed by the noise from the day care center. In addition, Mr. Connole is retired and has an ill wife. Mrs. Eggleton informed the Board that she was able to get along without a sitter

for her children when her husband was overseas for two years. In response to questions from the Board, Mrs. Eggleton stated that the street was just wide enough for two cars. She stated that their street was not dedicated until just a few years ago. The neighborhood children were able to play along the street and walk down to the creek. Because it was a dangerous situation, the residents had the street made into a dead-end. She stated that the people using Mrs. Griffith's day care facility use this dead-end to park and walk the children to the Griffith's property. She stated that sometimes the cars are left for as long as an hour while they are dropping off or picking up the children. Because of this, it is difficult for the residents of the cul-de-sac to back out their steep driveways. She stated that it was easier for the people to use this street than to use Rt. 1 or Ft. Hunt Road because of the problems in making u-turns. She stated that it was a very dangerous situation and urged the Board to deny the application.

During rebuttal, Mr. Lee Fifer stated that the plats for this application show Belfield Road being 35 ft. wide. With respect to the noise problem, he stated that they could correct the situation by not allowing the children to play on the porch at any time that would interfere with Mr. Boley's schedule. Mr. Fifer suggested that the Board make it a condition that no children other than Mrs. Griffith's own play on the porch. Mr. Fifer reported to the Board that the past summer Mrs. Griffith had been keeping 20 children and now they are only asking for 1/2 that number so that in itself would cut down on the noise problem. In response to questions from the Board, Mr. Fifer stated that the age group was made up mostly 1 to 5 year olds, some 3 to 4 year olds and a few 9 year olds after school. He stated that the children coming to the property after school could be kept inside rather than playing outside.

With respect to the bridge, Mr. Fifer stated that it was a wooden structure on a steel and wooden foundation. He stated that he had talked with Mrs. Griffith's uncle who is a brick mason and who had helped construct the bridge. The bridge is constructed over a small stream. Her uncle has the material to help replace the material that the creek has washed away. He stated that the Griffiths were willing to do the work on the bridge and to supply the materials.

With respect to testimony that no one supported this application, Mr. Pfeifer stated that there were a number of letters in support in the file. He stated that Mrs. Gallagher and the Belle Haven Civic Association had raised a good many points. In addition, a witness stood up and testified that she was not aware of a day care facility in this area and Mrs. Griffith has been sitting for the past nine years. Apparently, Mrs. Griffith has been doing this very efficiently and very quietly. With respect to the traffic situation, the people coming would be urged to vary their trips.

Mr. Smith informed the applicants that all parking must be on the site and that the people would not be allowed to park on the cul-de-sac.

With respect to the variance application, Mr. Fifer stated that the road was not paved. Because of the wooden bridge, people have to travel very slowly. He stated that this is a well-maintained gravel road. He stated that it would be very expensive to pave this road. In response to questions from the Board, Ms. Lewis stated that the porch on the Griffith's property was a screened porch and would not be used during the winter at all. She stated that the play area was not close to the property line at all. Ms. Lewis stated that it would be difficult for Mrs. Griffith to watch two groups of children and suggested that if the Board desired to limit outside play activity that it be limited in the length of time rather than number. She stated that some of the children would there for a full day with others only there parttime. She stated that Mrs. Griffith desired a maximum of 9 children even though there would not be that many there at one time all day long.

When Mr. Boley was questioned by the Board as to whether he was aware that Mrs. Griffith has been operating a day care facility for the past nine years, he stated that she only kept one or two children then and not the great numbers that she is keeping now. Mr. Boley stated that even if Mr. Griffith was going to repair the bridge, he felt that the County should inspect it to determine its weaknesses. He stated that the County has never maintained the road because it is only 12 ft. wide.

R E S O L U T I O N

038

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-278-78 by JOAN H. GRIFFITH under Section 3-403 of the Fairfax County Zoning Ordinance to permit group day care facility on property located at 2001 Belfield Road, tax map reference 83-3((1))63, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and,

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on December 12, 1978; and

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

- 1. That the owner of the subject property is the applicant.
- 2. That the present zoning is R-4.
- 3. That the area of the lot is 0.3722 acres.
- 4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
- 2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
- 3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
- 4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
- 5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
- 6. Landscaping and screening shall be required and must satisfy Sect. 13-109 and Sect. 13-110 of the Zoning Ordinance except as qualified below.
- 7. The maximum number of children at any one time shall be 8, ages 1 to 9.
- 8. The hours of operation shall be 6:45 A.M. to 6:00 P.M., Monday through Friday.
- 9. The minimum number of parking spaces shall be 3.
- 10. This special permit is granted for a period of one year.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 with 1 abstention (Mr. Smith).

With respect to the above motion, Mr. Yaremchuk inquired if the maker would agree that all ingress and egress be from Rt. 1. Mr. DiGiulian stated that was a prerequisite anyway as they would have to park on the site. He stated that if they didn't, then it was a violation of the special permit.

039

R E S O L U T I O N

In Application No. V-277-78 by JOAN H. GRIFFITH under Section 18-401 of the Zoning Ordinance to permit other than paved parking area and driveway as required by Sect. 11-102 for a group Day Care Facility, on property located at 2001 Belfield Road, tax map reference 83-3((1))63, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 12, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-4.
3. The area of the lot is 16,186.5 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

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

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

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

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

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 with 1 abstention (Mr. Smith).

Page 39, December 12, 1978, Scheduled case for

10:30 - PETER C. LAGANAS, appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrator's decision that an irregular shaped lot in a proposed subdivision needs a variance to the minimum lot width requirement even though it exceeds the minimum when measured in the manner prescribed by Ord. Sect. 20-300, definition of LOT WIDTH, located 8414 Riverside Rd., Riverside, Section One, Subd., 102-3((20))1, 70,987 sq. ft., Mt. Vernon Dist., R-3, A-279-78.

Mr. Philip Yates, Zoning Administrator, appeared before the Board to inform them of his decision. Mr. Laganas was represented by Mr. Victor Ghent of Annandale. Mr. Yates stated that his position was stated in the memorandum of December 8, 1978 addressed to the Board of Zoning Appeals. Mr. Ghent based his argument on the definition of lot width which does suggest that the subdivision could be approved without a variance. However, Mr. Yates stated that this was a literal interpretation of the definition. He informed the Board that the concluding paragraph of the definition was erroneous and was not the intent of the Board of Supervisors when adopting the Ordinance. Mr. Yates informed the Board that the minimum lot width is measured at the point where the front yard is established. He informed the Board that Mr. Ghent's interpretation was very liberal but erroneous.

Mr. Ghent stated that he was only appealing Mr. Yates decision on a friendly basis. He indicated that he felt it would help both Mr. Yates and Mr. Hendrickson to have this issue clarified or relayed to the Board of Supervisors for an amendment to the Ordinance. Mr. Ghent informed the Board that the R-3 zoning category has a minimum yard requirement controlled by a 40° angle of bulk plane but not less than 30 ft. He stated that there was no definite

040

front yard until one knows the topography of the land as well as the height of the building. He stated that the Ordinance is clear on what constitutes a front yard, "a line between the front lot line and the building." Mr. Ghent pointed out that nowhere in the definition does it refer to the required front yard.

Mr. Ghent showed the Board a plat of the proposed division of the property. The proposed two lots, one of which was regular shaped had a lot width of 105 ft. and the irregularly shaped lot had ~~an average~~ lot width of 109 ft. Mr. Ghent stated that they proposed to place the building at a point that is about 142 ft. wide. In Mr. Ghent's interpretation of the definition of a front yard a variance would not be necessary. However, the Zoning Administrator determined that a variance was necessary despite the clear definitions.

Chairman Smith questioned Mr. Ghent as to if the lot width at the proposed location of construction was not consistent with the front width or parallel width whether a variance would be needed under Mr. Yates' interpretation. Mr. Ghent stated that if you had a regular lot under the old Ordinance and the same lot under the new Ordinance where it was rectangularly shaped that there was no real problem because a regular lot basically would have 100 ft. at the front lot line and 50 ft. at the 50 ft. point. However, an irregular lot such as the lot under question was 100 ft. at a 50 ft. point and then at the front it was 90 ft. Under the new Ordinance, that same lot would be required to have 100 ft. at a point 35 ft. back and not 50 ft. back which was the previous requirements. Mr. Ghent stated that under the irregularly shaped lot definitions that lot does meet today's Ordinance and there is no problem. However, if you took Mr. Yates' interpretation that even under an irregularly shaped lot that you still have to meet the requirements 35 ft. back then that lot does not meet the requirements of the present Ordinance. Mr. Ghent stated that was the question.

Mr. Yates stated that if understood Mr. Ghent's position, this particular lot would not have qualified for a subdivision under the new Ordinance because the front yard requirement had been reduced from the 50 ft. to 35 ft. based on the angle of bulk plane. As a consequence, the line of measurement is moved up from a 50 ft. point to a 35 ft. point.

Chairman Smith stated that there indeed was a question but that he understood the Zoning Administrator's interpretation based on the intent. However, based on the writing of the Ordinance he could also understand Mr. Ghent's position. But what the Board and Mr. Yates was attempting to do was to try to read the Ordinance and if there was a mistake or a question to go back and search out the intent.

Mr. Ghent stated that if you applied Mr. Yates interpretation to this lot then you create other problems. He stated that there was not a simple solution to substitute one word in the Ordinance. He stated that the whole section needed redoing.

Chairman Smith stated that there was an alternative to the problem through the variance route to the Board if a hardship could be established.

There was no further testimony.

R E S O L U T I O N

Ms. Ardis made the following motion:

In Application A-279-78 by PETER C. LAGANAS under Section 18-301 of the Fairfax County Zoning Ordinance to appeal the Zoning Administrator's decision that an irregular shaped lot in a proposed subdivision needs a variance to the minimum lot width requirement even though it exceeds the minimum when measured in the manner prescribed by the Ordinance Section 20-300, definition of Lot Width, on property located at 8414 Riverside Road, tax map reference 102-3((20))1, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and,

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on December 12, 1978; and

R E S O L U T I O N

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

Mr. Barnes seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

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Page 41, December 12, 1978, Scheduled case for

10:35 PETER C. LAGANAS, appl. under Sect. 18-401 of the Ord. to allow sub-A.M. division into two lots one of which has a width of 26 ft. (80 ft. required by Sect. 3-307), located 8414 Riverside Rd., Riverside Subd., 102-3((20))1, 70,987 sq. ft., Mt. Vernon Dist., R-3, V-280-79.

The required notices were in order.

Mr. Victor Ghent, an engineer from Annandale, represented the applicant. He stated that the lot has less than the required frontage on Riverside Road. The average lot width is 176 ft. and there was enough land area for 5 or 6 lots. Mr. Ghent stated that this lot has 3 to 4 times the area of the other lots in the surrounding vicinity. The parcel has an unusual depth. There are public utilities available for the development of the land. The new front lot would have an average width of 109 ft. The house would be placed on the rear lot at a point 140 ft. wide. The Board viewed the proposed grading plan and the subdivision plat.

There was no one to speak in favor of the application and no one to speak in opposition.

R E S O L U T I O N

In Application No. V-280-78 by PETER C. LAGANAS under Section 18-401 of the Zoning Ordinance to permit subdivision into two lots, one of which has width of 26 ft. (80 ft. required by Sect. 3-307), on property located at 8414 Riverside Road, tax map reference 102-3((20))1, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 12, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 1.63 acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

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

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

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

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

Page 42, December 12, 1978, Scheduled case for

10:45 GREAT FALLS ROMAN CATHOLIC CHURCH/BISHOP OF CATHOLIC DIOCESE, REV.
A.M. THOMAS J. WELSH,*appl. under Sect. 3-103 of the Ord. to permit a
church, located 1020 Springvale Road, 12-1((1))32, 14.0344 acres,
Dranesville Dist., R-1, S-281-78. (*AND HIS SUCCESSORS IN OFFICE)

042

The required notices were in order.

Mr. Charles Runyon, 152 Hillwood Avenue, Falls Church, represented the applicant. Chairman Smith stated that the application should be amended to read the Rev. Thomas J. Welsh and his successors in office. Mr. Runyon stated that his use would be a church and a mission for St. Lukes. He stated that it would serve approximately 200 families. He indicated that nothing special was being requested at this time and that the operation would be for a church. He stated that the church would operate under the normal hours of church activity.

There was no one to speak in favor of the application. Mr. Drew Guise of 1032 Springvale Road spoke in opposition. He stated that he had a question about the church access to the property. He understood the access to be a double land right at the corner of his property. He understood that a 120 ft section of the church property had been deeded to the Highway Department for future road construction. He stated that there was a blind hill and a curve on this section of Springvale Road. Mr. Guise stated that he knew better than most about the traffic problems in this area. The road is very narrow. Mr. Guise informed the Board that he really was not in opposition of the church but of the road situation. He stated that there should be some other entrance where it was more readily visible that there was an entrance at that point. He informed the Board that the Virginia Department of Highways did not have any plans for the straightening of Springvale Road until 1995. He stated that he would be pleased to have a church in his backyard. Mr. Guise was informed to work out the road entrance situation with Mr. Runyon and the County staff at the time of Site Plan review.

During rebuttal, Mr. Runyon stated that he would address the question of site distance at the time of Site Plan. He stated that they might have to shift the entrance down a bit in order not to have to do a lot of extensive road work. He stated that they needed approval of the use permit before they could get some indication as to the road situation.

There was no one else to speak in opposition.

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Board of Zoning Appeals

GREAT FALLS ROMAN CATHOLIC CHURCH/
BISHOP OF CATHOLIC DIOCESE, REV. THOMAS J.
WELSH AND HIS SUCCESSORS IN OFFICE

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-281-78 by GREAT FALLS ROMAN CATHOLIC CHURCH/BISHOP OF CATHOLIC DIOCESE, REV. THOMAS J. WELSH AND HIS SUCCESSORS IN OFFICE under Section 3-103 of the Fairfax County Zoning Ordinance to permit a church on property located at 1020 Springvale Road, tax map reference 12-1((1))32, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on December 12, 1978; and

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-1.
3. That the area of the lot is 14.0344 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

R E S O L U T I O N

043

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

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

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

4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.

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

6. Landscaping and screening shall be required and must satisfy Sect. 13-109 and Sect. 13-110 of the Zoning Ordinance except as qualified below.

7. The hours of operation shall be normal church activities.

8. The number of parking spaces shall be 140.

9. Adequate sight distance shall be provided for the entrance of the church at the time of the Site Plan approval.

Mr. Barnes seconded the motion.

The motion passed by a vote of 5 to 0.

Page 43, December 12, 1978, Scheduled case for

11:05 ANNANDALE BOYS CLUB, INC., appl. under Sect. 4-603 of the Ord. to
 A.M. permit boys club administration & bingo, located Virginia Plaza
 Shopping Center, Little River Turnpike, 72-4((1))3, 16,965 sq. ft.,
 Mason Dist., C-6, S-282-78.

The required notices were in order. Mr. Blaine Friedlander of 2018 N. 16th Street in Arlington, represented the applicant. Chairman Smith informed him that the Board could not address the issue of Bingo but would consider the administration office and storage and a meeting place for the coaches. Mr. Friedlander stated that they felt that the site chosen was appropriate and that the parking was adequate. This would give the club adequate room to store records and to handle the necessary meetings of the leagues in order to insure that the club activities are conducted properly. Mr. Friedlander stated that the club has programs of baseball, football, softball and riflery. The location is in a shopping center with about 1900 parking spaces available. He stated that there should be no real impact on the surrounding community as far as traffic. The other business in the center have been contacted and they have no objections. As far as the club was aware, there is not any objections to this application.

In response to questions from the Board, Mr. Friedlander stated the office would be in the basement of the shopping center. The entrance was at the front of the shopping center with steps down an outside entrance. You don't have to enter the main building in order to reach the basement. Mr. Friedlander stated that it was all open space with plenty of room for storage. He informed the Board that the length of the lease was for seven years. The Board inquired if there were any other tenants in the shopping center. Mr. Friedlander stated that the stores were Marshall's, Evans and Hecht's. Ms. Ardis inquired if the proposed hours of operation conflicted with the store hours. Mr. Friedlander stated that he was not aware of the store hours. He informed the Board that 9 A.M. to 9 or 10 P.M. was scheduled for meetings. Sometimes the meetings run longer and therefore the club was asking for hours of 9 A.M. to 12 A.M. Originally, they asked for a closing of 12 A.M. because of the bingo. However, Mr. Friedlander stated that hours of 10:30 E.M. or 11 P.M. would be sufficient for their needs.

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ANNANDALE BOYS CLUB, INC.
(continued)

Mr. Friedlander stated that at the present time they are operating at Baileys Crossroads. He stated that no sports would be played at the new location. The club would use the gymnasium facility and the athletic facilities of the Fairfax County public schools and the Park Authority. He stated that the club is planning to develop their own field facilities in the near future.

There was no one else to speak in favor of the application and no one to speak in opposition.

Page 44, December 12, 1978
ANNANDALE BOYS CLUB, INC.

Board of Zoning Appeals

R E S O L U T I O N

Ms. Ardis made the following motion:

WHEREAS, Application No. S-282-78 by ANNANDALE BOYS CLUB, INC. under Section 4-603 of the Fairfax County Zoning Ordinance to permit boys club administration and meetings of parents, coaches, etc. relating to the operation and programs of said club, on property located at Virginia Plaza Shopping Center, tax map reference 72-4(1)3, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on December 12, 1978; and

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

1. That the owner of the subject property is the Virginia Plaza, Inc.
2. That the present zoning is C-6.
3. That the area of the lot is 16,965 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conditions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in C Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening shall be required and must satisfy Sect. 13-109 and Sect. 13-110 of the Zoning Ordinance except as qualified below.
7. The hours of operation shall be 9 A.M. to midnight.

Mr. Yaremchuk seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

044

D45

Page 45, December 12, 1978, Scheduled case for

11:20 A.M. CHARLES SAMPSON & JOHN O. BECK, appl. under Sect. 18-401 of the Ord. to allow subd. into 11 lots with proposed lots 1, 2 & 3 having width of 10 ft., 4 having width of 12 ft. & 5 having width of 8 ft., (100 ft. minimum required by Sect. 3-206), located 6836 Braddock Road, 71-4((1))29, Annandale Dist., 5.76 acres, R-2, V-26-078. (Deferred from 11/21/78 for notices).

The required notices were in order. Mr. Charles Runyon of 152 Hillwood Avenue in Falls Church represented the applicants. Mr. Runyon stated that the reason they were before the BZA was because of the County staff. He stated that it was Preliminary Engineering's recommendation that ingress and egress not be from Braddock. A variance would be necessary for the frontage requirements. Mr. Runyon showed the Board a sketch plan of the proposed subdivision with ingress & egress from a street created within the subdivision.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 45, December 12, 1978 Board of Zoning Appeals CHARLES SAMPSON & JOHN O. BECK

R E S O L U T I O N

In Application No. V-260-78 by CHARLES SAMPSON & JOHN O. BECK under Section 18-401 of the Zoning Ordinance to permit subdivision into 11 lots with proposed lots 1, 2 & 3 having width of 10 ft., lot 4 having width of 12 ft. and lot 5 having width of 8 ft. (100 ft. minimum lot width required by Sect. 3-206), on property located at 6836 Braddock Road, tax map reference 71-4((1)) 29, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 12, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 5.8306 acres.
4. That the applicant's property has an unusual condition in the acute traffic problem on Braddock Road and the request of the County staff.

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

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

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

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 with 1 abstention (Chairman Smith).

Page 46, December 12, 1978, Scheduled case for

11:30 A.M. SYDENSTRICKER UNITED METHODIST CHURCH, appl. under Sect. 3-103 of the Ord. to permit construction of a new church sanctuary and educational unit, located 8508 Hooes Rd., 89-3((1))15, Springfield Dist., 4.9075 acres, R-1, S-264-78.
(Deferred from 11/21/78 for notices).

SYDENSTRICKER UNITED METHODIST CHURCH, appl. under Sect. 18-401 of the Ord. to allow gravel parking lot (dustless surface required by Sect. 11-102), located 8508 Hooes Road, 89-3((1))15, Springfield Dist., 4.9075 acres, R-1, V-265-78
(Deferred from 11/21/78 for notices).

The required notices were in order. Mr. John Kirkland of Springfield represented the applicants. He stated that the purpose of the special permit was to allow the church to build a new sanctuary on land that is owned by the church. He stated that the church staff presently consists of a part-time secretary and the pastor. He informed the Board that at the present time the church was not considering a child care facility in the church. He stated that the structure would be brick and mason and would be a two story colonial design.

The other request of the church was for a variance to the dustless surface requirement to permit a gravel parking lot. Mr. Kirkland stated that they had worked with the County staff and have provided the number of parking spaces required for a 300 seat anctuary. Mr. DiGiulian informed the Board that the plat indicated parking for 76 cars. In response to how the spaces would be marked, Mr. Kirkland stated they would be marked at the time of paving which would take place in about three years.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 46, December 12, 1978

Board of Zoning Appeals

SYDENSTRICKER UNITED METHODIST CHURCH

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-264-78 by SYDENSTRICKER UNITED METHODIST CHURCH under Section 3-103 of the Fairfax County Zoning Ordinance to permit construction of a new sanctuary and educational unit on property located at 8508 Hooes Road, tax map reference 89-3((1))15, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and,

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on December 12, 1978; and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-1.
3. That the area of the lot is 4.9075 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable with out further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be they duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

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R E S O L U T I O N

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4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening shall be required and must satisfy Sect. 13-109 and Sect. 13-110 of the Zoning Ordinance except as qualified below.
7. The hours of operation shall be normal church operations.
8. The number of parking spaces shall be 76.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

R E S O L U T I O N

In Application No. V-265-78 by SYDENSTRICKER UNITED METHODIST CHURCH under Section 18-401 of the Zoning Ordinance to permit gravel parking lot on property located at 8508 Hooes Road, tax map reference 89-3((1))15, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 12, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 4.9078 acres.

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

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

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

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

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

11:45 WALDEN GLEN SWIM CLUB, INC., appl. under Sect. 6-303 of the Ord. for A.M. addition of two (2) lighted tennis courts and paved parking lot to existing community recreation facilities, located 79-4((9))90, 91 & pt. 14P, Cardinal Forrest Subd., Springfield Dist., 78,822 sq. ft., PRC, S-263-78. (Deferred from 11/21/78 for Notices).

Mr. David Johnson of Springfield represented the club. He stated that he was a member and that this was an existing club. There is a gravel parking area. He stated the purpose of this application would be to construct two tennis courts and to pave the parking lot and to landscape and to put in sidewalks.

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Mr. Johnson stated that they met all of the requirements under the Ordinance for the zone. The Ordinance requires 43 parking spaces for a pool of their size based on the number of people that can use the pool and the number of employees in addition to the tennis courts. However, the club would only like to construct 37 parking spaces because of the land available. It would be difficult to develop more than 37 spaces. He stated that the club had studied their parking needs and that at the peak hours on Sunday there were only 34 cars. The average use is 24 cars. He informed the Board that as this was a neighborhood pool most of the members walk to the facility. Forty-eight per cent of the membership live within four blocks of the pool and sixty-eight per cent live within six blocks.

There was no one to speak in favor of the application. The following persons spoke in opposition.

Mr. James Trumbul of 6119 Harmon Place stated that he lived only two doors from the club area. He stated that his reservations concerned the parking and the property values. With respect to the number of cars at peak hours, Mr. Trumbul stated that a number of cars park on the street all through the neighborhood. He stated there was an average of six cars on the street. He was also concerned about the membership being increased to 300. Mr. Trumbul stated that he would like to see the parking lot paved and the tennis courts constructed at the back of the property. It was constructed at the back of the property, Mr. Trumbul stated that he would have no objections. He stated that he objects to the present proposed location because it is near the street. Mr. Trumbul showed the Board a sketch he had drawn relocating the tennis courts.

The next speaker was Arnom H. Harris, Jr. of 6121 Harmon Place, who lives adjacent to the pool property. He stated that he supported the concept of the tennis courts because it would add to the value of the property. However, he shared Mr. Trumbul's concern on the proposed physical location of the courts. He stated that he had seen Mr. Trumbul's drawing and from a tennis player standpoint thought the relocation more effective. Chairman Smith inquired as to how he suggested the pool comply with 103 parking spaces and still have room for the tennis courts. Mr. Harris stated that he did not feel 103 parking spaces were necessary.

Ms. Ardis inquired as to the number of employees and was told the club had four. She then inquired as to the reasons why the club could not comply with the minimum number of required parking spaces. Mr. Johnson stated that it would be difficult to get more than 37 spaces on the club's property. He stated that he would like to keep the proposed tennis courts at the present location because of the sun. He informed the Board that they had tried out several layouts before deciding on the present one. He stated that he had seen the drawing of Mr. Trumbul's but stated that he had never seen any cars park in front of the club. He stated that he could not keep members of the pool from parking in the street and that the club's parking lot was never more than half-full. He informed the Board that the club could send out letters to the members regarding parking in the street and perhaps this would solve the problem.

The next speaker was Mr. Elridge Eton of 6104 Harmon Place, President of the Club. He stated that the club's Board of Directors were having a meeting this evening and would sanction against member's parking in the streets. He stated that he hoped the membership would support the tennis courts.

Mr. Yaremchuk inquired that as the pool was under a use permit and showed 103 parking spaces originally, wouldn't it create a problem to eliminate some of the parking at this time. After much discussion, Chairman Smith stated that the Board could not reduce the parking without a new application to reduce the parking under the old special permit. The Board stated that the applicant would have to come back with a new application to amend the present use permit to reduce the parking and would have to justify the reduction and still maintain the facility with that reduction.

After more discussion regarding the parking situation, Mr. DiGiulian moved that S-263-78 for Walden Glen Swim Club, Inc. be allowed to withdraw the application without prejudice. Mr. Yaremchuk seconded the motion. The motion passed by a vote of 5 to 0.

12:00 P.M. GEORGE V. GRAHAM, JR., appl. under Sect. 18-301 of the Ord. to amend Zoning Administrator's refusal to approve building permit for a greenhouse for a commercial nursery on property in an RE-1 district, located 10614-10618 Leesburg Pike, 12-3((1))11 & 12, (3.5776 acres), Dranesville Dist., R-1, A-217-78. (Deferred from 11/14/78 for additional written and oral testimony and a decision).

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Mr. Gary Sheehan of Lewis, Wilson & Jones, Ltd. of Arlington represented the applicant. He informed the Board that he would have represented Mr. Graham in the previous hearings except for Mr. Graham's faith. Now, Mr. Graham has asked him to represent him at the appeal proceedings to obtain a building permit. Mr. Sheehan stated that he had spoken with Ms. Anderson from the County Attorney's Office and there was concern as to whether or not Mr. Graham had a vested right on August 11th when he was turned down on his building permit application. Mr. Sheehan stated that because of the time that action was taken that Mr. Graham does indeed have a vested right to construct a greenhouse on the property. Mr. Sheehan stated that the Board of Zoning Appeals themselves had stated that this case was not similar to the DeAngelis application. Large sums of money have been spent by Mr. Graham in this endeavor. He was only following the laws of Fairfax County. In Mr. Yates' memorandum, he stated that if the 1978 Zoning Ordinance was still in effect that he would issue a building permit without delay. Mr. Sheehan stated that is what Mr. Yates should have done the first time. Mr. Sheehan stated that just because there was a change in the laws Mr. Graham should not be refused a building permit on the grounds that it might open up a floodgate of similar applications. Again, Mr. Sheehan stated that Mr. Graham has a vested right to construct a greenhouse and asked the Board to reverse the decision of the Zoning Administrator.

Mr. Yaremchuk stated that as he understood the situation, the building permit is in another area now and the only ones who could authorize it were the Board of Supervisors. He stated that the Board of Zoning Appeals had no jurisdiction over it.

Mr. Sheehan stated that the BZA could reverse the decision of the Zoning Administrator and direct that he issue the building permit. Chairman Smith stated that in this case, it would be for the issuance of a building permit as the Board did not have the authority to direct that. They could only direct the Zoning Administrator to approve the use. Chairman Smith then inquired as to how you would direct the Zoning Administrator to approve the use when a special exception was now required by the Board of Supervisors. Again, Mr. Sheehan stated that Mr. Graham's vested rights began in August prior to the effective date of the new Zoning Ordinance. He stated that if the denial of the use was wrong back in August then Mr. Graham should be granted the permit. Mr. Sheehan stated that you can't change the laws on a person when he was following the proper procedures under the old laws. Mr. Graham was entitled to the building permit. Mr. Sheehan stated that perhaps Mr. Yates thought the Board of Zoning Appeals would consider this use not acceptable as in the DeAngelis case but stated that it was not up to the Zoning Administrator to interpret.

Mr. Yaremchuk inquired if the Zoning Administrator should have ignored the previous decision of the Board even though this was a similar case. Mr. Sheehan stated that there were dissimilarities between the two cases. He stated that Mr. Yates should have considered it on its own merit. Mr. Sheehan stated that the Zoning Administrator's duty lay more to the laws than to the Board of Zoning Appeals.

Mr. Yaremchuk stated that after the Board of Zoning Appeals took the action they did regarding the DeAngelis case, he assumed the Zoning Administrator received the advice of the County Attorney as to this present application and any precedents which might develop if the building permit was issued. He stated that he was defending Mr. Yates because of the problem created by the Board of Zoning Appeals. The final decision in the DeAngelis case came from the judge. Mr. Yates did not have any choice in the action he took.

Mr. Sheehan stated that the DeAngelis case was a commercial nursery which was not a permitted use in a RE-1 zone. As per Judge Middleton's decision, the Board of Zoning Appeals was wrong. Mr. Sheehan stated that because the BZA was wrong, the decision of the Zoning Administrator to deny the building permit to Mr. Graham was also wrong. The wrong has to be corrected even though the Zoning Administrator made his decision in good faith. Mr. Sheehan stated that Mr. Yates could have conferred with the County Attorney but that he did not have benefit of what the counsel might have stated. Mr. Sheehan stated that the laws of Virginia has ruled and there is no reason to deny the building permit.

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Ms. Anderson from the County Attorney's Office stated that she only had one comment. She stated that she sympathized with Mr. Graham's problem and had researched to determine whether there was a way to authorize the building permit but there was none. She further stated that there is no authority to allow Mr. Yates to go back and retroactively approve the building permit or to approve a building permit that would be in violation of the Zoning Ordinance.

Mr. Yaremchuk stated that the new Ordinance is in effect. However Mr. Sheehan had argued that Mr. Graham had vested rights as he had filed prior to the effective date of the new Ordinance. Mr. Yaremchuk inquired if Ms. Anderson was saying that since the new Ordinance was in effect that Mr. Graham did not have vested rights. Ms. Anderson replied that the filing of an application did not grant vested rights. Ms. Ardis inquired if Ms. Anderson was saying that there are no rights until the application was approved. Ms. Anderson stated that was correct.

Mr. DiGiulian stated that in his opinion Mr. Graham does have vested rights because the Zoning Administrator's decision was based on erroneous information. Chairman Smith stated that the fact that Mr. Graham filed the application prior to the effective date of the new Ordinance does not give him vested rights. Mr. DiGiulian stated that if Mr. Graham had filed the building permit before the July 20th decision of the BZA the Zoning Administrator would have signed off on it. Mr. Barnes agreed.

Ms. Anderson informed the Board that even if they overturned the Zoning Administrator's decision Mr. Graham would still be required to file for a special exception. There was no precedent involved.

Mr. Sheehan stated that Mr. Graham's rights were indeed vested when he filed the application and was denied. There was nothing else Mr. Graham could do at that point. Again, Mr. Sheehan stated that when Mr. Graham's application for a building permit was denied his rights were vested and that fact could not be changed.

There was no further discussion.

R E S O L U T I O N

Mr. DiGiulian moved that the Board of Zoning Appeals overrule the Zoning Administrator's decision in the case of George V. Graham, Jr.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Ms. Ardis stated that she supported the resolution even though Mr. Yates did everything he could but his decision was based on information that was not correct.

Chairman Smith stated that is exactly why the Zoning Administrator should be upheld. He stated that Mr. Yates made his decision on what he thought was an interpretation of this Board and it was based on information that he had before him at that time.

There were no further comments.

12:20 P.M. BOWL AMERICA, INC., appl. under Sect. 1-400 of the new Ord. and Sect. 30-7.2.10.7.12 of the previous Zoning Ordinance to permit bowling center, located 5615 Guinea Rd., 77-2((1))32, Annandale Dist., 2.97 acres, I-5, S-268-78.
 (Deferred from 11/28/78 for decision).

Mr. DiGiulian inquired if the applicant had submitted a landscaping plan as requested by the Board at the previous hearing. Mr. Lawrence, attorney for the applicant, reported that the landscaping plan was submitted as a transparency and was in the file. He also reported that the architectural design of the building on all sides except the one facing the warehouse would be a mansard roof with brick facing on the front. He stated that all phases of the building that can be seen from the residential property would be of an architectural design. There were no further questions from the Board.

R E S O L U T I O N

051

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-268-78 by BOWL AMERICA, INC., under Section I-400 of the Fairfax County Zoning Ordinance to permit bowling center on property located at 5615 Guinea Road, tax map reference 77-2((1))32, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on November 28, 1978 and deferred for decision until December 12, 1978; and

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

1. That the applicant is the contract purchaser.
2. That the present zoning is I-5.
3. That the area of the lot is 2.97 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in I Districts as contained in Section 9-006 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening shall be required and must satisfy Sect. 13-109 and Sect. 13-110 of the Zoning Ordinance except as qualified below.
7. The hours of operation shall be 8:30 A.M. to 2:00 A.M., seven (7) days a week.
8. The number of parking spaces shall be 189.
9. The effects of all parking lot lighting shall be confined to the site and maximum height of all lights shall be 12 ft.
10. The free-standing sign shall be a maximum of 32 sq. ft. in size and a maximum of 15 ft. in height.
11. The building sign shall be limited to a maximum of 116 sq. ft.
12. This approval is subject to compliance with the landscape plan submitted by the applicants at the time of the hearing with all trees being 6 ft. or greater at the time of planting.
13. This approval is subject to the architectural facade as presented by the applicant being provided on the building.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 1 (Ms. Ardis).

Page 52, December 12, 1978, After Agenda Items

V.F.W. Post No. 8241: The Board was in receipt of a request from Mr. Hugh H. Hughes of Patton, Harris, Rust & Guy, for approval of a redesign in the previously approved parking lot because of a problem with the septic field. The V.F.W. Post is located on 1051 Spring Hill Road in McLean. During discussion of the revised plat, Mr. DiGiulian stated that the only difference on the plat was on the north and south side in the rear parking area where it would be located closer to the property line. Mr. Covington advised the Board that there was not any setback requirement for parking.

Mr. DiGiulian moved that the Board approve the amended plat for the redesign of the parking lot. Mr. Barnes seconded the motion. The vote passed unanimously by a vote of 5 to 0.

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Page 52, December 12, 1978, After Agenda Items

S-112-76, Northern Virginia Speech & Language Center, Inc. T/A Dolley Madison Preschool: The Board was in receipt of a letter from the school requesting an extension of the special permit which was issued jointly to the center and the preschool in July 1976. The permit had expired and the administrators were not aware of the expiration as they believed the permit to be granted for a period of three years.

It was the consensus of the Board that a new application would have to be filed and a public hearing ^{held} on it before the Board could take any action. The Clerk was requested to notify the school to file a new application.

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Page 52, December 12, 1978, After Agenda Items

APPROVAL OF MINUTES: The Board unanimously approved the adoption of the Minutes for July 5, 1978 and July 11, 1978 as amended.

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Page 52, December 12, 1978, After Agenda Items

Konrad Palmer Hartl: The Board was in receipt of a letter in response to its inquiry regarding the Reston covenants. Mr. K. David Lindner of the Gulf Companies reported to the Board that the Reston Covenants had been challenged from time to time over the years but that the Gulf Companies had not been party to any of the actions.

The Board decided to schedule the continuation of the Hartl hearing for the second meeting in January and requested the Clerk to so notify the applicants.

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Page 52, December 12, 1978, After Agenda Items

V-302-77 FLOYD & CAROLE SCHWARTZ: The Board was in receipt of a request from the applicants to grant an extension on the variance previously granted by the Board on December 13, 1977.

Mr. Barnes moved that the Board grant an 180-day extension on V-302-77. Mr. DiGiulian seconded the motion. The motion passed unanimously by a vote of 5 to 0.

// There being no further business, the Board adjourned at 2:30 P.M.

BY

Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

APPROVED: _____

Submitted to the BZA on _____.
Submitted to the other departments,
Board of Supervisors and Planning
Commission on _____.

052

053

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday Night, December 19, 1978. The following Board Members were present: Daniel Smith, Chairman; George Barnes; John Yaremchuk and Barbara Ardis. Mr. DiGiulian was absent.

The meeting began at 8:20 P.M. led with a prayer by Mr. Barnes.

The Chairman called the scheduled 8:00 P.M. case.

8:00 P.M. - LARRY L. SIMMS, appl. under Sect. 18-401 of the Ord. to allow construction of garage/workshop to 39 ft. of Beach Mill Road and 21.8 ft. of outlet road (50 ft. required by Sect. 3-E07), located 9900 Beach Mill Road, 8-1((1))3, Dranesville Dist., 2.09484 acres, RE, V-284-78.

Mr. Larry Simms informed the Board that there are two factors involved in this hardship application. One being that it is a hardship to live in Great Falls without a covered garage without storage space. He stated that he has lived at this address for 2 1/2 years and had done a lot of renovation to the property. He stated that the house was very old and was surrounded by a lot of large trees. The present location of the house is 18 ft. from Beach Mill Road. He stated that there were three possible locations in which to construct the garage but that only one was feasible without getting a variance. This would be to the north of the house and behind the house. Ideally, Mr. Simms would like to construct the garage so as to walk right into the house but this is impossible because of the grading and other problems close to the house. The existing well is only about 4 ft. from the house. There is not any public water nearby.

To the north of the house in the back is a dropoff which would prevent construction and would also be hard to negotiate in rough weather. Mr. Simms stated the proposed addition would be a rather large one with the part of the addition closest to Beech Mill Road being a greenhouse. This will be a two car garage with the greenhouse and storage above. Mr. Simms stated that if he were allowed to build that they would then use the existing 20 ft. outlet road rather than the existing driveway which was in a dangerous position because of the traffic.

In response to Chairman Smith's question, Mr. Simms stated that it was not possible to move the proposed structure closer to the house because of the location of the well and the large number of trees in the back yard. In addition, the back door of the house was located on the east side of the house about 2/3 back from the front of the house. Any structure built would have to be built outside of the existing trees and would make the minimum distance to the back door about 60 ft. It would also involve driving on a steep grade. The property drops off very sharply past the maple trees.

Mr. Simms stated that the logical place to build a garage was where he had proposed it. This would be a multi-purpose building and would have a small greenhouse. There is no sun in the back yard because of the grade dropoff and the existing trees.

Mr. Yaremchuk inquired as to why Mr. Simms didn't construct the addition on the west or north side of his property as he had a lot of property. He could not understand why Mr. Simms would want everything in one corner of the property. Mr. Simms stated that the photographs he submitted showed the trees surrounding the house. To build beyond the trees would place the garage well over 100 ft. from any door. He stated that they would have to walk all around the house and up the grade to get to the door. Mr. Simms stated that on the west side of the property the distance to the house would be extremely great so that would not solve the problem either.

There was no one to speak in favor of the application and no one to speak in opposition.

Mr. Yaremchuk moved that the application be denied. The motion died for a lack of a second. Chairman Smith suggested that the applicant request a deferral in order to allow the absent Board member to review the file and to listen to the tapes and participate in the decision. Chairman Smith stated that he personally could not support the application unless there were severe topographic conditions. Mr. Barnes moved that the application be deferred until the absent Board member is present and to allow time to actually view the property. Ms. Ardis seconded the motion. This matter was deferred until January 17, 1979 at 12:00 P.M. for viewing and for further questions and decision.

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Page 54, December 19, 1978, Scheduled case for

8:10 - WILLIAM B. & DIANNE E. HARRAH, appl. under Sect. 3-103 of the Ord. P.M. to permit home professional office (graphic arts), located 11718 Amkin Drive, Plantation Hills Subd., 86-3((5))7, 7.6513 acres, Springfield Dist., R-1, S-283-78.

054

Mr. Hugo Blankenship, an attorney on University Drive in Fairfax, represented the applicants. He stated that both the applicants were present and that both were commercial artists. Mr. Blankenship stated that the Harrahs had operated this same business for many years in the City of Fairfax. In response to a question from the Board Chairman, Mr. Blankenship stated that they did have the necessary approved permits from the City to operate their business. A copy of the approval was in the file indicating that the Harrahs had operated for many years without any complaints. The Harrahs sold their house in the City and constructed a house near Clifton. The surrounding property owners do not object to the use proposed. In addition, Mr. Blankenship stated that a former employee of the City of Fairfax proposed to go on record in favor of the application.

With respect to the staff report, Mr. Blankenship stated there remains a question as to whether the commercial artists is considered a professional. A commercial artist is not listed in the definition of home professional as defined in Section 20 of the Zoning Ordinance. However, Mr. Blankenship stated that from a legal standpoint it would be classified as a professional and gave the Board some documents from the federal government regarding job classifications. Mr. Blankenship argued that a commercial artist performed similar functions and activities as the listed occupations for professionals in Section 20.

The BPOL section of the Office of Assessments lists a category for professionals and then in another section lists a special occupational group for a number of artists, designers and sculptors. However, the tax rate for both groups are the same and there is not other distinction.

Mr. Blankenship informed the Board that the Harrahs had moved their property from ¼ acre to 7 acres. The house is not visible from the street. The lot slopes to the rear. No sign will be requested as it is not needed. There will not be any clients visiting the property nor will any deliveries be made to the property in connection with the business.

Mr. Barnes inquired about the type of machinery found in the home as there was a letter in the file from a neighbor stating that huge, expensive machinery was located in the home. Mr. Blankenship reported that the machine used was actually smaller than the average xerox machine. He stated that it does not do set-type. The machine poses words on paper that are then taken to the printers for off-set printing. Mr. Blankenship stated that the work involved mostly design layout and that there would not be any huge quantities of paper involved in the operation.

The following following persons spoke in favor of the application. Mr. Robert Becker, former employee with the City of Fairfax, of 5888 Golden Ring Court stated that the Harrahs were responsible for all graphic materials published for the City of Fairfax. This also included a newsletter. He stated that the nature of the work required personal contact where he was able to make contact with the Harrahs and actually observe the operation. Mr. Becker stated that the City of Fairfax never received any complaints from the Harrahs' neighbors regarding their operation. He stated that he felt that Fairfax City had lost two valuable professionals who were assets to the community. He urged the Board to grant the application.

The next speaker was Mr. Syd Patteson who was publisher of the Year Book for Fairfax County. He stated that he worked with printers. He stated that he taught them how to use camera ready material and so was familiar with the type of work that the Harrahs would be performing. Mr. Patteson stated that he was the closest neighbor to the Harrahs' property. The property is heavily wooded and has very large trees. He stated that he could barely see the house. Mr. Patteson stated the composer used by the Harrahs was used to set camera ready copy which then would go to a printer to be photographed. He felt that the use would be compatible with the neighborhood.

The next speaker was Mr. H. A. Kelly, owner of lot 27. He also indicated that he could barely see the house or the lights on in the house. He stated that he did not have any objection to the proposed use of the property.

There were two letters of opposition in the file. One was from Dennis and Kay Driscoll and the other was from an anonymous person.

Mr. Yaremchuk inquired if the road into the subdivision was in the state system and was informed by Mr. Blankenship that it was. In addition, Mr. Blankenship stated that the road did not have any curb or gutter but that fire equipment would get back there without any difficulty. He stated that the road was a dust-free surface.

There was no one else to speak in favor or in opposition to the hearing.

R E S O L U T I O N

Ms. Ardis made the following motion:

WHEREAS, Application No. S-283-78 by WILLIAM B. & DIANNE E. HARRAH under Section 3-103 of the Fairfax County Zoning Ordinance to permit home professional office (graphic arts) on property located at 11718 Amkin Drive, tax map reference 86-3(5)7, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and,

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on December 19, 1978; and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-1.
3. That the area of the lot is 7.6313 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening shall be required and must satisfy Sect. 13-109 and Sect. 13-110 of the Zoning Ordinance except as qualified below.
7. The hours of operation shall be 6 A.M. to 5 P.M., Monday through Friday.
8. The number of parking spaces shall be two (2).
9. There shall be no exterior alterations.
10. This permit is granted for a period of three (3) years.
11. No sign shall be permitted.
12. No clients will be permitted on property.
13. No deliveries or pickups will be made to the property by anyone other than the applicants.
14. Use will be limited to the applicants and two (2) employees.
15. No machinery or heavy equipment other than a computer (photo-composer), small copier and typewriter will be permitted.

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R E S O L U T I O N

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 56, December 19, 1978, Scheduled case for

8:30 P.M. - BURKE UNITED METHODIST CHURCH & TOWN CRIER PARTNERSHIP T/A CENTURY 21 TOWNSIDE PROPERTIES, appl. under Sect. 18-401 of the Ord. to allow commercial use of existing church building which is 16.4 ft. from Burke Lake Road (24 ft. required by Sect. 4-507), located 9415 Burke Lake Road, 78-1((1))19, Springfield Dist., 13,214 sq. ft., C-5, V-287-78.

Mr. Stuart Kerry of 4041 University Drive in Fairfax represented the applicants. He informed the Board that the Burke United Methodist Church owns the property. When Chairman Smith inquired about the commercial zoning, Mr. Kerry stated that was part of the Master Plan and that the church has been operating since prior to 1959. He stated that the church has outgrown the building and is moving to another location in Burke. He stated that the use of the property for any other use other than a church would require a variance to the front and side yard requirements. Mr. Kerry stated that when they applied for a site plan waiver they were instructed to obtain a variance from the BZA. Chairman Smith stated that any variance granted would only run the course of the Site Plan Waiver which is good for two years. Mr. Kerry informed the Board that the shopping center adjacent to the property was in concurrence with the variance. He stated that the Townside Properties had been in contact with the shopping center regarding parking so that there would not be any need for ingress and egress from the subject property.

Mr. Yates, Zoning Administrator, informed the Board that the plat would require additional parking added to the shopping center to comply with the required number of parking for the shopping center and the church. He stated that it would appear to be one unified parcel. Mr. Yaremchuk inquired if the BZA could grant a variance to park off the site as it did not appear that there was any room on the property. Mr. Kerry informed the Board that there were only eight parking spaces available on the site. The County informed them they would require twelve parking spaces. Mr. Kerry stated that the front portion of the building was going to be leased to the Burke Historical Society so that the total square footage of the building would not be office use. Mr. Kerry stated that they could possibly arrange for nine parking spaces from the shopping center. Then there would be a total of seventeen parking spaces. Mr. Yaremchuk inquired if the Board could approve parking off the site and was informed by Mr. Covington that the parking was not a part of the application. Mr. Covington stated that parking on adjacent property is frequently done and approved by the Planning Commission and the Site Plan Office. He stated that the Board had often approved such parking in the past for churches if the additional parking was ambiguous. Mr. Covington reminded the Board that they were not granting the use that was already allowed in the zone. Mr. Yaremchuk replied that if the Board did not grant the variance then they could not use the building. He inquired if the staff could approve parking for four more cars off the site. Mr. Kerry stated that unless the variance were granted the only use that could be made of the building would be the church. He stated that the Historical Society was not using the building as yet.

The following persons spoke in favor of the application. Ms. Beth Prescott stated that she has lived in Burke since 1950 and lives on land that was owned by Robert E. Lee. She attends the church that Robert E. Lee attended. She informed the Board that their church needed a new building and could have sold the property to any other people. However, these people had promised to maintain the church in its historical nature. They were going to preserve the main sanctuary of the church and were going to lease part of the building to the Historical Society. She urged the Board to grant the variance.

Mr. Roy Carson, Jr. of 9230 Burke Lake Road, spoke on behalf of the 72 members of the Burke Historical Society. They were in favor of the granting of the application. He stated that the church building was built originally for a railroad station and was used during the Civil War by Jeb Stuart. He stated that the partnership had promised to save the building and use it as museum leased by the Historical Society for \$1.00 a year. He urged the Board to grant the variance.

Mr. Yaremchuk inquired why the County staff was requiring 12 parking spaces if the entire church was not going to be used for office purposes. Mr. Kerry stated that the staff was unaware that about 4,500 sq. ft. would be a museum. Chairman Smith inquired as to the number of employees in the real estate office. Mr. Kerry stated that the real estate company already has two offices and that this would be the third office. He indicated that there would only

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be three employees as that was all the facility could handle.

The next speaker was Ron Savino from the Burke Community Civic Association. He read a letter into the record from Mr. Carter Boehm addressed to Roy Carson. Mr. Yaremchuk inquired if the Board could put conditions on the granting of the variance in order to preserve the building and was informed by the Chairman it could not. Chairman Smith stated that the Historical Society had no interest in this variance other than an agreement with Town Crier Partnership. Mr. Covington suggested that the Board condition the variance with additional screening if it desired but stated it could not condition the use. Chairman Smith stated that unless there was an agreement on certain conditions that the Board had no authority to restrict the use.

Again, Mr. Kerry informed the Board that the use was permitted by right in this particular zone. It was a non-conforming use and they are now required to meet the setback requirements of the new Code because they are changing the use. Mr. Yaremchuk inquired as to the hardship in this application. Mr. Kerry stated that at present there was a church in the building. He stated that if the real estate office does not buy the property no one else would. The church has to relocate.

Page 57, December 19, 1978 Board of Zoning Appeals
BURKE UNITED METHODIST CHURCH &
TOWN CRIER PARTNERSHIP T/A CENTURY
21 TOWNSIDE PROPERTIES

R E S O L U T I O N

In Application No. V-287-78 by BURKE UNITED METHODIST CHURCH & TOWN CRIER PARTNERSHIP T/A CENTURY 21 TOWNSIDE PROPERTIES, under Section 18-401 of the Zoning Ordinance to allow commercial use of existing church building which is 16.4 ft. from Burke Road and 15.6 ft. from the side lot line (24 ft. minimum required by Sect. 4-507 and 18 ft. side yards required by Sect. 4-507) on property located at 215 Burke Lake Road, as map reference 78-11(1)-19, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 19, 1978; and

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

1. That the applicant is the contract purchaser.
2. The present zoning is C-5.
3. The area of the lot is 13,214 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

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

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

Ms. Ardis seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 58, December 19, 1978, After Agenda Items

APPROVAL OF MINUTES: Mr. Barnes moved, Ms. Ardis seconded and it was unanimously approved to approve the Board Minutes for July 18, 1978 as corrected.

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Page 58, December 19, 1978, After Agenda Items

TERM OF EXPIRATION FOR MR. BARNES: Letter of notification to Judge Jennings was reviewed by Board. At the December 12th meeting, the Clerk was instructed to prepare a letter notifying Judge Jennings that Mr. Barnes term on the BZA would expire February 19, 1979.

// There being no further business, the Board adjourned at 10:00 P.M.

BY Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

APPROVED: _____
Date

Submitted to the BZA on _____
Submitted to the other departments,
Board of Supervisors and Planning
Commission on _____

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, January 9, 1979. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes; John Yaremchuk and Barbara Ardis.

The meeting began at 10:40 A.M.

The Chairman called the scheduled 10:00 A.M. case.

- 10:00 A.M. - HAYWOOD J. HARDING, appl. under Sect. 18-301 of the Ord. to appeal decision of Zoning Administrator interpreting Sect. 3-206.4.A(1) as requiring the minimum lot width to exist at a point 35 ft. back from where a pipe stem driveway abuts a public street, located 4029 Guinea Road, 58-4((7))7E, Annandale Dist., 1.5660 acres, R-1, A-296-78.
TO BE HEARD IN CONJUNCTION WITH:
- 10:00 A.M. - HAYWOOD J. HARDING, appl. under Sect. 18-401 of the Ord. to allow subd. into three lots, one of which has width of 16 ft. (100 ft. req. by Sect. 3-206), located 4029 Guinea Road, 58-4((7))7E, Annandale Dist., 1.5660 acres, proposed R-2, V-286-78.

The Board was in receipt of a letter requesting withdrawal of both A-296-78 and V-286-78. Mr. Barnes moved that the Board allow the withdrawal of both applications without prejudice. The motion was seconded by Mr. DiGiulian and was passed unanimously.

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Page 59, January 9, 1979, After Agenda Items

SCHEDULING OF MEETINGS: The Chairman informed the Clerk with regard to scheduling of meetings that if there were less than three cases to be heard on a particular date that the BZA meeting be cancelled.

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Page 59, January 9, 1979, After Agenda Items

ELECTION OF BOARD CHAIRMAN FOR 1979: Mr. Barnes nominated Daniel Smith as Board Chairman for 1979. Mr. DiGiulian seconded the motion and it was passed unanimously.

ELECTION OF VICE-CHAIRMAN FOR 1979: Mr. Barnes nominated Mr. DiGiulian as Vice-Chairman for 1979. Ms. Ardis seconded the motion and it was passed unanimously.

ELECTION OF CLERK TO THE BOARD FOR 1979: Mr. Barnes moved to nominate Sandra Hicks for Clerk to the Board for 1979. Mr. DiGiulian seconded the motion and it was passed unanimously.

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Page 59, January 9, 1979, Scheduled case for

- 10:30 A.M. - W & N COMPANY, appl. under Sect. 18-401 of the Ord. to allow a subdivision into two lots, the corner lot of which has width of 156 ft. (175 ft. required by Sect. 3-106), located 11607 Popes Head Road 67-2((1))32, Springfield Dist., 3.000 acres, R-1, V-289-78.

As the required notices were not in order, the application was deferred until January 30, 1979 at 10:50 A.M.

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Page 59, January 9, 1979, Scheduled case for

- 10:40 A.M. - A. CHARLES BROWN & JOHN L. DONIPHAN, appl. under Sect. 18-401 of the Ord. to allow subdivision with proposed lots 3 & 4 having width of 10 ft. (80 ft. required by Sect. 3-306), 101-4((1))27, Mt. Vernon Dist., 2.66 acres, R-3, V-290-78.

As the required notices were not in order, the application was deferred until January 30, 1979 at 11:00 A.M.

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Page 60, January 9, 1979, Scheduled case for

10:50 - STEPHEN L. KEIDAISH, appl. under Sect. 18-401 of the Ord. to allow a subd. into 2 lots, one of which has a width of 12 ft. (200 ft. A.M. min. required by Sect. 3-E06), located 968 Bellview Road, 20-1((1)) 28 & 29, Dranesville Dist., 4.1 acres, R-E, V-293-78.

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Mr. William Arnold, an attorney at 4085 Chain Bridge Road in Fairfax, represented the applicant. He stated that the property was long and narrow and that the applicant proposed to develop it into two lots, one with 2 acres and the other with 2.1 acres. Because of the configuration of the property, a variance would be necessary in order to have a 12 ft. driveway entrance rather than the required 200 ft. lot frontage. Mr. Arnold stated that the use meets all other zoning requirements under the Master Plan. He stated that the development would be in conformance with the surrounding properties.

There was no one else to speak in favor of the application. The following persons spoke in opposition to the application. Mr. Manning Gash of 8501 Georgetown Pike stated he has owned his property over 65 years. He owns 40 acres. He stated that he had considered the applicant's proposal and was opposed to it because it was not compatible with the surrounding lot sizes on Bellview Road. In addition, it cannot be developed because of the covenants on the property. He stated that the property does not lend itself to development as the land is very rocky and possibly would not pass perc. In addition, the location of the proposed driveway would have poor visibility on Bellview Road and Mr. Gash urged the Board to deny the application.

The next speaker was James E. Howell, an adjacent property owner, who owns 8.8 acres. He stated that he has lived on the property for 23 years. He stated that his chief objection was the traffic hazard because of the road situation. His second objection was that his home is located on the far side of the property and he would find it very objectionable to have a road alongside his property. He informed the Board that he had no intention of subdividing his property even though it was possible. Mr. Howell presented the Board with a letter from the property owner on the other side of the subject property who was also in opposition because of the traffic hazard. Mr. Howell also had a letter from a new property owner two doors down from the subject property who had the same objections. He also had a letter from Mr. Simpson who lived on Old Dominion who was also in opposition to the application. Mr. Howell informed the Board that there is a dangerous curve on Bellview Road. He stated that he would rather drive three to four blocks out of way rather than run the risk of an accident or a collision on the curve. He stated a lot of people travel over these roads as people from Reston use it as a cut-through to get to the beltway.

The next speaker in opposition was Mr. Lucius Kingman of 6610 Weatherford Rd. in McLean. He stated that he could not understand how this property could be developed without further study. He informed the Board that when he developed his property he was required to post bond and construct a lot of trails. Mr. Kingman stated that the application was deficient in more areas than road frontage and urged the Board to deny the application.

During rebuttal, Mr. Arnold stated that Mr. Keidaish was not trying to subdivide this property for profit but for a retirement home for his parents. Mr. Arnold stated that some of the surrounding lots were smaller than these proposed lots. As far as impact, if the variance were granted the only house that would be seen from the road would be the existing house and a new driveway. There would be no visual affect on the neighbors. This would not be a situation of houses crowded together. Mr. Arnold stated that the Board of Supervisors had determined that two acre lots were an accepted use for this property based on the fact that they zoned it R-E. The Master Plan calls for even more density, 1/4 acre lots. With respect to the perc test, that application to the Health Department would be made before the property is developed. It cannot be done until the variance is granted. Mr. Arnold stated that the County would not allow a house to be built on the property until there is a perc field. With respect to the traffic, Mr. Arnold stated that the staff report did not contain any comments from Preliminary Engineering. The location of the driveway is situated such that there would not be any visual problems created. There would not be a substantial increase in the number of cars. This is only one house with only cars from that residence going in and out. Mr. Arnold stated that the granting of the variance would not create any traffic hazard.

During questioning, Mr. Arnold stated that if the Board desired, there could be a common driveway created to serve both lots. If the Board allowed the two driveways, they would be about 25 ft. apart. Ms. Ardis inquired about the speed limit for this area. Mr. Keidaish stated that the speed limit was 25 m.p.h. and that there were signs indicating the curve. Mr. Keidaish stated

that there would not be any site problem with where the proposed driveway was to be located. In answer to Chairman Smith, he stated that he has owned the property for one year. There were no further questions from the Board.

R E S O L U T I O N

Mr. Yaremchuk moved that the Board deny the application. The motion failed for lack of a second.

In Application No. V-293-79 by STEPHEN L. KEIDAISH under Section 18-401 of the Zoning Ordinance to permit subdivision into 2 lots, one of which has a width of 12 ft. (200 ft. minimum required by Sect. 3-E06) on property located at 968 Bellview Road, tax map reference 20-1((1))28 & 29, County of Fairfax, Virginia. Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 9, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 4.1 acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

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

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

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

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.
3. This variance is subject to the provisions of one common driveway for both lots.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 2 (Chairman Smith and Mr. Yaremchuk).

Page 61, January 9, 1979, Scheduled case for

11:10 - SHELL OIL CO. & NATIONAL CABLE SATELLITE CORP. d/b/a C-SPAN, appl. A.M. under Sect. 18-401 of the Ord. to allow erection of 120 ft. high tower 13 ft. from a lot line in the rear yard (120 ft. setback required by Sect. 10-105), located 81-1((1))D, Mason Dist., 1.27234 acres, I-5, V-300-78.

The required notices were in order. Mr. Brian Lamb, President of the National Cable Satellite Corp. appeared before the Board. His office was 1745 Jefferson Davis Highway in Arlington. Mr. Lamb reported to the Board on the nature of the variance. He stated that the property was irregularly shaped. It is zoned I-5 and is owned by the Shell Oil Park. He stated that the National Cable Satellite Corp. was formed to televise the live sessions of the House of Representatives. They were given approval to do this in 1978 and have been looking for property on which to set up the tower necessary for transmission. The land would have to be high in order not to get any interference on the transmission. Mr. Lamb stated that they have found just such a location in

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the Shell Industrial Park. Mr. Lamb stated that this proposed site was adjacent to the Public Broadcasting System property. He stated that this location was one of the most desirable locations in the vicinity of Washington. Mr. Lamb stated that they had been working very hard since approval of the idea in order to be set up by February when the House of Representatives resumed. Only after negotiations had begun did they become aware of the height limitations on the building restrictions imposed because of the PBS Tower. Mr. Lamb stated that they contacted PBS in order to have permission to transmit from their tower and were refused permission. He stated that they were then granted permission from Shell to put the tower on its land. The rear portion of the property will be sold in the near future. Mr. Lamb stated that there would be a 120 ft. setback on three sides of the property except for the back side. He stated that the National Cable Satellite Corp. would insure the back portion of the property so that they would be fully covered. He stated that they did not expect any problems. Engineers have certified this to be a very sturdy structure. Mr. Lamb stated that they were also building a tower on top of an apartment building in Arlington. He stated that they have notified more people than required in order to make everyone surrounding the property aware of what they were doing.

In response from questions from the Board, Mr. Lamb stated the tower would be three-legged and would be just as sturdy as the PBS Tower across from it. He stated that it would be built by a firm in Rockville who are experienced in building towers. In addition, he stated that members of the Board of his corporation have built towers before also. He stated that the PBS Tower is 183 ft. tall and this tower would only be 120 ft. He stated that Shell Oil owns all of the property surrounding this particular lot.

There was no one else to speak in support of the application. The following people spoke in opposition to the application. Mr. Michael Gartland of 3501 Cartwheel Place in Fairfax stated that he opposed the application. He stated that the plats he had obtained from the file indicated that the tower would be located 120 ft. from PBS lot line. However, the application filed with the Aviation Department showed a 4 ft. beacon which would raise the height of the tower to 124 ft. If this were true, it would fall on PBS property. He stated that he opposed the tower higher than 120 ft. if it would fall on PBS property. He stated that the PBS engineers had stated ~~there was~~ would not be any interference from the new tower proposed. In response to the question of the beacon, Mr. Lamb stated that it was just a beacon light and not a transmitting beacon. He also stated that it was his understanding from the Aviation Department that because the PBS already had a beacon, it was not necessary for National Cable to have one. Chairman Smith suggested that if it was necessary that they move the tower back another 4 ft. Mr. Lamb stated they could do that. He stated that if the tower were to fall, it would fall on a gravel area. He informed the Board that this was not a collapsible tower. Chairman Smith stated that it was his opinion that if a light was required by the Federal Aviation Agency that it would not be of any consequence. He also stated that he felt it might be required even though there was a beacon on the PBS Tower as National Cable Satellite did not own the other property.

Mr. Lamb informed the Board that if they moved the tower that they would want to stay in approximately the same location as they had already had a study done on the soil. Mr. Gartland stated that they would have no objection to the new tower if it were located so as not to infringe on PBS property.

The next speaker in opposition was Arlen Realty, owners of the Valley Part Apts. The representative stated that they were in opposition and suggested that National Cable try renegotiations with PBS to locate the tower on the existing one. He stated that would clear the issue. I-95 is unsightly with all the towers along it and Arlen Realty did not believe the landscape should be disrupted further. The apartments are a garden apartment complex and the tower is over 100 ft. high. He stated that this was a bad use and that they did need another one. Chairman Smith informed the speaker that the question of renegotiation was not in the jurisdiction of the BZA.

During rebuttal, Mr. Lamb stated that National Cable has spent a great deal of time with this application. He stated that they did not want to build the tower. They had tried negotiations with PBS but it would cost a lot of money. PBS turned them down. Mr. Lamb stated that their resources were limited and they had tried everything they could to avoid building the tower. He stated that the citizens of Bren Mar have supported this application. He stated that the I-5 zone permits the tower by right.

R E S O L U T I O N

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In Application No. V-300-78 by SHELL OIL CO. & NATIONAL CABLE SATELLITE CORP. d/b/a C-SPAN, under Section 18-401 of the Zoning Ordinance to allow erection of a 120 ft. high tower 13 ft. from a lot line in the rear yard (120 ft. setback required by Sect. 10-105), located at tax map reference 81-1((1))D, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 9, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is I-5.
3. The area of the lot is 1.27234 acres.
4. That the applicant's property is exceptionally irregular in shape and has an unusual condition in the limited area that such a tower can effectively operate.

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

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

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

1. This approval is granted for the location and the specific structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. The height of the tower and any required beacon light shall be less than the distance of said tower to the PBS property line.
4. The applicant shall furnish the BZA with a copy of the hold harmless agreement for the record as it applies to any individual or corporation who purchases adjoining land from Shell Oil.

Mr. DiGiulian seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 63, January 9, 1979, Scheduled case for

11:20 - DR. DONALD W. COHEN & DR. FRED G. GARRISON, appl. under Sect. 4-603 A.M. of the Ord. to permit veterinary clinic, located 6411 Shiplett Blvd., 88-2((1))4A, Springfield Dist., 19.455 acres, Rolling Valley Mall Subd., C-6, S-285-78.

The required notices were in order. Dr. Donald Cohen appeared before the Board. He stated that he and his partner, Dr. Garrison, proposed to rent an area in the Rolling Valley shopping mall for a small animal clinic. There would not be any boarding or grooming conducted on the premises. He stated this was an ideal location for the use as it was in a shopping center. The clinic will be open from 8 a.m. to 7 p.m. and would serve 15 to 30 clients on an out-patient basis. He stated that one doctor should be able to handle this facility. They would operate by an appointment only basis. In response to questions from the Board, Mr. Cohen stated that the store next door has been leased and the lessee is in favor of the proposal. He stated that their builder, Mr. Paul Rose, has built other clinics and is familiar with the requirements for odor and noise. His partner, Dr. Garrison would handle the larger animals. They would have limited appointments on Saturday and would be closed on Sunday. The term of the lease is for 20 years with continuing options every four or five years.

Mr. DiGiulian inquired as to whether the Zoning Ordinance specified a certain length of time for a granting of this type of use. Chairman Smith stated that as long as they leased the building that there was not any other limitation. Chairman Smith informed the applicants that the use would only be granted to them and not to any new owners at a later time as the use was not transferable without further action from the Board. Any new ownership would require a new hearing.

There was no one else to speak in favor of the application. The following person spoke in opposition. Mr. Carl Barber stated that he lived across the street from the shopping center and was concerned about the noise control. In addition, he was concerned about injured animals and whether there would be outside runs. Chairman Smith stated that the noise would be contained in the building and that no animals would be kept overnight. He informed Mr. Barber that there was another clinic in Springfield that has been operating for a long time and that there has not been any problems associated with its use. Dr. Cohen stated that some animals might be kept overnight but that these animals would not be doing much barking. As much as possible, the services would be on an out-patient basis.

Page 64, January 9, 1979 Board of Zoning Appeals
DR. DONALD W. COHEN & DR. FRED G. GARRISON
R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-285-78 by DR. DONALD W. COHEN & DR. FRED G. GARRISON, under Section 4-603 of the Fairfax County Zoning Ordinance to permit veterinary clinic on property located at 6411 Shiplett Blvd., tax map reference 88-2((1)) 4A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on January 9, 1979; and

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

1. That the applicant is the lessee.
2. That the present zoning is C-6.
3. That the area of the lot is 19.445 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in C Districts as contained in Sect. 8-006 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the non-residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

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6. Landscaping and screening shall be required and must satisfy Sect. 13-109 and Sect. 13-110 of the Zoning Ordinance.

7. This permit is to run concurrently with the ownership and the lease, a such lease being four (4) options for a five (5) year period.

Ms. Ardis seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 65, January 9, 1979, Scheduled case for

11:40 - WOODLAND UNITED METHODIST CHURCH, appl. under Sect. 3-203 of the A.M. Ord. to permit building and parking lot addition to existing church located 7730 Fordson Road, Gum Springs Subd., 102-1((1))77 & 78, Mt. Vernon Dist., 1.92727 acres, R-2, S-291-78.

Mr. Hal Richardson, architect for the church, appeared and stated that a special permit had been granted in September a year ago but because of delays it ran out. The church is not reapplying. He informed the Board that the only change was that the County changed the required parking spaces. Last year there had been a question about dedication for a service road. Mr. Richardson stated that the church has agreed to dedicate the land to the highway system. Mr. Richardson stated that there is a little triangle of land in the area of the church that they do not own. It is owned by one of the adjacent property owners. The church cannot dedicate that land. However, a road could be built without touching that land. Chairman Smith inquired if the church still planned a sanctuary for 435 seats. Mr. Richardson stated only a combination of 354 seats would be planned of which 216 were from the existing church. There are 67 parking spaces provided. Mr. Richardson stated that the size of the addition is still the same as last year. The classroom size has been changed. The total seating capacity with both the new addition and the existing church will be 354.

There was no one else to speak in favor of the application. There was no one to speak in opposition.

Page 65, January 9, 1979 Board of Zoning Appeals
WOODLAWN UNITED METHODIST CHURCH
R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-291-78 by WOODLAWN UNITED METHODIST CHURCH under Section 3-202 of the Fairfax County Zoning Ordinance to permit building and parking lot addition to existing church on property located at 7730 Fordson Road, tax map reference 102-1((1))77 & 78, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on January 9, 1979; and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-E.
3. That the area of the lot is 1.92727 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance,

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

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

4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.

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

6. Landscaping and screening shall be required and must satisfy Sect. 13-109 and Sect. 13-110 of the Zoning Ordinance.

7. The hours of operation shall be normal church operation.

8. The number of parking spaces shall be 62.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 66, January 9, 1979, Scheduled case for

12:00 - HELEN JOHNS LLIFF, appl. under Sect. 3-203 of the Ord. to permit a P.M. home professional office located 1330 Merrie Ridge Rd., Dogwoods of Langley Subd., 31-2((19))19, 24B & 24C, Dranesville Dist., 17,269 sq. ft., R-2(c), S-292-78.

Dr. Iliff stated that she was applying to move her practice across the street in a residence that she was planning to construct. She stated that she has lived at her present address since 1971 (1333 Merrie Ridge Road) and has operated a home professional office at that location for the same length of time. She informed the Board that she sees very few patients at her home. Most of the patients are seen at the hospitals in the district. She only sees patients who are critically ill. She stated that she would only see an average of three patients a day at her residence. Dr. Iliff stated that most of her time is spent training new pediatricians and physicians, doing clinical research and speaking across the country. Only about $\frac{1}{4}$ of her time is spent in medicine. She stated that her practice is not a large one. In response to questions from the Board, Dr. Iliff stated the hours would be between 10 and 4. She stated that most of her patients are children brought by their parents. Occasionally, she would handle emergencies on the weekend or at night. She stated that 9 to 5 would be adequate hours. Dr. Iliff stated that she did not have any employees working with her except for a part-time person, four days a week for $\frac{1}{2}$ a day. She stated that she did not have any doctors associated with her practice and did not intend to have any.

Admiral Hill, head of the Merrie Ridge Civic Association, spoke in favor of Dr. Iliff's application. He stated that he was aware that the Board had received a letter from Mr. John Hushon in opposition to the application. Admiral Hill presented the Board with another letter from Mr. Hushon withdrawing his opposition. In addition, he gave the Board another letter in support of the application. This letter was from the property owner just behind the new property on which Dr. Iliff would build. The only letter in opposition was from Mr. Jerome Tankel who resides about $1\frac{1}{2}$ blocks away from the proposed use.

There was no one to speak in opposition to the application.

Ms. Ardis inquired as to the parking situation. Dr. Iliff stated that her patients presently park on the street. Dr. Iliff stated that she intended to live at the new residence. Chairman Smith stated that she would have to provide parking on the site for her patients any any employees. He suggested that she consult preliminary engineering for help in determining where to locate the parking out of the setback area. Chairman Smith stated that new plats would have to be submitted. Dr. Iliff informed the Board that the proposed garage could accommodate two cars. There were no further questions from the Board.

R E S O L U T I O N

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Ms. Ardis made the following motion:

WHEREAS, Application No. S-292-78 by HELEN JOHNS ILIFF practicing as Dr. HELEN JOHNS OSSOPFSKY under Section 3-203 of the Fairfax County Zoning Ordinance to permit a home professional office on property located at 1330 Merrie Ridge Road, tax map reference 31-2((19))19, 24B & 24C, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on January 9, 1979; and

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

1. That the applicant is the contract purchaser.
2. That the present zoning is R-2(c).
3. That the area of the lot is 17,269 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening shall be required and must satisfy Sect. 13-109 and Sect. 110 of the Zoning Ordinance except as qualified below.
7. The hours of operation shall be 9 A.M. to 5 P.M., Monday through Friday except on an emergency basis.
8. This permit is granted for a period of five (5) years.
9. The applicant is limited to one (1) employee.
10. Off street parking for two (2) cars for employee and clients shall be provided.

Mr. Barnes seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 67, January 9, 1979, Scheduled case for

12:20 - DISMAS HOUSE, INC., appl. under Sect. 3-103 of the Ord. to allow P.M. amendment to existing special permit to permit maximum of 8 students, located 7701 Old Telegraph Road, Piney Run Subd., 100-1((9))4, Lee Dist., 2.36 acres, R-1, S-294-78.

Mr. Reichardt stated that they had filed the application to extend the number of boys from six to eight/ He stated that as the boys graduated that there was a lag time in replacing them. The school wanted to maintain a steady residence of at least six boys and could not do that with the present limitation of six placed on them by the special permit.

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Chairman Smith stated that if the school fell under the group home category that this Board could not consider the application. He informed the applicant that a new group had been formed to listen to these types of applications. He stated that he was encouraged by the letters of support that the Board had received in support of the application.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

Mr. Reichardt stated that the previous special permit had a stipulation that the boys not attend any public school in Fairfax County. He stated that this home sits behind Hayfield High School. He stated that they would like permission for the boys to attend VOC and gym classes at the public school. Chairman Smith inquired if they were presenting attending public schools and was told no. Chairman Smith stated that this application was for a school of special instruction. He stated that if they came in with an application for a group home in the future that he would have no objection to alleviating the condition about attendance at the public schools. Mr. Reichardt stated that their school only provides for the basic skills. He requested the Board to allow the VOC instruction. Mr. Covington stated that the Board did not have the authority to grant that condition as it was not advertised.

Page 68, January 9, 1979 Board of Zoning Appeals
DISMAS HOUSE, INC.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-294-78 by DISMAS HOUSE, INC. under Section 3-103 of the Fairfax County Zoning Ordinance to permit amendment to existing special permit to allow maximum of 8 students on property located at 7701 Old Telegraph Road, tax map reference 100-1((9))4, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on January 9, 1979; and

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

1. That the applicant is the lessee.
2. That the present zoning is R-1.
3. That the area of the lot is 2.36 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.

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5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening shall be required and must satisfy Sect. 13-109 and Sect. 13-110 of the Zoning Ordinance.
7. The maximum number of students shall be eight(8).
8. All other requirements of special permit S-158-76 shall remain in effect

Mr. Barnes seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 69, January 9, 1979, After Agenda Items

APPROVAL OF MINUTES: Mr. Barnes moved and Mr. DiGiulian seconded that the minutes of the BZA meeting of July 20, 1978 be approved as amended. This motion passed unanimously.

//

Page 69, January 9, 1979, After Agenda Items

V-322-77 JARVIS A. BOYKIN, ET. AL., TRUSTEE: The Board was in receipt of a letter from Alexandria Surveys requesting an extension on the variance granted by the BZA to allow a subdivision with 3 lots having less than the required lot width on Dade Lane.

Mr. Barnes moved that Mr. Boykin be granted a six month extension. Mr. DiGiulian seconded the motion and it passed unanimously.

// There being no further business, the Board adjourned at 12:40 P.M.

BY Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

APPROVED: _____

Submitted to the BZA on _____.
Submitted to the other departments,
Board of Supervisors and Planning
Commission on _____.

The Regular Meeting of the Board of Zoning Appeals washeld in the Board Room of the Massey Building on Wednesday, January 17, 1979. The following Board members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes; John Yaremchuk and Barbara Ardis.

The meeting began at 10:10 A.M. led with a prayer by Mr. Barnes.

The Chairman called the scheduled 10 o'clock case:

10:00 - AMOCO OIL COMPANY, appl. under Sect. 18-401 of the Ord. to allow construction of building with side yard of 14 ft. (18 ft. required) and a rear yard of 18 ft. (20 ft. required), located 5523 & 5519 Franconia Road & 6201 Edison Drive, 81-4((4))8, 9, 19, Lee District, 1.14 acres, proposed C-6, V-288-78.

Mr. Robert Lawrence, an attorney in Fairfax, represented Amoco Oil and Colonial Furniture T/A Coles Furniture. Colonial Furniture was the contract purchaser for the property. Mr. Lawrence informed the Board that the property was zoned C-6 on December 11, 1978. Originally, the property was earmarked for a gas station but the citizens were not happy with that as there already were three gas stations and several fast food restaurants. Coles Furniture put a contract on the property for a furniture store. They are working with the Planning Commission and the Board of Supervisors and they feel it would upgrade the area. The property is a problem because of the size. It is difficult because the store will be larger than the property calls for. The property fronts on Franconia Avenue and Edison Street. The County required a dedication which will result in a loss of frontage along Franconia of about 30 ft. and about 5 ft. along Edison. The applicant has agreed to dedicate this land to the County at no cost to the County. This will reduce the size of the property. The building has already been reduced to the minimum that will still carry out the functions of the store. A variance is necessary for the construction of the building. The size of the proposed store will be feasible. The Planning Commission pulled this case and have recommended approval of this request. The applicant proferred to take his plan back to the Planning Commission and the Board of Supervisors to ensure that it meets with their approval. They are working with the citizens in the area. This building will greatly upgrade the area start a new trend perhaps along Franconia Road.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 70, January 17, 1979 Board of Zoning Appeals
AMOCO OIL COMPANY
V-288-79

R E S O L U T I O N

In Application No. V-288-78 by AMOCO OIL COMPANY under Section 18-401 of the Zoning Ordinance to permit construction of building with side yard of 14 ft. (18 ft. required) and rear yard of 18 ft. (20 ft. required), on property located at 5523 & 5519 Franconia Road & 6201 Edison Drive, tax map reference 81-4((4))8, 9 & 19, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 17, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is C-6.
3. The area of the lot is 1.14 acres.
4. That the applicant's property is exceptionally irregular in shape, after the requirement for dedication for two roads.

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

R E S O L U T I O N

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

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

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

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 with 1 abstention (Mr. Yaremchuk).

Page 71, January 17, 1979, Scheduled case for

10:10 - EUGENE R. GRETHER, M.D., appl. under Sect. 18-401 of the Ord. to allow resubd. of two existing lots such that one will have pipestem access with consequent width of 15 ft. (80 ft. required by Sect. 3-306), located 4010 Franconia Rd., E. F. Cannon Subd., 82-2((4))4 & 5B, Lee Dist., 57,457 sq. ft., R-3, V-297-78.

Dr. Eugene Grether informed the Board that he lived on lot 4 and owned lot 5B which was located behind it. It is about 1/3 of an acre and does not have any frontage on the road. He asked the Board for permission to have a pipestem access to Franconia Road in order to build a house on the back lot. He stated that he would like to sell the house he is living in now and build another house on the lot in the back. He thought he could do this and use the present driveway but was informed that he could not which is why he is seeking the variance.

In response to questions from the Board, Dr. Grether stated that he planned to live in the house in the rear. He stated that he has owned the property since 1964 and has lived in the area since 1952. He stated that he did not need his big house any more. Mr. DiGiulian inquired if he ever owned lot 5-A and Dr. Grether stated that was part of a lot that was subdivided a year ago. Dr. Grether stated his reason for subdividing at that time was because a man had wanted to build on the land at that time.

There was no one else to speak in favor of the application. Mr. Wayne Beck, a next door neighbor spoke in opposition to the application. Mr. Beck stated that the proposed pipestem would go immediately behind his property. He was concerned about a very huge and old maple tree which stood along the property line. In the path of the proposed pipestem was two huge apple trees. The trees are about 40 years old. Mr. Beck stated that he sits on his patio and watches the animals around these trees. He stated that he derived a great deal of pleasure from this atmosphere. He informed the Board that he would hate to see these trees destroyed. He stated that the trees were not on his property. Mr. Beck's home is located about 4 to 5 ft. from the proposed driveway. In response to questions from the Board, Mr. Beck stated that his house was constructed in May of last year. He stated that the proposed driveway would run along his bedroom windows. He added that Dr. Grether has been a very good neighbor and that he hesitated in appearing before the Board but he was concerned about the application as he felt it was detriment to his property.

During rebuttal, Dr. Grether stated that the maple tree was a small sapling in 1964 and has grown very fast. The apple trees are very old. One was hit by a wind storm and will have to come down soon anyway. He stated that he appreciated Mr. Beck's sentiments about the trees. Dr. Grether stated that a new maple tree can be planted. He stated that he did not feel that the trees were a serious enough objection. He stated that Mr. Beck has his own trees on his own property to look at and for shade so that he would not be deprived. He stated that the pipestem driveway would be along the lot line on the other side of the fence. He stated that it would not be a hardship for anyone living there.

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R E S O L U T I O N

In Application No. V-297-78 by EUGENE R. GRETHER, M.D., under Section 18-401 of the Zoning Ordinance to allow resubdivision of two existing lots such that one will have pipestem access with consequent width of 15 ft. (80 ft. required by Sect. 3-306) on property located at 4010 Franconia Road, tax map reference 82-2((4))4 & 5B, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 17, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 57,457 sq. ft.

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

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

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

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Ms. Ardis).

Page 72, January 17, 1979, Scheduled case for

10:20 - PAUL E. & ADENE ROSE, appl. under Sect. 18-401 of the Ord. to
A.M. allow subd. into 7 lots, 5 of which have width of 3.6 ft. (150 ft. ^{min}
lot width required by Sect. 3-106), located 11411 Waples Mill Rd., 46-2((1))
30, Centreville Dist., 10 acres, R-1, V-298-78.

The required notices were in order. Mr. Paul Rose of 11411 Waples Mill Road appeared before the Board. He stated that he was requesting a variance so that he could have less than the required lot width on five lots of a seven lot subdivision. He stated that his property was very long and narrow. The property has 450 ft. on Waples Mill Road but narrows down to a point in the rear. The property is 1500 ft. deep from the road. The shape of the property precludes the use of it for the amount of land that he had. Mr. Rose stated that he would like to keep the existing house with two big barns intact on a two acre parcel of land keep the apple orchard on another two acre parcel. Mr. Rose stated that the land all around his was rural. Fairfax Farms subdivision is to the back rear of his property. They are very old and large lots. They are the densest development near the property. Mr. Rose stated that his property was being closed in by development in the area. He stated that he expected more development along Waples Mill Road as it has become a thoroughfare. Mr. Rose stated that he has owned his property since 1965.

Chairman Smith inquired if there was some way of providing access to the property with a public street. Mr. Rose stated that the property was too narrow in the rear. He stated that Fairfax Farms did not have any streets near by in order to connect. He informed the Board that the State Department of Highways had held a public hearing to determine if there was some way of providing other access to Fairfax Farms other than Route 50 but everyone at the meeting was against it. The people did not want to put any more traffic on Waples Mill Road. Mr. Rose stated that after 15 years of living there, the State Highway Department had finally painted white lines on Waples Mill Road.

There was no one else to speak in support of the application. The following persons spoke in opposition to the application. Mr. Emory of 11333 Waples Mill Road stated that he lives near the subject property. He stated that his property did not have any road frontage. He expressed a concern over the situation. He hoped someday a road would be cut through from Pine Tree Drive. Mr. Emory stated this property touched the subject property in the back. He stated that he has a right-of-way from Waples Mill Road. He lives on the back of the old Thomas Leggs Farms. In order to have a state road put in,

Mr. Emory stated he would have to buy 4½ more acres to the rear near Fairfax Farms or buy enough of Gumble's property to continue Pine Tree Drive to his property. Mr. Emory stated that he was not in opposition to Mr. Rose's request but he wanted to express his disappointment in the state road system. He stated that his property was the only land without road frontage in the area.

The next speaker was Mrs. Marshall of 11311 Waples Mill Road, who owned the lot 31 which adjoins the subject property. She stated that she was not opposed to the application but was concerned about the water flow as her property was lower than the Rose's property. She stated that she did not want a water problem or erosion. She was informed by the Board to check with Design Review about the drainage.

During rebuttal, Mr. Rose stated that there was a natural swell that runs across his property. There is a slight hill. In order to get site distance, the entrances would be located at the top of the hill on Waples Mill Road. Mr. Rose stated that he could assure Mrs. Marshall that there would not be any more water on her property than presently flows there. Mr. Rose stated that as far as Mr. Emory's property was concerned, he did not think any road put in would be of any benefit to Mr. Emory.

The Board questioned the unusual layout of the plan and inquired as to why it was planned that way. Mr. Rose stated that he wanted to keep the two front lots larger than the others to save some attractive features, like the barn. In addition, the engineer was trying to get the best perc in the area by using the shapes that he did. There is a swell on the property. After much discussion, the Board suggested that he rework the layout and possibly cut down on the lots requested.

R E S O L U T I O N

In Application No. V-298-78 by PAUL E. & ADENE ROSE under Section 18-401 of the Zoning Ordinance to permit subdivision into 7 lots, 5 of which have width of 3.6 ft. *on property located at 11411 Waples Mill Road, tax map reference 46-2(1)30, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 17, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 10 acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow or shallow.

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

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

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED IN PART *(to allow subdivision into 5 lots, 3 of which have width of 6 ft.) with the following limitations:

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

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3. This variance is granted subject to compliance with the Public Facilities Manual for pipestem lots requirements.

4. This variance is granted subject to submission of revised plats in conformance with the resolution to be submitted within 45 days.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

Page 74, January 17, 1979, Scheduled case for

10:30 - MR. & MRS. GERALD WALDMAN, appl. under Sect. 18-401 of the Ord. to allow subd. into 2 lots, one of which has width of 80 ft. ±, and the other a width of 15 ft., (100 ft. required by Sect. 3-206), located 4719 Trotting La., 70-1((1))15A, Annandale Dist., 36,947 sq. ft., R-2, V-299-78.

For information concerning the hearing, please refer to the verbatim transcript in the file.

The hearing was deferred for decision until January 30, 1979 as an after agenda item.

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Page 74, January 17, 1979, Scheduled case for

10:40 - MARTHA L. GETCHELL, appl. under Sect. 18-401 of the Ord. to allow resubdivision of two existing parcels into two lots such that proposed lot A-1 would have a width of 58.51 ft. (min. 200 ft. required by Sect. 3-E06), located 9111 Mine Run Drive, Jackson Hills Subd., 13-2((1))37 & 13-2((4))8, Dranesville Dist., 181,518 sq. ft., R-E, V-302-78.

As the required notices were not in order, this case was rescheduled for February 13, 1979 at 10:00 A.M.

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Page 74, January 17, 1979, Scheduled case for

10:50 - JOHN PARROTT & ARIF HODZIC, appl. under Sect. 18-401 of the Ord. to allow subd. into two lots, one of which would have width of 20 ft. (min. 100 ft. required by Sect. 3-206), located 2116 Elliott Avenue, Crimmins Subd., 41-1((16))3, Dranesville Dist., 1.474 acres, R-2, V-204-78.

Mr. Arif Hodzic of 4948 Chara Avenue in Alexandria stated that the lot is equivalent to 1 1/4 acres where the zoning requirement is 1/2 acre per lot. He informed the Board he was the contract purchaser. The lot is situated between two streets. Nottingham Street is dedicated but has not been constructed. It would be difficult to have adequate frontage as the street has never been constructed. If the street in the rear of the property is constructed which is a dedicated County road then the lot could be subdivided into two lots without getting a variance. As that was very costly and would destroy the woods, the applicant felt it would be much easier to have a pipestem to one of the lots. In response to questions from the Board, Mr. Hodzic stated that Nottingham Street is dedicated but has not been constructed. In order to reach the subject property, Mr. Hodzic would have to bring the road quite a ways or wait until development of the other lots in the area. Mr. Hodzic informed the Board that Nottingham was in the process of a vacation at this time. With regard to the hardship, Mr. Hodzic stated that it was not only financial. He considered the graphic configuration of the property to be the hardship. Chairman Smith stated that he could not see the hardship and stated that the applicant was being premature in this application. Mr. Hodzic stated that the hardship was if he had to construct the street in order to develop the property. Chairman Smith stated that he could not support this application at this time and suggested that the Board defer the application until it gets more information as to the street vacation.

There was no one else to speak in favor of the application. The following person spoke in opposition to the application. Mr. William Shumann of 2108 Elliott Avenue, owner of lot 4A, stated that he represented himself and five other property owners in the area. He stated that they were objecting to the

granting of the variance. He stated that their objection was not to the development of the property but to the access of the pipestem. With regard to the pending vacation, Mr. Whumann stated that only part of the street was to be vacated. Mr. Shumann showed the Board a map of the area in regard to the other lots and their driveways. All of the five driveways were within 100 ft. area. Mr. Shumann stated that the proposed pipestem would be 50 ft. from his driveway.

Chairman Smith stated that the road was 30 ft. and that the applicant had the right to improve that street and construct on it. Mr. DiGiulian stated that he did not believe the highway department would accept the street into its system for maintenance. Mr. Shumann stated that it appeared to him and the people he represented that it would be far less costly to use the existing right-of-way rather than construct a pipestem. Mr. Shumann stated that there was already a driveway to lot 60 using that right-of-way. He stated that he could not see why Mr. Hodzic could not connect to that driveway and continue on for about 100 ft. to reach his property. Mr. Hodzic stated that he would prefer to build in the right-of-way as it would save him some land.

Mr. Hodzic was directed to go the County and inquire about this possibility. Ms. Ardis moved that the Board defer this application for a period of 30 days for Mr. Hodzic to work with the staff and come back to the Board with a report from Design Review before the Board makes a decision in this application. Mr. Yaremchuk seconded the motion and it passed unanimously by the Board.

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Page 75, January 17, 1979, Scheduled case for

11:00 - KONRAD PALMER HARTL, appl. under Sect. 6-303 of the Ord. to permit
A.M. pastoral counseling as home occupation, located 11317 South Shore
Rd., 17-2((12))27, 10,357 sq. ft., Centreville Dist., PRC,
S-212-78.

This case had been deferred from November 7, 1978 for a meeting of the RHOA Board to provide information to the Board with respect to the covenants.

Chairman Smith inquired if the Board was prepared to make a decision. He stated that one of his concerns was the parking. There is no parking provided or indicated on the plat. In addition, the Reston covenants prohibit home professional offices in a residential area. Chairman Smith stated that he did not see how the applicant could meet the parking requirements.

Mr. Hartl stated that his driveway was 82 ft. long and that he could park five cars within that space. He stated that he could arrange it so no more than five cars would be there at any one time. He stated that he had appealed to the RHOA Board and its decision was to hold a special meeting to look into the matter. RHOA wants to appoint a special committee to review the matter as other people in the area have home professional offices. Chairman Smith stated that the size of the lot concerned him. He stated that if Mr. Hartl was connected with a church in Reston then he could have his pastoral counseling in his home in order to serve his community. However, Chairman Smith stated that this proposal could bring in people from anywhere in the community and not necessarily from the immediate area.

Mr. Hartl stated that the majority of work that he does is to see individual clients; therefore, parking would not be a problem. He stated that the only issue seemed to be group sessions and stated that perhaps he could do group sessions in another location only see individual clients at sessions in his home.

Chairman Smith stated that this use does impact the area and would change the character of the area. He stated that he was concerned with the type of service that Mr. Hartl was providing. Mr. Hartl stated that he was associated with the Episcopal church in Reston and the Episcopal church on Rt. 7. He informed the Board that he was a visiting minister. He used to be the co-rector of the church in Reston.

Mr. DiGiulian inquired if this type of use required parking on the site. Chairman Smith stated that was a requirement of the Ordinance. Again, Mr. Hartl stated that he could work out the details on the group sessions and only see clients on an individual basis in his home. Mr. DiGiulian stated he could see no problem with granting the use if Mr. Hartl guarantees that there would not be any group sessions. Chairman Smith stated that the parking

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would not be allowed in the front setback. Mr. Covington informed the Board that for a home professional office there was not any setback requirements for parking. Mr. DiGiulian inquired if Mr. Hartl would have any employees and was told no. With respect to hours of operation, Mr. Hartl stated that he would see about four people a day from 9 A.M. to 6 P.M., five days a week. Mr. Hartl stated there would not be any problem with traffic as the street deadended in front of his property. He also stated that he did not believe this use would change the character of the area. Mr. Hartl stated that he would abide by whatever conditions the Board placed on his use. Mr. Yaremchuk stated that at the first hearing he was opposed to this application but if Mr. Hartl agreed to have the group sessions elsewhere then he would support the application. He further stated that if Mr. Hartl did not abide by the conditions that the Board could revoke the permit.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-212-78 by KONRAD PALMER HARTL under Section 6-303 of the Fairfax County Zoning Ordinance to permit pastoral counseling as home occupation on property located at 11317 Sourth Shore Road, tax map reference 17-2((12))27, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on November 7, 1978 and deferred for dedision until January 17, 1979; and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is PRC.
3. That the area of the lot is 10,357 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether of not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening shall be required and must satisfy Sect. 13-109 and Sect. 13-110 of the Zoning Ordinance.
7. The maximum number of clients at any one time shall be two (2) and the maximum number of vehicles at any one time shall be one (1).

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8. The hours of operation shall be 8 A.M. to 8 P.M.
9. This permit is granted for a period of one (1) year.

Mr. Barnes seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 77, January 17, 1979, Scheduled case for

11:20 - TARA SCHOOL, INC., appl. under Sect. 3-E03 of the Ord. to permit A.M. school of general instruction for maximum of 200 students, located 1742 Sunset Hills Rd., C. R. Ball Subd., 18-3((2))5, Centreville Dist., 5.000 acres, R-E, S-201-78.

Mr. Ross F. Rogers appeared before the Board. He stated that he has been operating schools under two other special permits for some time. He informed the Board that he had very little opposition to his renewals of these schools. Now, he has finally formed a corporation. He stated that he had several people to speak in favor of the application. As he did not want to duplicate anything said by the speakers, Mr. Rogers asked that they be allowed to speak at this time.

The following persons spoke in favor of the application. Mr. Mike Mentor of Reston informed the Board that he was the pastor of the Reston Bible Church which is made up of approximately 140 families. About 80 of these families have children. These people are interested in sending their children to this proposed school so they wouldn't have to go to church schools in Fairfax. Mr. Mentor informed the Board that he felt there was a need for this school in this area. The next speaker was from Buttermilk Lane who supported the application of Tara School. The speaker supported the application because of the modern building being proposed. The site will be ideal with better roads for the transportation of children. The next speaker was Gil Brinkley who stated that the applicant was making every attempt to bend over backwards and accommodate the people in the immediate area. He stated that any concerns that this use was not compatible would be unjustified. The next speaker was James Jansen from Vienna. He stated that his 3 teenagers had all gone to Tara Schools during the past years. In 1974, the permit request for a school was met with opposition. However the use permit was granted. In 1976, the same permit was renewed without any opposition. So the concerns were totally unwarranted. This proposed school will hold up to 200 students. This is a private school and would save the taxpayers money as these children would not be attending public schools.

The following persons spoke in opposition to the application. Mr. James M. Johnson of 10728 Sunset Hill Road stated that he owned lots 1, 2 & 3. He stated that he has owned the property since 1972. He purchased the rear lots in December 1977. Mr. Johnson informed the Board that he had reviewed the file and found that all of the letters in support of this application were from parents of children already attending one of the Tara Schools. Not one of the letter had some from anyone who lived close to the site. Mr. Johnson stated that he had a real concern as to whether there was a need for a school in this location. This property had been rezoned a year ago to the objections of Mrs. Pennino and the Planning Commission of Fairfax County. Development is scheduled to begin soon in this area. Mr. Johnson stated that the roads in this area are not safe. There are two blind curves on the property which are quite sharp. In the 6 1/2 years that Mr. Johnson has lived here, there have been 8 major accidents on these two curves. Mr. Johnson stated that this road was very busy in the morning and evening. In addition, Mr. Johnson stated that it appeared that if the Dulles Toll Road was built that the Sunset Hill Road would be a deadend to build a clover leaf for the Dulles access road. Mr. Johnson stated that the property owned by Mr. Hirst was a better location for a school as there were 120 to 130 acres of ground. This property is being developed by Mr. Hirst into cluster housing. Mr. Johnson stated that the reason Mr. Hirst supported the application for the school was because it could enhance his own property. Mr. Johnson stated that he had nothing against Mr. and Mrs. Rogers but he was opposed to the school. Mr. Johnson stated that Mr. Rogers knew before he bought the property that he was opposed to the school. Mr. Johnson urged the Board to deny the application.

During rebuttal, Mr. Rogers stated that the people who wrote were under no obligation to write letters. Mr. Rogers stated that Tara Schools purchased the property in October from another person and not from Mr. Hirst. He felt that the proposed school would enhance the neighborhood and the property values.

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With respect to the site being dangerous, Mr. Rogers stated that the state highway department determines ingress and egress. He stated that they would have to meet their standards for safety. The people from Reston had agreed that they could cut down some trees for visibility. With regard to a need for a school in this area, Mr. Rogers stated that most of their children come from Reston. With respect to the dead-end of Sunset Hills Road, Mr. Rogers stated that there was no money budgeted for this project. If the road did become a dead-end, he stated that they could get access from Crowell Road. He informed the Board that the request was in compliance with the County standards.

Chairman Smith stated that the Board would defer decision on the case until after receipt of the Planning Commissions recommendations. He stated that the record would remain open for any additional testimony in writing and that no further verbal testimony would be taken unless a Board members desired it. The record was left open for a period up to February 15th in order to receive the comments from the Planning Commission.

// The Board recessed for lunch at 1:10 P.M. and returned at 1:35 P.M.

Page 78, January 17, 1979, Scheduled case for

11:40 - EMERSON H. & ANN S. BEIER AND JAMES & LISBETH K. ZIMMERMAN, appl.
A.M. under Sect. 18-401 of the Ord. to allow subd. into 2 lots, one of which has a width of 19.32 ft. (150 ft. required by Sect. 3-106), located 1440 Kirby Rd., 31-2((1))78, Dranesville Dist., 2.02454 acres, R-1, V-295-78.

The required notices were in order. Mr. John Pendergast of 117 N. Fairfax Street in Alexandria represented the applicants, both the contract purchasers and the property owners. Mr. Pendergast stated that the frontage along Kirby Road would not allow the creation of two 1/2 ac. lots & maintain the lot width requirement of the zone. The variance requested was to allow the creation of two lots with a pipestem access to the rear lot. This would create one lot with 213 ft. frontage and the other with 19.32 ft. frontage. Mr. Pendergast stated that the other lots in the area do not have this problem. Most are smaller parcels meeting the 150 ft. lot width requirement. They would not have the possibility of resubdividing. The property to the west was land locked with only an easement and did not comply with the frontage requirement either. Mr. Pendergast stated that he believed it would be a hardship to prohibit the development of the property.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 78, January 17, 1979
EMERSON H. & ANN S. BEIER &
JAMES & LISBETH K. ZIMMERMAN

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-295-78 by EMERSON H. & ANN S. BEIER AND JAMES & LISBETH K. ZIMMERMAN under Section 18-401 of the Zoning Ordinance to permit subdivision into 2 lots, one of which has a width of 19.32 ft. (150 ft. required by Sect. 3-106) on property located at 1440 Kirby Road, tax map reference 31-2((1))78, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 17, 1979; and

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

1. That the owners of the property are Emerson H. & Ann S. Beier and that the contract purchasers are James & Lisbeth K. Zimmerman.
2. The present zoning is R-1.
3. The area of the lot is 2.02454 acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

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

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

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

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Barnes seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 79, January 17, 1979, Scheduled case for

12:00 P.M. - LARRY L. SIMMS, appl. under Sect. 18-401 of the Ord. to allow construction of garage/workshop to 39 ft. of Beach Mill Road and 21.8 ft. of outlet road (50 ft. required by Sect. 3-E07), located 9900 Beach Mill Road, 8-1((1))3, Dranesville Dist., 2.09484 acres, RE, V-284-78.
(Deferred from December 19, 1978 for decision).

The chairman inquired if the Board was prepared to make a decision in this application. Mr. DiGiulian stated that he had listened to the tapes of the hearing on December 19th and had reviewed the file. In addition, Mr. DiGiulian visited the site.

Page 79, January 17, 1979
LARRY L. SIMMS

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-284-78 by LARRY L. SIMMS under Section 18-401 of the Zoning Ordinance to permit construction of garage/workshop to 39 ft. of Beach Mill Road and 21.8 ft. of outlet road (50 ft. required by Sect. 3-E07) on property located at 9900 Beach Mill Road, tax map reference 8-1((1))3, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was had by the Board on December 19, 1978 and deferred for decision until January 17, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is RE.
3. The area of the lot is 2.09484 acres.
4. That the applicant's property has exceptional topographic problems and unusual conditions in the locations of the existing buildings on the subject property.

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

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

R E S O L U T I O N

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

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

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1.

Page 80, January 17, 1979, After Agenda Items

V-339-77 ANDREW J. SMITH: The Board was in receipt of a request from Mr. Charles Runyon, engineer for the applicant, requesting an extension of time on the variance granted by the BZA on January 18, 1978.

It was the unanimous consensus of the Board to grant an 180 day extension on V-339-77.

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Page 80, January 17, 1979, After Agenda Items

S-192-77 WAYNE M. LYNCH: The Board was in receipt of a request from Mr. Wayne Lynch regarding some changes to the plat approved by the BZA. It was the consensus of the Board that the changes were more than a "minor" engineering change and as such would have to be considered during a public hearing. The clerk was instructed to so inform Mr. Lynch and to forward another application in order to amend the special permit.

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Page 80, January 17, 1979, After Agenda Items

NICHOLAS B. ARGERSON, D.D.S: The Board was in receipt of a letter from Dr. Argerson requesting a ruling from the BZA as to whether Dr. Fishman, a psychiatrist, could practice under the existing special permit of Dr. Argersons. It was the consensus of the Board to refer this matter to the Zoning Administrator for a decision.

// There being no further business, the Board adjourned at 2:00 P.M.

BY Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

APPROVED: _____

Submitted to the BZA on _____.
Submitted to the other departments,
Board of Supervisors and Planning
Commission on _____.

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The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday Night, January 23, 1979. The following Board members were present: Daniel Smith, Chairman; George Barnes, John Yaremchuk and Barbara Ardis. John DiGiulian was absent.

The Chairman opened the meeting at 8:20 P.M. led with a prayer by Mr. Barnes.

The Chairman called the scheduled 8 o'clock case.

8:00 - MEADOWBROOK ASSOCIATES, appl. under Sect. 3-303 of the Ord. to P.M. permit addition of enclosed tennis courts and swimming pool to existing commercial recreation facilities, located 1472 Old Chain Bridge Road, West McLean Subd., 30-2((7))(1)1-6, & 57-61, Dranesville Dist., 2.58 acres, C-2 & R-3, S-306-78.

The Board was in receipt of a letter from the applicant's attorney, Mr. Marc Bettius, requesting a deferral of this application until some interal administrative problems would be resolved. Mr. Covington informed the Board that when he prepared the staff report he discovered an omission of one property owner from the affidavit. Also, one of the buildings extends into the C-2 zone which does not permit the use.

The Board deferred this application for a period of 60 days at the applicant's request.

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Page 81, January 23, 1979, Scheduled case for

8:20 - FORTHWAY CENTER FOR ADVANCED STUDIES, INC., appl. under Sect. 3-E03 P.M. of the Ord. to permit private school of special education, located 10415 Hunter Station Road, 27-2((1))20, Centreville Dist., 11.89 acres, R-E, S-307-78.

The required notices were in order. The applicants were represented by Steve Coleango, of Boothe, Frichard and Dudley. He stated that the application was for a school to teach woodworking, ceramics, needlework and exercise classes. This is a private organization organized more than 20 years ago. They have been operating in D.C. for 9 years. It is a tax exempt organization. They have owned the property for several years. The members have cleared the property and planted trees. They have built a one room barn structure which they propose to convert into a guesthouse, and a storage building for the classes. The building has been inspected, building and electrical inspectors and it is suitable for a school. The applicants do not propose to build any other building.

The proposed hours for the school are to be Sundays from 9 A.M. to 5 P.M. There will be some special hours on certain Saturdays between 8 A.M. to 10 P.M. about 8 times a year or 10 times a year. The maximum number of students would be 50 with an average of 30 students. On special events, the maximum number would be 100 students. There is no paid staff. All instruction is given by volunteers. The staff is included in the maximum number of participants.

Traffic would be minimum with all peak traffic occurring at one time. The maximum number of cars on a Sunday would be about 12. There are 24 parking spaces provided on the site. The parking meets the setback for the zone. The parking would be invisible from the road and from the neighbors. While working on the property, the members used car pools and they could still do so to limit the number of cars on the property.

The comments from preliminary engineering suggested that the applicants provide dedication for future realignment of Hunter Station Road to be consistent with the need for additional road improvements in conjunction with the more intense use of the property. Dedication to be 30 ft. from the centerline of existing right-of-way for the full frontage of the property in addition to the realignment dedication. Deceleration lanes should be provided at all proposed entrances to the subject property. Mr. Coleango stated that the applicants would be willing to agree to the dedication in the future but asked that the dedication be delayed until the road improvements have been approved by the Highway Department. Also, there should be a condition that if the Highway Department did not begin construction within 10 years that the dedication be void.

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With respect to the comments about deceleration lanes, Mr. Coleango stated that most of the traffic would be approaching the property from Hunter Station Road turning left into the property so that deceleration would not be needed. In addition, there would not be a large amount of traffic.

Mr. Coleango stated that the property is rural and that the building blends in with the surrounding area. Most of the land would be left to its natural environment.

During questioning from the Board, Mr. Coleango stated that they would have approximately 8 activities a year on a Saturday with a maximum of 100 students. On Sundays, the maximum number would be about 50. The hours of operation would be 9 to 5 Monday through Friday not to exceed 10 per year, 8 to 10 on Saturday not to exceed 8 per year and 9 to 5 on Sunday. Chairman Smith inquired if the cottage on the property was under the same ownership. Mr. Coleango stated that the forthway center owned the cottage but that no one lived there on a permanent basis. It is a caretaker's cottage. He stated that the cottage was not part of the application for the special permit as the cottage was too close to Hunter Mill Road and was grandfathered under another ordinance. With respect to the ages of the participants, Mr. Coleango stated that the students would primarily be adults.

Ms. Ardis inquired as to why the applicants were reluctant to dedicate in accordance with the suggestions from preliminary engineering. Mr. Coleango stated that the applicants felt that the improvements would never be made or that they would be different than what preliminary engineering determined. The applicants felt it would be useless to dedicate and would create a white elephant. In response to further questioning about the deceleration lane, Mr. Coleango stated that the 100 people coming for special events would be on rare occasions. Carpooling would reduce the traffic impact.

The following people spoke in opposition to the application. Ms. Susan Shumaker. She stated that she lived opposite the property and was very much opposed to it as they did not know what this would open up in the area. She stated that the existing building could hold many more than 100 people. In addition, there are facilities for living there. She stated that the neighbors are opposed to this use. As far as the road situation, she stated that the previous owner of the property offered the land for realignment of the road. Ms. Shumaker stated that the property has had more than 25 cars on a Sunday. The building has a kitchen, full bathroom and sleeping quarters. She stated that she was not sure whether anyone lives there permanently.

The next speaker was Audrey Markham of 10711 Hunter Station Road. She stated that the traffic in the area was terrible and that the roads were bad. She did not want to have extra traffic in the area. People speed down the road and several deaths have resulted. She asked that the Board deny the school.

The next speaker was Frank Rush who stated that the road was a deathtrap. There is a blind curve and the school would further create a hazard.

Another speaker, George Beveridge of 10417 Silk Oak Drive, stated that his property was to the rear of the subject property. He was in opposition to the use because the applicant's points presented by the attorney was based on supposition rather than facts. On occasion, members of the school park on Silk Oak Drive. He indicated that there was an extreme traffic hazard in this area. He stated that the area could not handle that many automobiles.

The next speaker was Taylor Cosby of the Famarack subdivision. He stated that he can see the property in full force as he was a close neighbor. He stated that there are many areas of concern that have not been satisfied by the applicant's statement. He is concerned that the application is for a school of special education. He wondered if the school was registered and whether it had a faculty. He stated that there was a kiln set up on the property for ceramics. He inquired if the school would be allowed to sell their wares turning it into a commercial endeavor. He stated that the Board should investigate this before granting a special permit. Mr. Cosby stated that the road was dangerous. There was a blind curve. He stated that he was not aware of a school that meets only on Sundays. He inquired as to where the people were from that came to these classes and asked if dues were required.

Mr. Coleango stated that the corporation was founded in D.C. nine years ago and that they were qualified to do business in Virginia. Chairman Smith asked for the certificate of good standing for the corporation from the State Corporation Commission.

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Mr. Coleango stated that they offered to meet with Mr. Cosby and other people to discuss the application and answer any questions. Chairman Smith inquired as to who qualifies as a member of the organization. Mr. Coleango stated that any person who has an interest in the organization can become a member. It is a tax exempt organization. The general rule as far as cost is that during the first year there is no fee and after that it would cost \$300 a year. The members come from all over the area with ages from 20 to 60. The average age is about 30. Chairman Smith inquired if there was a limit to the membership. Mr. Coleango stated that there was no limit. In response to who owned the property, Mr. Coleango stated that the corporation owned the property. Ms. Ardis inquired as to the purpose of the organization and whether the school was subject to control by the Virginia State Board of Education. Mr. Coleango stated that they were not controlled by the State Board of Education. He stated that when the members bought the property and started constructing the building, much of the work was done by the members. They enjoyed the wood-working and the craftsmanship that was involved in the structure they wanted to continue the crafts. The application is really not a school but more of a group working together on hobbies. The category that it best fit under the current Ordinance was a school of special education. Ms. Ardis inquired if this were geared towards special needs and was informed no. Ms. Ardis inquired as to how many members of the organization were from Fairfax County. Mr. Coleango stated that 15 out of 300 members were from Fairfax. Ms. Ardis inquired if they were planning to recruit more members. Mr. Coleango stated that most people joining are referred by other members. He stated that the group does not try to sell themselves and tries to keep a low profile. He stated that the rumors of expansion are unfounded. Ms. Ardis inquired as to why the group chose to locate in Fairfax County if only 15 members actually reside in Fairfax. Mr. Coleango stated that the kinds of things they do require a rural atmosphere, such as gardening, etc. Ms. Ardis inquired as to the fee structure for the classes. Mr. Coleango stated that there was no fee for the first calendar year and after that, it was \$300 a year. He stated that this was a membership only type of organization but that the membership was open to anyone. He stated that it was not a large organization. Ms. Coleango informed the Board that the organization purchased the land before deciding to locate in Fairfax. They only rent space in Washington. They desire a rural atmosphere which is best found in Fairfax.

Chairman Smith inquired as to the building permit for the structure already built. Mr. Coleango stated that the building was just inspected and the occupancy permit was issued. He stated that the large structure was a barn and the other was a guesthouse. Chairman Smith inquired if there had been a team inspection for the premises. Mr. Covington informed the Board that the occupancy permit was issued for a barn and a guesthouse. Mr. Yaremchuk inquired as to why the group built the barn and the guesthouse together like they did. He wondered if they had a use in mind when doing so. Mr. Coleango stated that the barn is used for exercise classes. The project went so well when they were building the barn, that the group decided to add on a guesthouse for the purpose of selling their structure. Because the group wanted to do their crafts in Fairfax County, they decided to apply for a permit. Mr. Yaremchuk inquired as to what would be done with the property if the use was not granted. Mr. Coleango stated that they could sell it for residential purposes. Mr. Yaremchuk inquired as to why there were 25 cars parking on the property when they did not have a use permit. Mr. Coleango stated that those were the cars of the people working on the building. He stated that there was sufficient parking. Mr. Yaremchuk inquired if they were already doing the crafts. Mr. Coleango stated that the members made the tiles when building the place. Mr. Yaremchuk inquired if anyone ever called the zoning office to complain while the structure was being built. Mr. Covington stated that to his knowledge, no one ever called to complain. Ms. Ardis inquired as to the position of Forthway Center if the Board were to grant the special permit in accordance with the suggestions from preliminary engineering. She inquired if they would sell the property. Mr. Coleango stated that the BZA did have the power and the right to place any condition on the permit that it felt was necessary. He stated that they felt frustrated and were only trying to show their good faith. He hinted that it was a form of blackmail.

Chairman Smith informed Mr. Coleango that the Board could set conditions on the use to make it more in harmony with the surrounding community as this was a change in the use. As this would increase the traffic, the Board could require deceleration lanes and a means of ingress and egress to the property. He stated that it was intended as a means of blackmail. Mr. Coleango apologized for his remark. Mr. Coleango stated that they were not opposed to dedication but once they turn the land loose, they would be running around Richmond trying to get it changed again.

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 FORTHWAY CENTER FOR ADVANCED STUDIES, INC.
 (continued)

Chairman Smith agreed that it should only be used for road widening. He stated that perhaps they should request a report from the staff on what is planned for the road widening. Mr. Yaremchuk stated that the details of construction should be worked out with the staff. Mr. Coleango stated that Steve Reynolds did not have an opportunity to analyze the situation in depth. Mr. Barnes stated that he felt that if the use permit was granted that a deceleration lane should be provided. He stated that he did not agree with Mr. Coleango and stated that it could be worked out with the staff.

People from the audience inquired as to what was the maximum number of people being requested for the site and inquired as to the parking. Chairman Smith stated that the maximum of 100 members at any one time was stated by the applicant. The parking must be confined to the 11 acres of the site.

Mr. Yaremchuk stated that he would like to actually view the property before making a resolution on the matter. Chairman Smith stated that he would like a report from Oscar Hendrickson's office regarding the dedication.

The Board deferred decision until February 6, 1979 sometime after 11:30 P.M.

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Page 84, January 23, 1979, Scheduled case for

8:40 P.M. - LLOYD G. BYRD, P.E., appl. under Sect. 18-401 of the Ord. to allow construction of addition to existing building 7.1 ft. from side and 4.43 ft. from rear lot lines (18 ft. side & 25 ft. rear yards req. by Sect. 5-507), located 2921 Teletar Court, Yorktown Research & Development subd., 49-4((4))6, Providence Dist., 42,372 sq. ft., I-5, V-310-78.

This application was administratively withdrawn as the variance was no longer necessary since the Board of Supervisors adopted Zoning Ordinance amendments on January 16, 1979.

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Page 84, January 23, 1979, After Agenda Items

S-231-78 Early Learning, Inc: The Board was in receipt from a letter from Mr. John Aylor regarding the special permit recently issued to Early Learning for a maximum of 120 children on a five acre parcel. The bank financing the project wanted assurance from the BZA that since they would only finance two acres and hold three acres in trust that it would not affect the number of children authorized by the BZA. Chairman Smith stated that as long as the five acres remained intact and was not deleted from the permit that the school would be allowed to operate. If the bank foreclosed and went through subdivision control then it would affect the special permit and would require a new hearing. Ms. Ardis moved that the Board approve the letter drafted by Mr. Aylor addressed to the Arlington-Fairfax Savings and Loan, Association with the minor changes suggested by Chairman Smith. It was passed unanimously.

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Page 84, January 23, 1979, After Agenda Items

V-299-78 Gerald Waldman: The Board was in receipt of a letter from Gerald Waldman regarding additional comments on his application heard by the BZA on January 17, 1979 which was deferred for two weeks for viewing of the property and decision. It was noted that Mr. Barnes and Mr. DiGiuliano had already viewed the property.

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Page 84, January 23, 1979, After Agenda Items

S-80-77 Wedgefield Corp.: The Board was in receipt of a letter from Edward A. Purcell, project Manager for the Wedgefield Corp. requesting clarification from the BZA as to whether the permit was still valid. The attachments submitted showed the progress through Site Plan however preliminary engineering would not sign off on the final site plan as the permit had expired. Chairman Smith stated that the applicant should have requested an extension of time prior to the expiration date. He stated that the Board does not have the authority to extend the permit at this point and suggested that Mr. Purcell request the Zoning Administrator to approve the request.

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Page 85, January 23, 1979, After Agenda Items

APPROVAL OF THE MINUTES: Ms. Ardis moved that the Board approve the minutes of July 25, 1978 and July 27, 1978 as amended. Mr. Barnes seconded the motion and it was unanimously carried.

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Page 85, January 23, 1979, After Agenda Items

S-307-77 Queen of Apostles Catholic Church: The Board was in receipt of a letter from Reverend Rea requesting a further extension to allow the church the use of a trailer classroom. The BZA had previously allowed the Zoning Administrator to extend the use for a period of 90 days which would expire January 24, 1979. Mr. Barnes moved that the Board grant a further extension for a period of 90 days. Mr. Yaremchuk seconded the motion. The motion passed by a vote of 4 to 1 (Mr. Smith).

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Dr. Argerson: The Board was in receipt of memorandum from the Zoning Administrator regarding the request from Dr. Argerson which the BZA had deferred to the Zoning Administrator for clarification. Mr. Yates requested the Board to continue a deferral of the request to allow his staff an opportunity to review the questions raised by Dr. Argerson with the County Attorney.

// There being no further business, the Board adjourned at 10:20 P.M.

BY Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

APPROVED: _____
Date

Submitted to the BZA on _____.
Submitted to the other departments,
Board of Supervisors and Planning
Commission on _____.

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, January 30, 1979. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes and John Yaremchuk. Barbara Ardis was absent.

The Chairman opened the meeting at 10:20 A.M. led with a prayer by Mr. Barnes.

The Chairman called the scheduled 10 o'clock case.

10:00 - JOHN E. & NORIS F. MCGREEVY, appl. under Sect. 18-401 of the Ord. A.M. to allow construction of garage 22.9 ft. from outlet road (minimum 50 ft. required by Sect. 3-E07), located 1071 Cedrus Lane, Peacock Station Subd., 19-2((9))27, Dranesville Dist., 100,801 sq. ft., R-E, V-303-78.

The required notices were in order. Mrs. Noris McGreevy informed the Board that the architectural control committee of her subdivision requested them to construct a garage. She stated that the only practical location in which to do so was 22.9 ft. from the outlet road due to the septic field location on the property. In response to questions from the Board, Mrs. McGreevy stated that the septic field was 15 ft. from the house. Chairman Smith noted that the location of the septic tank was not shown on the plat but stated that it appeared that there was plenty of room in which to construct the garage and still meet the setback requirement. With regard to the outlet road, she stated that it is presently used by one family with another home under construction. The outlet road is 12 ft. wide. From the photographs submitted Chairman Smith noted that the property appeared to have topographic problems. Ms. McGreevy confirmed that it was rather hilly. Because of the amount of land involved, Mr. Barnes asked if she was planning to subdivide the property and was informed no. Mr. DiGiulian stated that from viewing the pictures it did appear to have topographic problems but stated that he would like to see the contours of the property shown on the plat as well as the septic field and tank. Chairman Smith stated that the applicant was requesting a rather large variance and indicated that there should be room between the property line and the garage in which to drive through in case of emergencies. Ms. McGreevy stated that she has owned the property for one year and presently resides there. Chairman Smith inquired as to how long it would take her to obtain revised plats. Ms. McGreevy replied about a week. The Board discussed the information that should be included on the revised plats.

Mr. Barnes moved that the Board defer decision of this application pending receipt of the revised plat. Mr. DiGiulian seconded the motion and it passed by a vote of 4 to 0. The case was deferred until February 21, 1979 at 11:00 A.M. for decision only and revised plats.

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Page 86, January 30, 1979, Scheduled case for

10:10 - MOZAFAR MAHIAN AMIGHI, appl. under Sect. 18-401 of the Ord. to A.M. allow resubdivision of two lots into four lots, two of which have width of 6 ft., (min. 100 ft. required by Sect. 3-206), located 3434 & 3436 Holly Rd., Richard Robinson Estate Subd., 59-2((2))1 & 2 Providence Dist., 2.3181 acres, R-2, V-305-78.

As the required notices were not in order, this application was deferred until March 6, 1979 at 10:00 A.M.

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Page 86, January 30, 1979, Scheduled case for

10:20 - JOHN R. GRAY, appl. under Sect. 18-401 of the Ord. to allow sub- A.M. division into 3 lots one of which would have a width of 25 ft. and another a width of 66.84 ft. (minimum of 300 ft. required by Sect. 3-E06), located 443 Springvale Rd., 7-2((1))24, Dranesville Dist., 7.534 acres, R-E, V-308-78.

Mr. John Gray of the above address appeared before the Board requesting permission to develop the parcel into three lots with a private entrance for each lot in order to build homes. In response to questions, Mr. Gray stated that he has owned the property four years and lives next door to the subject property.

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 JOHN R. GRAY
 (continued)

He stated that there were two houses there at the present time on the same piece of property. The front lot would include the present house. It would have a little over two acres with a right-of-way to the street. With regard to the back lot, Mr. Gray stated that he had perc tests completed and the holes were noted on the plat. Mr. DiGiulian noted that because of the location of the existing house and the topography to the south that there really was not any place to construct a street through the property to meet the state standards.

There was no one to speak in favor of the application and no one to speak in opposition of the application.

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 JOHN R. GRAY

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-308-79 by JOHN R. GRAY under Section 18-401 of the Zoning Ordinance to permit subdivision into three (3) lots, one with width of 25 ft. and another with width of 66.84 ft. on property located at 443 Springvale Road tax map reference 7-2(1)24, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 30, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 7.534 acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow and has an unusual condition in the location of the existing buildings on the subject property.

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

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

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

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Ms. Ardis being absent).

Page 87, January 30, 1979, Scheduled case for

10:30 - ANDY J. REPASY, appl. under Sect. 18-401 of the Ord. to allow construction of a garage 9.5 ft. in height 1 ft. from lot lines A.M. in rear yard (9.5 ft. setback required by Sect. 10-105), located 2836 Memorial St., Memorial Heights Subd., 93-1(18)(A)7 & 8, Mt. Vernon Dist., 5,750 sq. ft., R-3, V-309-78.

The required notices were in order. Mr. Repasy informed the Board that he was requesting a variance for this location as it was the only location in which to place it and still be able to use it. He stated that if he constructed it on the other side he would still need a variance because he did not have enough land. The garage would be steel frame with aluminum siding, 14' x 20'. In response to questions, Mr. Repasy stated that if he moved the garage away from the side yard he would not be able to make the band. There is only 12 ft

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Page 88, January 30, 1979
 ANDY J. REPASY
 (continued)

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between the patio and the garage. Mr. Covington informed the Board that prior to the adoption of the new Ordinance, Mr. Repasy would have been able to build the garage within 2 ft. of the property line. Mr. Repasy stated that the house two doors away was constructed right on the property line. Chairman Smith stated that he should stay at least 2 ft. away from the property line as one would need that much room in which to walk around the structure. Mr. Barnes inquired as to why a 20 ft. garage was necessary. Mr. Repasy stated that his car was 18 ft. long. He indicated that if he were not able to use the garage then there was no reason to ask for a variance. He stated that he might be able to drive in but would have difficulty in backing out. The existing patio is 10' in height. Chairman Smith suggested that he give up some of the patio for a garage as he could not support any request less than 2 ft. Mr. DiGiulian stated that it would be hard for Mr. Repasy to make that turn if he used part of the patio. Mr. Covington stated his only concern was the drainage. He suggested that if the applicant put up a drain sprout to take care of the water that it might solve the problem.

Mr. Repasy informed the Board that the structure would be covered with aluminum siding which is maintenance free. The overhang would be the width of the guttering. The neighbor most impacted had inquired about the runoff.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 88, January 30, 1979
 ANDY J. REPASY

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-309-78 by ANDY J. REPASY under Section 18-401 of the Zoning Ordinance to permit construction of garage 9.5 ft. in height 1 ft. from lot lines in rear yard (9.5 ft. setback required by Sect. 10-105), on property located at 2836 Memorial Street, tax map reference 93-1((18))(A)7 & 8, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 30, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 5,750 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including shallow and has an unusual condition in the location of the existing buildings on the subject property.

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

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

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

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. Gutters and downspouts are to be provided to direct the drainage from the roof towards the interior of the lot.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Ms. Ardis being absent).

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Page 89, January 30, 1979, Scheduled case for

10:40 - BILLY J. BINGHAM, appl. under Sect. 18-401 of the Ord. to allow
A.M. enclosure of carport such that total side yards would be 22 ft.
(24 ft. min. required by Sect. 3-207), located 7014 Cottontail Ct.,
Orange Hunt Estates, West Subd., 88-4((5))267, Springfield Dist.,
10,500 sq. ft., R-2(c), V-211-78.

The required notices were in order. Mr. Bingham of the above address stated that he would like to enclose the carport into a single car garage. He stated that he has owned the property for 3½ years. In response to questions, he stated that the houses on either side of him have double garages. Chairman Smith stated that the majority of the homes in Mosby Woods would have the same conditions as the applicant. Mr. Bingham stated that this was a cluster subdivision and that the homes were built close together.

There was no one to speak in favor of the application and no one to speak in opposition.

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Board of Zoning Appeals

BILLY J. BINGHAM

R E S O L U T I O N

In Application No. V-311-78 by BILLY J. BINGHAM under Section 18-401 of the Zoning Ordinance to allow enclosure of carport such that total side yards would be 22 ft. (24 ft. minimum required by Sect. 3-207) on property located at 7014 Cottontail Court, tax map reference 88-4((5))267, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 30, 1979; and

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

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

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

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

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Ms. Ardis being absent).

Page 89, January 30, 1979, Scheduled case for

10:50 - W & N COMPANY, appl. under Sect. 18-401 of the Ord. to allow a
A.M. subdivision into two lots, the corner lot of which has width of
156 ft. (175 ft. required by Sect. 3-106), located 11607 Popes
Head Road, 67-2((1))32, Springfield Dist., 3.0 acres, R-1,
V-289-78.
(Deferred from January 9, 1979 for notices).

The required notices were in order. Mr. William H. Gordon of 1930 Issac Newton Square in Reston represented the W & N Company. They were requesting permission to develop the parcel into two lots. There is an existing outlet road on the east side of the property. The perc sites have been approved on the additional lot. The hardship was that the property was irregular shaped. There is not sufficient frontage on the eastern lot because the Zoning Administrator ruled that it was a corner lot because of the outlet road. Mr. Yaremchuk disagreed with the ruling. Mr. Gordon stated that the hardship was that it was considered a corner lot which did not meet the required minimum lot width. There was no one to speak in favor and no one to speak in opposition.

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R E S O L U T I O N

In Application No. V-289-78 by W & N COMPANY under Section 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, the corner lot of which has width of 156 ft. (175 ft. required by Sect. 3-106) on property located at 11607 Popes Head Road, tax map reference 67-2((1))32, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 30, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 3.0 acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

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

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

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

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Ms. Ardis being absent).

Page 90, January 30, 1979, Scheduled case for

11:00 - A. CHARLES BROWN & JOHN L. DONIPHAN, appl. under Sect. 18-401 of the Ord. to allow subdivision with proposed lots 3 & 4 having width of 10 ft. (80 ft. required by Sect. 3-306), located 101-4((1))27, Mt. Vernon Dist., 2.66 acres, R-3, V-290-78. (Deferred from January 9, 1979 for Notices).

Mr. Charles Runyon of 152 Hillwood Avenue represented the applicants. The required notices were in order. Mr. Runyon stated that the variance requested was for reduced frontage on two lots, #3 & #4. The property is located on Mt. Vernon Highway. The proposed lots are about 1/2 acre in size. The maximum density will allow about 8 lots but the applicant chose to develop the property into seven lots. Mr. Runyon informed the Board this was the property that the Mt. Vernon Lodge tried requesting a special permit for a lodge but were refused. Mr. Runyon stated that development was good use of the property

There was no one to speak in favor of the application. Mr. Elroy Allen spoke in opposition to the request. He stated that he lived on the north side of the property and was not opposed to the house. He informed the Board that he had tried calling Mr. Runyon to inform him that they were encroaching on his property. Chairman Smith stated that if there was an error in the survey that the Board would need corrected plats. Mr. Runyon stated that could be taken care of at the time of site plan review. Mr. Runyon stated that when they got the matter resolved they would come back with a plat with the file.

R E S O L U T I O N

091

In Application No. V-290-78 by A. CHARLES BROWN & JOHN L. DONIPHAN under Section 18-401 of the Zoning Ordinance to permit subdivision with proposed lots 3 & 4 having width of 10 ft. (80 ft. required by Sect. 3-306) on property located at tax map reference 101-4((1))27, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 30, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 2.66 acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

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

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

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

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.
3. That the common driveway be constructed in accordance with the standards for pipestem lots in Fairfax County Public Facilities Manual.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Ms. Ardis being absent).

Page 91, January 30, 1979, After Agenda Items

V-19-78 THEMIS ENTERPRISES, INC.: The Board was in receipt of a letter requesting an extension on the variance granted on March 7, 1978 to allow a subdivision of parcel into 7 lots with 5 lots having less than the required lot widths.

Mr. Barnes moved that the Board grant an 180 day extension to Themis Enterprises. Mr. DiGiulian seconded the motion and it passed by a vote of 4 to 0.

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Page 91, January 30, 1979, After Agenda Items

APPROVAL OF MINUTES: Mr. Barnes moved that the Board approve the BZA Minutes for August 2, 1978 and September 7, 1978 as amended. Mr. DiGiulian seconded the motion and it passed by a vote of 4 to 0.

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Page 91, January 30, 1979, After Agenda Items

NATIONAL VOCATIONAL AGRICULTURAL TEACHERS' ASSOCIATION, INC.: The Board was in receipt of a memorandum from Mr. Gilbert Knowlton, Deputy Zoning Administrator, regarding the 100 ft. setback for the garage which was a condition of the special permit as it was mandatory under the old Ordinance. The new Zoning Ordinance does not have that requirement.

Page 92, January 30, 1979, After Agenda Items

Chairman Smith moved that the condition no. 10 of the special permit be amended so that the applicants would be required to meet the setbacks of the current Zoning Ordinance. Mr. Barnes seconded the motion and it passed by a vote of 4 to 0.

092

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Page 92, January 30, 1979, After Agenda Items

V-298-78 PAUL E. & ADENE ROSE: The Board was in receipt of revised plats in accordance with the granting of the variance. Mr. DiGiulian examined the plats and stated that they conformed to the resolution. The revised plats were approved and signed off on by Chairman Smith.

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Page 92, January 30, 1979, After Agenda Items

S-196-77 CHRISTIAN FELLOWSHIP CHURCH: The Board was in receipt of a request for an extension on the Christian Fellowship Church. The Board had granted one extension previously which was due to expire March 20, 1979. It was the consensus of the Board that before any further extensions could be granted, that the church furnish information as to the status of the permit and when requests were made to site plan for approval of the plat.

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Page 92, January 30, 1979, After Agenda Items

Tara School, Inc., S-301-78: The staff report prepared for the Planning Commission hearing on Tara School made reference to the fact that some of the land area included in the plat was not going to be used in the total land area of the school. The Board stated that the plats should be revised to show only the amount of land area to be included in the special permit.

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Page 92, January 30, 1979, After Agenda Items

30 Day Notice of Planning Commission Hearing Requirement: The Board discussed the scheduling problems with respect to the 30 day notice to the Planning Commission. Mr. DiGiulian stated that the Planning Commission should notify the BZA within the 30 days if they wished to pull an application. He was not in favor of hearing an application and then deferring decision pending receipt of the Planning Commission's recommendations as he would rather have all the information presented at the hearing fresh in his mind when he makes a decision.

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Page 92, January 30, 1979, After Agenda Items

Scheduling of BZA cases: As the Board's scheduling was such that the 30 day minimum hearing requirement could not be met for the night meeting of February the Board unanimously moved to eliminate that meeting.

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Page 92, January 30, 1979, After Agenda Items

The Board recessed the hearing at 11:45 A.M. to make a field inspection on the Forthway Center application.

// There being no further business, the Board adjourned at 1:00 P.M.

BY Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

APPROVED: _____
Date

Submitted to the BZA on _____.
Submitted to the other departments,
Board of Supervisors and Planning
Commission on _____.

093

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, February 6, 1979. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes, John Yaremchuk and Barbara Ardis.

The Chairman opened the meeting at 10:10 A.M. led with a prayer by Mr. Barnes.

The Chairman called the scheduled 10 o'clock case:

10:00 - EDWARD J. IRVIN, appl. under Sect. 18-401 of the Ord. to allow
A.M. subd. with one lot width of 18.42 ft. & another lot width of
18.06 ft., located 2005 Freedom Lane, 41-1((1))58 & 41-1((19))B,
Dranesville Dist., 44,508 sq. ft., R-4, V-2-79.

Mr. Robert Kensey of Walter Phillips Engineering in Falls Church represented the applicant. Mr. Irvin has owned the property since 1949. In 1966, the land around them was developed into subdivisions. There is a easement to Freedom Lane and a 30 ft. right-of-way for lot B into Shipyard Place. During the past year, Mr. Irvin received a waiver from the County Executive to subdivide his property into two lots. Now he is requesting permission to subdivide one of these two lots into two lots. In order to do so, a variance would be necessary for the lot width requirement. There is enough land area and the property is zoned R-4.

In response to questions from the Board, Mr. Kensey stated that the lot of 9,250 sq. met the minimum requirement of 8,800 sq. ft. He further stated that the Irvins owned lot 1 and intended to keep their home there.

There was no one else to speak in favor of the application. The following persons spoke in opposition. Mr. Brian McCormack, an attorney in Fairfax, represented Vincent Kiernan whose property was adjacent to the subject property along the southern boundary. He is the owner of lot 23. A petition signed by 18 people from the neighborhood who were opposed to this variance was presented by Mr. McCormack. Seven of these people were adjoining property owners. Mr. McCormack stated that this was a self-imposed hardship as the applicant had previously chosen to subdivide the property in such a way that the lots would not meet the requirements. The reasons for opposing the variance was that it would cause further traffic congestion in the cul-de-sac and would increase the chances of injury to children playing there. In addition, it would detract from the original orderly development of the area and have an adverse affect on the value of the surrounding property.

Mr. McCormack informed the Board that there are four homes squeezed into the cul-de-sac at the present time. The property owners were opposed to any more lots being squeezed in through the cul-de-sac. Mr. McCormack summed up his presentation by stating that the applicant had not presented evidence for the granting of a variance in that it was a self-imposed hardship.

In response to questions, Mr. McCormack stated that there is access to the one acre lot and a 30 ft. right-of-way on the northern side of the lot. The applicant could grant a right-of-way across his lot rather than go through Shipyard Place. To do so would mean that the easement would have to go across Mr. Irvin's own property.

Mr. Kiernan informed the Board that he resides at 6501 Shipyard Place, lot 23 on the cul-de-sac. He stated that they bought this property for the privacy and to afford some safety for the children while playing. Mr. Kiernan stated that there are a total of 15 children living in this area who play in the cul-de-sac. Mr. Kiernan stated that his chief objection was adding two more houses in this cul-de-sac which would create a traffic hazard. People park their cars in the cul-de-sac daily. He urged the Board to deny the variance.

The next speaker was Mr. Mason D. Crawford of 6502 Shipyard Place, lot 24. He stated that he bought his home because he was assured that development in this area was completed. The real estate agent informed him that the wooded parcel was owned by the Fairfax County Park Authority. Unfortunately, the real estate agent was wrong. Mr. Crawford stated that he had a retarded, blind daughter who could not see on-coming traffic. The proposed pipestem would be located next to his property and would pose a hazard to the safety of his daughter. He suggested that if the Board granted the variance, that the access to Freedom Lane be used rather than the entrance to Shipyard Place.

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The next speaker was Gordon Firth of 6503 Shipyard Place. He stated that he purchased his property to provide a reasonable safe place for his children. They have grown up now. He agreed that the granting of the variance would create a traffic hazard and supported the objections raised by Mr. McCormack. He urged the Board to deny the application.

During rebuttal, Mr. Kensey informed the opposition that he was an engineer and not an attorney. He informed the Board that the Irvins do not own title to outlot A which was questioned during testimony. He stated that they only have a right-of-way and cannot grant anyone else an easement. Mr. Kensey informed the Board that the pipestem driveway would come under the Public Facilities Manual and would only have to have a 12 ft. width. One single driveway would serve both proposed lots. Again, Mr. Kensey gave the Board a brief background on the subdivision of the property. The land is zoned R-4 and the lot with one acre is the one being resubdivided. Chairman Smith stated that the applicant did not need a variance to construct a house on lot 3. Mr. Kensey stated that they did have the authority to develop the property with the waiver by the County Executive but that they wanted to develop one of these lots into two lots. Chairman Smith stated that the Board has to decide whether the original two lots is considered to be reasonable use of the land or whether to grant the variance for the additional lot.

R E S O L U T I O N

In Application No. V-2-79 by EDWARD J. IRVIN under Section 18-401 of the Zoning Ordinance to permit subdivision with one lot width of 18.42 ft. and another lot width of 18.06 ft. on property located at 2005 Freedom Lane, tax map reference 41-1((1))58 & 41-1((19))B, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 6, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-4.
3. The area of the lot is 44,508 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow and does not have adequate street frontage to develop in accordance with existing Zoning or surrounding area.

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

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

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

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Barnes seconded the motion.

The motion*FAILED by a vote of 2 to 3 (Messrs. Smith, Yaremchuk & Ms. Ardis).

Page 95, February 6, 1979, Scheduled case for

10:10 - JAMES A. CROSS, appl. under Sect. 18-401 of the Ord. to allow
A.M. construction of 10 ft. high detached garage 4 ft. from property
line in rear yard (minimum 10 ft. setback required by Sect. 10-105),
located 2127 Greenwich Ct., Westhampton Subd., 40-4((2))70,
Dranesville Dist., 14,000 sq. ft., R-2, V-4-79.

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Mr. Cross informed the Board that he purchased the property a year ago and is now proposing to construct a garage. Mr. Cross stated that when he contacted the County about the garage he was told that there was no problem. Acting on that information, he proceeded to order the materials for the garage. Then the new Zoning Ordinance came into effect which changed the setback requirements. A variance is necessary in order to construct the garage 4 ft. from the rear property line. Mr. Cross informed the Board that he contacted the immediate neighbors and there were no objections. In response to questions from the Board, Mr. Cross stated that he first inquired to the Zoning Office in early July about the construction of the garage. It was when he applied for a building permit that he was informed that a variance would be necessary. Chairman Smith informed the applicant that the New Ordinance had been under consideration for three years. Mr. Cross stated that he has already taken a financial beating by postponing the order of materials. Chairman Smith stated that variances could only be granted under the hardship section and inquired as to the hardship. Mr. Cross stated that if he were to comply with the setback requirements, the garage would be located in the center of his back yard and would make the back yard unusable. Mr. Covington reminded the Board that this was a substandard lot. Chairman Smith inquired if the garage could be moved a few feet. Mr. Cross stated that then the garage door would not connect to the existing concrete apron. Chairman Smith stated that he would only have to move or extend the concrete apron a little bit. Mr. Cross stated that there are other garages in this area which were built right up to the property line. He stated that his garage would be of concrete block with a wood and shingle roof and have stucco on the outside. The house on the property is approximately 30 years old.

There was no one else to speak in favor of the application and one to speak in opposition.

Page 95, February 6, 1979
JAMES A CROSS

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-4-79 by JAMES A. CROSS under Section 18-401 of the Zoning Ordinance to permit construction of 10 ft. high detached garage 4 ft. from property line in rear yard, (minimum 10 ft. setback required by Sect. 10-105), tax map reference 41-1((19))B, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 6, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-4.
3. The area of the lot is 44,508 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including long and being a substandard lot.

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

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

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

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

R E S O L U T I O N

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2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 96, February 6, 1979, Scheduled case for

10:20 - C. O. NORTH, appl. under Sect. 18-401 of the Ord. to allow sub-
A.M. division into 3 lots, one having width of 150 ft. & the other two
having width of 6 ft. (min. 200 ft. width required by Sect. 3-E06),
located 750 Leigh Mill Road, 13-1((1))80, Dranesville Dist., 7.10
acres, R-E, V-5-79.

The required notices were in order. Mr. Hall Simmons represented the applicant Mr. Simmons stated that they were applying for a variance in order to create subdivision into three lots having less than the required lot width. The parcel consists of seven acres. Mr. Simmons stated that the staff report indicating less land area was incorrect. The tract of land is very irregular in shape being narrow and has very limited frontage. Mr. Simmons stated that the irregular shape of the property was caused by a court ordered ddivision of the property by the State. Mr. Simmons informed the Board that the property was purchased in January but had been under contract for some time. Ms. Ardis inquired as to the land area of lot 79 as a driveway was proposed run along-side it. Chairman Smith expressed concern that the application was filed in the name of C. O. North when he was not the property owner at that time. Mr. Covington stated that the Board could allow the applicant to amend the application at this time. Mr. Barnes moved that the Board amend the application to read Langley Development Corporation. The motion was seconded by Chairman Smith and was passed unanimously. With respect to Ms. Ardis' question, Mr. Simmons stated that lot 79 was owned by Mr. Perkins and consisted of 11 or 12 acres. Mr. Perkins was in support of the application as he felt it would enhance the surrounding property. Mr. North stated that Mr. Perkins lives next door to another house he had built. He stated he had received a few calls from Mr. Perkins in support of the application since it would increase the value of the property.

There was no one else to speak in favor of the application. The following persons spoke in opposition of the application. Mr. Donald Devine, an attorney representing the Gateleys who owned property to the rear of the subject application, stated that no variance would be necessary to build on the property as it exists now. The only variance would be necessary after the subdivision was cut up into three lots which would reduce the lot frontage on the whole seven acres. He stated that the Ordinance does not have a frontage requirement. The only requirement is for lot width. As the lot now stands, a house could be built without a variance. This would then be a self-created hardship. The only provision in the Ordinance that dealt with pipestem lots were to be granted by the Director of Environmental Management. Mr. Devine stated that he was at a loss as to why this matter was before the BZA. Chairman Smith informed Mr. Devine that all three lots require a variance. He stated that before the land had been divided, three lots might have been able to be created without a variance. Mr. Devine stated that he was unable to determine where the access to the proposed lots would be. Mr. Simmons informed the Board that a driveway existed that provided access the land behind the property. He stated that one lot would have access from Leigh Mill Road and the other two lots would be served by the existing driveway. Mr. North informed the Board that the easement through the property was shared by other lots and stated that he did not own it. Chairman Smith stated that the easement should have been shown on the plat. Mr. Simmons stated that the existing 30 ft. outlet road easement would serve the proposed lot #2. The existing driveway will serve lot #3. Lot #1 will be served off of Leigh Mill Road by a separate entrance. He indicated that the 6 ft. driveway would only be a frontage requirement for lot #2 and #3.

The next speaker was John Byrd who owned 40 acres about 250 yards from the proposed subdivision. He stated that he had always relied on the protection of the Zoning Ordinance as it had good reason ifor its existence. Mr. Byrd stated that he did not know Mr. North even though he had previously built a house on lot 81-A. He stated that the property for that lot was developed not in accordance with the Ordinance but that the County staff approved it. Now, Mr. North is seeking a variance to allow a 6 ft. wide lot. Mr. Byrd urged the Board to deny the variance and put an end to this kind of development.

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the
Mr. Yaremchuk inquired as to / Master Plan for this area. Mr. Bryd stated that the plan called for 2 to 5 acre lots for this area.

The next speaker was Norma Baker of the Great Falls Civic Association. She stated that they opposed this variance. Ms. Baker stated that this request was more of a waiver than a variance when someone is asking for only 6 ft. and the Ordinance requires 200 ft. She stated that this would negate a major portion of the subdivision ordinance. Even though the applicant met the density requirement she stated that they were circumventing the subdivision control. She stated that the 6 ft. pipestem would not be suitable for fire equipment.

Mrs. Bryd of 840 Leigh Mill Road presented the Board with a letter from Mr. and Mrs. Warner who were unable to attend the hearing. They were in opposition because the land to be developed would not ~~come under the subdivision control ordinance since the land did not~~ contain five acres or more parcels. They urged the Board to deny the application.

The next speaker was Gene Gately, owner of lot 82. He stated that the point that was most often overlooked in such requests was consideration for the private individuals who put stock in the regulations or ordinances and believe that they will be adhered to. He stated that he bought this property and was in the process of adding an expensive addition to their home which would add to the value of the property. The pipestem access to the proposed subdivision would have an adverse effect on the property values. Mr. Gately informed the Board that uses the 30 ft. right-of-way road and has paved his portion of it. He believed that he had an exclusive right to the driveway that was deeded to the original owner through litigation. Chairman Smith stated that the Board did not get involved in civil matters. Mr. Gately stated that he doubted the Langley Development Corp. motives in obtaining this variance. He stated that any hardship that existed now was present or known to them prior to the purchase of the property. He indicated that this was just a profit making venture trying to squeeze the maximum number of lots out of this parcel.

During rebuttal, Mr. North stated that since they had amended the application that the corporation was now registered in the State of Virginia. He informed the Board that he was a resident of Maryland but his partner was a resident of McLean. The Chairman requested that they provide the Board with a copy of the Certificate of Good Standing. Mr. Simmons stated that the engineering details of the proposed subdivision was in accordance with the Zoning Ordinance except for the lot width requirements. He stated that the hardship was not of the owner's making. In addition, this subdivision was in accordance with the Master Plan.

Ms. Ardis stated that she believed that even though the Master Plan calls for lots of two to five acres, she did not believe that the applicant could not make reasonable use of the land. She stated that the owner was aware of the situation when he purchased the property and felt that reasonable use could be made of the property if he were allowed to develop into two lots.

Page 97, February 6, 1979 Board of Zoning Appeals
C. O. NORTH & LANGLEY DEVELOPMENT CORP.

R E S O L U T I O N

In Application No. V-5-79 by C. O. NORTH *(amended 2/6/79 to read: LANGLEY DEVELOPMENT CORPORATION) under Section 18-401 of the Zoning Ordinance to allow subdivision into three lots, one with 150 ft. width and two with 6 ft. widths* on property located at 750 Leigh Mill Road, tax map reference 13-1((1))80, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 6, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 7.10 acres.
4. That the applicant's property is exceptionally irregular in shape, being narrow.

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

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

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED IN PART *(to allow subdivision into two lots, one with 150 ft. width and the other with 12 ft. width) with the following limitations:

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.
3. This approval is ~~subject~~ to submission of revised plats in accordance with the above resolution within a period of two weeks.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

Page 98, February 6, 1979, Scheduled case for

10:30 - DONALD E. NELSON, appl. under Sect. 18-401 of the Ord. to allow
A.M. construction of deck on rear of house to 17.1 ft. from rear lot line
(minimum 25 ft. rear yard required by Sect. 3-107), located 3420
Lyrac Court, Foxvale Subd., 46-1((18))11, Centreville Dist.,
27,014 sq. ft., R-1(c), V-6-79.

Mr. Donald Nelson of 3420 Lyrac Court in Oakton stated that he was requesting a variance in order to build a deck to the rear of the house which would be 17.1 ft. from the rear lot line. He stated that he had a walkout sliding glass door and another walkout exist which could not be utilized unless there was a deck. The only property owner to be effected by this is in support of the request. Mr. Nelson asked the Board to grant his request. In response to questions, Mr. Nelson informed the Board that this was new subdivision. He stated that there were not any houses that would be visible to the deck. Chairman Smith stated that there were other houses that might have the same situation. Mr. Nelson stated that he was not sure of the location of the other houses and would not be aware if there were any problems with the rear setback. Chairman Smith inquired as to the reason for locating so close to the rear lot line. Mr. Nelson replied that he had a pipestem lot which took up a lot of the amount of his land area and that there was another house off to the side of his. The builder chose the location of the house and situated it close to the rear lot line.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 98, February 6, 1979
DONALD E. NELSON

Board of Zoning Appeals

R E S O L U T I O N N

In Application No. V-6-79 by DONALD E. NELSON under Section 18-401 of the Zoning Ordinance to allow construction of deck on rear of house to 17.1 ft. from rear lot line (minimum or 25 ft. rear yard required by Sect. 3-107) on property located at 3420 Lyrac Court, tax map reference 46-1((18))11, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1(c).
3. The area of the lot is 27,014 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

R E S O L U T I O N

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

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

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

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

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 with 1 abstention (Mr. Smith).

Page 99, February 6, 1979, Scheduled case for

11:00 - FAIRFAX CIRCLE BAPTIST CHURCH, appl. under Sect. 3-103 of the Ord. A.M. to permit construction of new sanctuary for church use, 3110 Chichester Lane, 49-3((1))12 & 13, Providence Dist., 4.586 acres, R-1, S-3-79.

The required notices were in order. Reverend Wallace Hale of Viola Court in Fairfax represented the church. He stated that the church was planning to construct a new sanctuary to be used for a sanctuary and an educational facility for church related activities. Chairman Smith inquired if the two story frame house would remain on the property and was informed that it would. Reverend Hale stated that they were planning to build to the side of the existing structure. He informed the Board that the present church was located on Rt. 50 and Chichester Lane.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 99, February 6, 1979
FAIRFAX CIRCLE BAPTIST CHURCH

Board of Zoning Appeals

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-3-79 by FAIRFAX CIRCLE BAPTIST CHURCH under Section 3-103 of the Fairfax County Zoning Ordinance to permit construction of new sanctuary for church use on property located at 3110 Chichester Lane, tax map reference 49-3((1))12 & 13, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on February 6, 1979; and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-1.
3. That the area of the lot is 4.586 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

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R E S O L U T I O N

100

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening shall be required and must satisfy Sect. 13-109 and Sect. 13-110 of the Zoning Ordinance except as qualified as below.
7. The hours of operation shall be normal church activities.
8. The number of parking spaces shall be 162.

Mr. DiGiulian seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 100, February 6, 1979, Scheduled case for

11:20 - EUGENE R. APPLETON, appl. under Sect. 18-401 of the Ord. to allow subd. into 2 lots, one of which has proposed width of 15 ft. (200 ft. min. lot width required by Sect. 3-E07), located 345 Springfield Road, 7-2(1)53, Dranesville Dist., 3.780 acres, R-E, V-9-79.

This case was deferred until March 13, 1979 at 10:00 A.M. for advertising and renotification purposes.

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Page 100, February 6, 1979, Scheduled case for

11:30 - FORTHWAY CENTER FOR ADVANCED STUDIES, INC., appl. under Sect. 3-E03 of the Ord. to permit private school of special education, located 10415 Hunter Station Road, 27-2(1)21, Centreville Dist., 11.89 acres, R-E, S-30778. (Deferred from January 23, 1979 for viewing of the property and for decision).

Chairman Smith stated that the application was not an ideal situation but as they only met on Sundays, at least that was the least busiest day. He indicated that if this was for daily use that would be another matter. He stated that a condition should be set on the use for a deceleration lane. Mr. Yaremchuk stated that the Board should analyze the direction traffic was coming from to determine if a deceleration lane was necessary. The Board discussed the parking. Mr. Covington stated that most of the land was in a floodplain. The plat showed 24 parking spaces provided.

Page 100, February 6, 1979

FORTHWAY CENTER FOR ADVANCED STUDIES, INC.

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-307-78 by FORTHWAY CENTER FOR ADVANCED STUDIES, INC. under Section 3-E03 of the Fairfax County Zoning Ordinance to permit private school of special education on property located at 10415 Hunter Station Road, tax map reference 27-2(1)21, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on January 23, 1979 and deferred for decision until February 6, 1979; and

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

1. That the owner of the subject property is Forthway Center for Advanced Studies, Inc.
2. That the present zoning is R-E.
3. That the area of the lot is 11.89 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening shall be required and must satisfy Sect. 13-109 and 13-110 of the Zoning Ordinance except as qualified below.
7. The number of memberships shall not exceed 100 members per activity.
8. The hours of operation shall be 9 A.M. to 5 P.M. on Sundays all year round; 9 A.M. to 5 P.M. Monday through Friday, not to exceed ten times per year; and 8 A.M. to 10 P.M. on Saturdays, not to exceed ten times per year.
9. The number of parking spaces shall be 24 as outlined on the plat.
10. Deceleration lanes shall be provided at all the entrances and exits to the property in accordance with the staff request.
11. Improvements and dedication to be worked out with the staff as to the timing in connection with the highway widening as outlined on the plat by Preliminary Engineering.
12. This permit is granted for a period of three (3) years with a review at that time by the Board of Zoning Appeals having the right to extend the permit at that time.

Ms. Ardis seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Barnes) with 1 abstention (Mr. DiGiulian).

Page 101, February 6, 1979, Scheduled case for

11:40 - GERALD WALDMAN, appl. under Sect. 18-401 of the Ord. to allow
A.M. subd. into 2 lots, one of which has width of 80 ft., and the
other a width of 15 ft., (100 ft. required by Sect. 3-206),
located 4719 Trotting Lane, 70-1(1)15A, Annandale Dist.,
36,947 sq. ft., R-2, V-299-78. (Deferred from January 17, 1979
for viewing of property and decision).

The Chairman announced that the Board members had viewed the property and were now prepared to make a motion in the application.

R E S O L U T I O N

In Application No. V-299-78 by GERALD WALDMAN under Section 18-401 of the Zoning Ordinance to permit subdivision into two lots, one of which has width of 80 ft. and the other a width of 15 ft. (100 ft. required by Sect. 3-206) on property located at 4719 Trotting Lane, tax map reference 70-1((1))15A, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 17, 1979 and deferred for decision until February 6, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 36,947 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow and shallow and has an unusual condition in the location of the existing buildings on the subject property, and does not have sufficient road frontage to allow development in accordance with existing Zoning Ordinance;

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

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

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

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.
3. That the applicant reserve land for the future extension of Trotting Lane through the subject property to the southerly property line and that an escrow be deposited with Fairfax County for the future construction of Trotting Lane through the subject property; the reservation of land and escrow shall be provided to the satisfaction of the Director of Environmental Management.

Mr. Barnes seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 102, February 6, 1979, After Agenda Items

V-255-77 CHURCHMAN JOHNSON: The Board was in receipt of a letter from Mr. Howard G. Sheldon, Jr. requesting an extension on V-255-77 granted to Churchman Johnson on November 8, 1977. Mr. Sheldon was the contract purchaser of the lot that Mr. Johnson was granted the variance on and he was not aware of the time restrictions in getting the subdivision recorded. The final resolution was mailed to Mr. Johnson who did not complete the processing of the variance through the other County agencies.

The Board stated that Mr. Sheldon did not have title to the property and did not have any right in the granting of the variance. The Board suggested that Mr. Johnson reapply for another variance and if it were approved, that he complete the processing of it immediately. The Clerk was advised to mail a new application to Mr. Johnson.

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Page 103, February 6, 1979, After Agenda Items

V-172-78 ESTATES OF INEZ A. DIGIULIAN & WILMER E. LYLES: The Board was in receipt of a letter from Mr. Harold A. Logan regarding V-172-78. A new plat was submitted with some minor engineering changes and Mr. Logan was requesting approval of these revised plats.

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Mr. Yaremchuk moved that the Board approve the revised plats as submitted. Mr. Barnes seconded the motion. The motion passed by a vote of 4 to 0 with 1 abstention (Mr. DiGiulian).

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Page 103, February 6, 1979, After Agenda Items

S-171-77 MT. PLEASANT BAPTIST CHURCH: The Board was in receipt of a letter from the Mt. Pleasant Baptist Church requesting an extension of time. One extension had previously been granted which was due to expire March 8, 1979. Because of the unusual circumstances involved, Mr. Barnes moved that the Board grant another extension. Mr. Yaremchuk seconded the motion. The motion passed by a vote of 5 to 0.

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Page 103, February 6, 1979, After Agenda Items

APPROVAL OF MINUTES: Mr. Yaremchuk moved that the Board approve the Minutes of September 12, 1978 as amended. Mr. Barnes seconded the motion. The motion passed by a vote of 5 to 0.

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Page 103, February 6, 1979, After Agenda Items

S-301-78 TARA SCHOOL, INC.: The Board was in receipt of the Planning Commission recommendation for the Tara School application. The Board asked that new plats be submitted deleting the second tract of land from the special permit request. The decision was scheduled for February 13, 1979 as an after agenda item.

// There being no further business, the Board adjourned at 12:55 P.M.

BY Sandra L. Hicks
Sandra L. Hicks, Clerk to the Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

APPROVED: _____
Date

Submitted to the BZA on _____.
Submitted to the other departments,
Board of Supervisors and Planning
Commission on _____.

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, February 13, 1979. The following Board Members were present: Daniel Smith, Chairman; George Barnes; John Yaremchuk and Barbara Ardis. John DiGiulian was absent. (Snow Day)

The Chairman opened the meeting at 10:45 A.M. led with a prayer by Mr. Barnes.

The Chairman announced that there had been a problem with the sound system which delayed the start of the meeting.

The Board recessed into executive session to discuss legal matters. The meeting reconvened at 10:55 A.M.

The Chairman called the scheduled 10 o'clock case.

10:00 - MARTHA L. GETCHELL, appl. under Sect. 18-401 of the Ord. to allow A.M. resubdivision of two existing parcels into two lots such that proposed lot A-1 would have a width of 58.51 ft. (min. 200 ft. required by Sect. 3-E06), located 9111 Mine Run Drive, Jackson Hills Subd., 13-2((1))37 & 13-2((4))8, Dranesville Dist., 181,518 sq. ft., R-E, V-302-78. (Deferred from January 17, 1978 for Notices).

The required notices were in order. Mr. Robert Lawrence, an attorney in Fairfax, represented the applicant. He informed the Board that Mr. and Mrs. Getchell bought the property in 1952 and built a house on it in 1957. They have lived there ever since. Mr. Lawrence stated that the parcel was land locked. This request is to provide an entrance across their own parcel to the land locked area. The proposed lot is larger than the minimum requirements of the Zoning Ordinance for the zone. The variance was necessary as the lot did not have access to a public road. Mr. Lawrence stated that the parcel was land locked when the Getchells originally bought it. They propose to build a house on it and live in it. Lot 37 is unusually shaped and has been that way for 20 years.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 104, February 13, 1979
MARTHA L. GETCHELL

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-302-78 by MARTHA L. GETCHELL under Section 18-401 of the Zoning Ordinance to allow resubdivision into two lots such that proposed lot A-1 would have a width of 58.51 ft. (200 ft. required) on property located at 9111 Mine Run Drive, tax map reference 13-2((1))37 & 13-2((4))8, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 13, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 4.167 acres.
4. That the applicant's property is exceptionally irregular in shape, being shallow.

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

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

R E S O L U T I O N

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

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 0 with 1 abstention (Mr. Yaremchuk) (Mr. DiGiulian being absent).

Page 105, February 13, 1979, Scheduled case for

10:10 - HANNIBAL S. & MARTHA M. DeSCHMERTZING, appl. under Sect. 18-401 of the Ord. to allow subdivision into two (2) lots with lot widths of 25.51 ft. & 25 ft. (200 ft. required by Sect. 3-E06), located 1025 Towlston Road, 19-2((1))31, Dranesville Dist., 6.2418 acres, R-E, V-10-79.

Mr. Henry Mackall, an attorney in Fairfax, represented the applicants. He stated that the parcel contained a little over 6 acres of land was unusually shaped in that it was a long, narrow 50 ft. strip. The property on both sides has been subdivided. Neither subdivision provided access to this land. The applicant could make this a cluster subdivision having enough frontage for three lots but prefer to subdivide it into two three acre lots instead. In response to questions from the Board, Mr. Mackall stated that the applicants have owned the property since 1956 and that the lot existed prior to that. He stated that the house was built prior to 1956 and that they want to keep the existing house.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 105, February 13, 1979 Board of Zoning Appeals
HANNIBAL S. & MARTHA M. DeSCHMERTZING

R E S O L U T I O N

In Application No. V-10-79 by HANNIBAL S. & MARTHA M. DeSCHMERTZING under Section 18-401 of the Zoning Ordinance to allow subdivision into two lots with lot widths of 25.51 ft. & 25 ft. (200 ft. required by Sect. 3-E06), on property located at 1025 Towlston Road, tax map reference 19-2((1))31, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 13, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 6.2418 acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

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

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

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

Page 106, February 13, 1979

Board of Zoning Appeals

HANNIBAL S. & MARTHA M. DESCHMERTZING
(continued)

R E S O L U T I O N

1. This approval is granted for the location indicated in the plats included with this application only and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 106, February 13, 1979, Scheduled case for

10:20 - OTHAMAN A. BABAN, M.D., appl. under Sect. 18-401 of the Ord. to allow construction of enclosed swimming pool addition to existing dwelling such that the front yard would be 21 ft. & total side yard would be 29.2 ft. (35 ft. minimum front yard & 30 ft. total minimum side yard required by Sect. 3-207), located 3436 Mansfield Road, Lake Barcroft Subd., 61-1((11))984, Mason Dist., 17,600 sq. ft., R-2, V-12-79.

The Board was in receipt of a letter from Dr. Baban stating that he had decided to withdraw his variance application and not proceed with the enclosed swimming pool.

Mr. Barnes moved that the Board allow the variance V-12-79 to be withdrawn without prejudice. Mr. Yaremchuk seconded the motion. The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

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Page 106, February 13, 1979, Scheduled case for

10:30 - TRUSTEES OF ST. JOHN'S EPISCOPAL CHURCH OF McLEAN, appl. under Sect. 3-E03 of the Ord. to permit continued use of 2 trailers for church school purposes, located 9220 Georgetown Pike, 13-2((1))8, Dranesville Dist., 7 acres, R-E, S-7-79.

Mr. Henry Mackall, an attorney in Fairfax, represented the church. He informed the Board that special permits for both trailers had been before the Board previously. Now the church is requesting that both trailers be brought under the same special permit so they would be under the same time schedule. Mr. Mackall stated that none of the church building was visible from the road. The trailers are located behind a row of pine trees. Both trailers are used for Sunday school purposes. Mr. Mackall stated that they are going to build but, again, the church is not sure when they will be able to do so. In response to questions from the Board, Mr. Mackall stated that they hope to build within the next two to three years. He indicated that the church had grown but not enough.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 106, February 13, 1979

Board of Zoning Appeals

TRUSTEES OF ST. JOHN'S EPISCOPAL CHURCH OF McLEAN
R E S O L U T I O N~~Ms. Ardis made the following motion:~~

WHEREAS, Application No. S-7-79 by TRUSTEES OF ST. JOHN'S EPISCOPAL CHURCH OF McLEAN under Section 3-E03 of the Fairfax County Zoning Ordinance to permit continued use of two trailers for church school purposes on property located at 9220 Georgetown Pike, tax map reference 13-2((1))8, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and,

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on February 13, 1979; and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-E.
3. That the area of the lot is 7 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening shall be required and must satisfy Sect. 13-109 and Sect. 13-110 of the Zoning Ordinance except as qualified below.
7. This permit is granted for a period of three (3) years.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 107, February 13, 1979, Scheduled case for

10:30 - TRUSTEES OF ST. JOHN'S EPISCOPAL CHURCH OF McLEAN, app. under A.M. Sect. 18-401 of the Ord. to allow trailer to remain 2.4 ft. from side property line, located 9220 Georgetown Pike, 13-2((1))8, Dranesville Dist., 7 acres, R-E, V-8-79.

Mr. Henry Mackall, an attorney in Fairfax, represented the church. He informed the Board that the trailer had been located at this distance for some time and was screened by pine trees. Mr. Mackall stated that the church was planning to construct but were uncertain as to when they would be able to do so.

There was no one to speak in favor of the application and no one to speak in opposition.

In Application No. V-8-79 by TRUSTEES OF ST. JOHN'S EPISCOPAL CHURCH OF McLEAN under Section 18-401 of the Zoning Ordinance to allow trailer to remain 2.4 ft from side property line on property located at 9220 Georgetown Pike, tax map reference 13-2((1))8, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 13, 1979; and

TRUSTEES OF ST. JOHN'S EPISCOPAL CHURCH OF MCLEAN
(continued) R E S O L U T I O N

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

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 7 acres.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

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

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

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

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

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 108, February 13, 1979, Scheduled case for

10:50 - PROCTOR HATSELL PRIVATE SCHOOL, INC., appl. under Sect. 3-103 of the A.M. Ord. to amend S-100-76 for a private school of general education to permit increase in maximum number of students from 75 to 105, located 7136 Telegraph Road, 91-4((1))12, Bee Dist., 28,952 sq. ft., R-1, S-11-79.

Chairman Smith announced that a question had arisen as to the amount of square footage involved in this application. A plat had been submitted to the Zoning Administrator showing additional land area but that additional area had not been included in the advertisement. The Board announced that a readvertisement would take place. In addition, the Board was in receipt of a letter requesting that a traffic survey be made a part of the staff report to the application. In view of the above, the Board deferred the application until March 27, 1979 at 10:00 A.M. for a proper application and a report from the Police Department.

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Page 108, February 13, 1979, Scheduled case for

11:10 - INTERNATIONAL TOWN & COUNTRY CLUB, appl. under Sect. 3-103 of the A.M. Ord. to amend existing use permit to allow continued use of temporary trailer for tennis, located 13200 Lee Jackson Highway, 45-1((1))11, Centreville Dist., 240.87 acres, R-1, S-13-79.

As the required notices were not in order, the Board deferred the application until March 27, 1979 at 10:20 A.M.

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Page 108, February 13, 1979, Scheduled case for

11:15 - TARA SCHOOL, INC., appl. under Sect. 3-E03 of the Ord. to permit A.M. school of general instruction for maximum of 200 students, located 1742 Sunset Hills Road, C.R. Ball Subd., 18-3((2))5, Centreville Dist., 5.000 acres, R-E, S-301-78. (Deferred from January 17, 1979 for decision).

The Board was in receipt of the revised plats as requested at a previous meeting and were prepared to make a motion.

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-301-78 by TARA SCHOOL, INC. under Section 3-E03 of the Fairfax County Zoning Ordinance to permit school of general instruction for maximum of 200 students on property located at 1742 Sunset Hills Road, tax map reference 18-3((2))5, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on February 13, 1979; and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-M.
3. That the area of the lot is 5.00 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening shall be required and must satisfy Sect. 13-109 and Sect. 13-110 of the Zoning Ordinance except as qualified below.
7. The total number of students shall be 200.
8. The plat is to be revised to remove lot 4 if it is not to be included in the special permit land area; designate at least 30 additional overflow parking spaces; designate specific active play areas, if proposed such as basketball or multi-purpose courts; and specify setback of proposed building from front property line.
9. A deceleration lane shall be provided to the satisfaction of the Director of Environmental Management.
10. A trail shall be provided along Sunset Hills Road.
11. The Zoning Administrator shall review the use at the end of two years with particular attention to the adequacy of parking. Should it be found that parking is inadequate, the special permit shall be returned to the Board of Zoning Appeals for review of additional parking.
12. The applicant shall provide not only the barrier as required in Article 13 of the Zoning Ordinance, but also provide screening in accordance with paragraph 3A of Section 13-109 along the side yards.
13. An undisturbed 100 ft. strip of existing vegetation shall remain on the rear of the lot.
14. The hours of operation shall be from 7 A.M. to 6 P.M. for normal activities and until 10 P.M. for school related functions.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

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// There being no further business, the Board adjourned at 11:35 A.M.

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By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

APPROVED: _____
Date

Submitted to the BZA on _____.
Submitted to the other departments,
Board of Supervisors and Planning
Commission on _____.



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The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Wednesday, February 21, 1979. The following Board Members were present: Daniel Smith, Chairman; George Barnes and Barbara Ardis. John DiGiulian and John Yaremchuk were absent. (Snow Day)

The Chairman opened the meeting at 10:25 A.M. led with a prayer by Mr. Barnes.

The Chairman called the scheduled 10 o'clock case.

10:00 - R? D. FAITH, appl. under Sect. 18-401 of the Ord. to allow sub-division into 4 lots, one of which has a width of 20 ft. (150 ft. minimum lot width required by Sect. 3-106), located 11900 Bennett Road, 36-1((1))15, Centreville Dist., 5.6407 acres, R-1, V-14-79.

Mr. Ken Hersing of Charles Runyon Associates in Falls Church represented the applicant. He informed the Board that this was for a pipestem lot. Because of the location of the existing house, adequate lot frontage could not be provided for the proposed subdivision. A variance was necessary for the proposed lot 4. The existing house would remain on lot 2.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 111, February 21, 1979 Board of Zoning Appeals
R. D. FAITH

R E S O L U T I O N

In Application No. V-14-79 by R. D. FATH under Section 18-401 of the Zoning Ordinance to allow subdivision into four lots, one of which has a width of 20 ft. (150 ft. minimum lot width required by Sect. 3-106) on property located at 11900 Bennett Road, tax map reference 36-1((1))15, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 21, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 5.6407 acres.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

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

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

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

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 0 (Messrs. DiGiulian and Yaremchuk being absent).

Page 112, February 21, 1979, Scheduled case for

10:10 - L. D. GADDY CONSTRUCTION COMPANY, INC., appl. under Sect. 18-401 of the Ord. to allow subdivision into 7 lots, 2 of which have lot width of 5 ft. and 1 of which has width of 10 ft. (80 ft. minimum lot width required by Sect. 3-306), located 7618 Shreve Road, 49-2((1))161, 162 & 163, Providence Dist., 2.57 acres, R-3, V-15-79.

Mr. L. D. Gaddy of 5813 Fitzhugh Street in Burke represented the construction company. He stated that his dad has owned the property since July of 1977 and that he was acting as his dad's agent. Chairman Smith informed Mr. Gaddy that the variance application should have been filed in the name of the property owners rather than the construction company. Chairman Smith stated that he felt the application should be readvertised. Mr. Covington stated that the Board has amended the application at the time of the hearing in the past. Mr. Gaddy stated that he was the owner of the property and did not waste time in refiling the application. Mr. Covington stated that the original application listed a lot 116 which was changed by the zoning staff but left off the advertising.

In order to correct the application, the applicant was instructed to amend the application to show the proper land owners and if there were a contract purchaser, to list them as a co-applicant. Chairman Smith stated that the application would have to be readvertised.

This application was deferred until March 27, 1979 at 10:20 A.M. for proper application.

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Page 112, February 21, 1979, Scheduled case for

10:20 - PHILANDER P. CLAXTON, appl. under Sect. 18-401 of the Ord. to allow subdivision into 6 lots, with proposed corner lot #1 having a width of 156.08 ft. (175 ft. minimum lot width required by Sect. 3-106), located 1155 Chain Bridge Road, Ballantrae Farms, 31-1((2))38B1, 38, 38A, 40C, Dranesville Dist., 7.3103 acres, R-1, V-16-79.

Mr. Hal Simmons of Picuilli, Simmons & Associates in Vienna represented the applicant. He stated that this request was to create a subdivision with one corner lot having a lot width of 156.08 ft. in lieu of the required 175 ft. Mr. Simmons stated that the lot is irregular in shape and does not have adequate street frontage. A strict application of the requirements of the Zoning Ordinance would deprive the owner of the reasonable use of the land. The Master Plan calls for one to two dwelling units per acre in this area. The zoning is for one acre lots. Mr. Simmons stated that the property was being developed in a much lesser density.

The following person spoke in favor of the application. Mr. Harry Armston, an abutting property owner, stated that he had no objection but was concerned about the drainage through the property and hoped that it would not affect his property. He informed the Board that he owned lot 37 to the north of the subject property. Mr. Armston stated that there was a swell through his property and was concerned that the new development take the necessary steps to insure the continuous flow of the drainage. Chairman Smith stated that a culvert might take care of the additional flow which would be addressed at the time of Site Plan review. However, he noted that if the water was backing at the present time that a culvert would not relieve the situation. Mr. Armston again informed the Board that he was not opposed to the variance request.

Mr. Arthur Ismay of 1169 Chain Bridge Road spoke in opposition of the application. He informed the Board that Dolley Madison was large artery and that the real issue was on the other side of Chain Bridge Road. He stated that this neighborhood was a low density and had small homes situated on small lots. He stated that he opposed this variance request as he did not feel that the applicant suffered from any hardship. He stated that the applicant was new to the neighborhood. Mr. Ismay stated that many of the residents in the area have lived here a long time and are opposed to this request. However, because of the weather they were unable to attend the hearing. Mr. Ismay requested that the Board defer the decision of the hearing until such time for the neighbors to be heard on this request.

Chairman Smith informed Mr. Ismay that this request was for a proposed six lot subdivision with just a slight variance. There would still be a lot width of 150 ft. with a request for about a 19 ft. variance on the corner lot. He stated that if this was an interior lot that a variance would not be necessary. He stated that the actual lot width was really no different than what would normally be found in a one acre subdivision. The corner lot situation makes it a unusual situation. The property is zoned R-1 and master planned for one to two dwelling units per acre.

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Chairman Smith stated that he could understand the objections simply because of the houses there that are developed on larger tracts of land. However, an acre lot today in the County is an awful lot of land. He stated that most of the land developed now is in townhouses of units of 5 to 10 per acre. He stated that there were few people who could afford housing on two to five acres anymore.

Mr. Ismay again requested that the Board defer decision until the neighbors could attend the hearing. Ms. Ardis inquired of the Clerk if anyone had called to say that they were unable to attend the hearing and was informed no to the best of her knowledge. Chairman Smith stated that they could not defer the case just because of the weather. However there were only three Board members present. Chairman Smith stated that this case was not unusual and he is very conservative in granting variances. He stated that this request seemed to be a reasonable use of the land and was against deferring the application. Mr. Ismay stated that he could not speak for his neighbors and urged the Board to defer the decision.

Chairman Smith stated that they would hold the record open until March 6, 1979 for any additional information in writing and would make a decision at that time. In addition, the absent Board members would be allowed to review the tapes and participate in the decision if they so desired.

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Page 113, February 21, 1979, Scheduled case for

10:30 - I. WARREN & JOYCE M. PEEPLES, appl. under Sect. 3-E03 of the Ord. A.M. for renewal of special permit for a kennel, located 642 Seneca Road, Barrington Subd., 6-2((1))8, Dranesville Dist., 4.888 acres, R-E, S-17-79.

Mr. Warren Peeples of the above address stated that he and his wife operated what was primarily a breeding kennel for toy poodles. They have been operating for twelve years. They show the poodles and are mainly concerned with improvement of the breed and for their own personal satisfaction of raising the animals. There are no outside runs. There are no signs on the property and therefore no way for anyone to know that a kennel is located on the property. The kennel is completely enclosed and is air conditioned. All of the dogs are kept inside. The sewerage and septic are on a separate system. Mr. Peeples stated that he had a considerable investment in this venture. He stated that he has never had any complaints and did not believe that any of his neighbors objected to the use. He informed the Board that he has had unusual success in the showing of their dogs and has won the top winning toy poodles awards for the past five years at the national level. In response to questions from the Board, Mr. Peeples stated that he keeps approximately 75 dogs. Most of the animals are older animals who have retired from the shows but are kept and maintained. He stated that the kennel was attached to his house. The average life span of the animals is between 13 to 14 years.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 113, February 21, 1979 Board of Zoning Appeals
I. WARREN & JOYCE M. PEEPLES

R E S O L U T I O N

Ms. Ardis made the following motion:

WHEREAS, Application No. S-17-79 by I. WARREN & JOYCE M. PEEPLES under Section 3-E03 of the Fairfax County Zoning Ordinance to permit renewal of special permit for a kennel on property located at 642 Seneca Road, tax map reference 6-2((1))8, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on February 21, 1979; and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-E.
3. That the area of the lot is 4.888 acres.
4. That compliance with the Site Plan Ordinance is required.

R E S O L U T I O N

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

THAT the applicant has presented testimony indicating compliance with the Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance,

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening shall be required and must satisfy Sect. 13-109 and Sect. 13-110 of the Zoning Ordinance except as qualified below.
7. The maximum number of dogs shall be 75.
8. This permit is granted for a period of three (3) years with the Zoning Administrator empowered to extend for three (3) one year periods.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 0 (Messrs. DiGiulian and Yaremchuk being absent).

 Page 114, February 21, 1979, Scheduled case for

10:50 - BELLE HAVEN COUNTRY CLUB, INC., appl. under Sect. 30303 of the A.M. Ord. to amend existing special permit for country club to allow new clubhouse addition to eventually replace existing clubhouse, located 6023 Fort Hunt Road, 83-4((1))5, 6 & 13, Mt. Vernon Dist., 156.6952 acres, R-3, S-18-79.

Mr. Phil Vander Mere represented the Belle Haven Country Club. The club is located on 156 acres on Ft. Hunt Road and is zoned R-3. The purpose of this application is to amend the existing special permit to allow a new clubhouse addition to replace the existing clubhouse. He informed the Board that the club received a special permit last September to build an addition onto the old clubhouse. However, later it was learned that this was not a practical solution. The existing clubhouse has deteriorated and now they have decided to proceed with a new clubhouse 100 ft. further back on the property. This will allow the widening of Ft. Hunt Road and will improve the area around Belle Haven. Mr. Vander Mere stated that the original building was constructed in 1920 and has been added to since then. The new application is adding additional parking on the property. The clubhouse is eating up money. There is no insulation and the new building will be a much better installation.

In response to questions from the Board, Mr. Vander Mere stated that the building will be in the traditional styling. The citizens have examined the plans and approve of them. The club is going to provide a deceleration and acceleration lane. There will be a total of 266 parking spaces for 560 members. Chairman Smith stated that all parking must be contained on the site.

There was no one to speak in favor of the application and no one to speak in opposition.

R E S O L U T I O N

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Ms. Ardis made the following motion:

WHEREAS, Application No. S-18-79 by BELLE HAVEN COUNTRY CLUB, INC. under Section 3-303 of the Fairfax County Zoning Ordinance to amend existing special permit for country club to allow new clubhouse addition to eventually replace existing clubhouse on property located at 6023 Fort Hunt Road, tax map reference 83-4((1))5, 6 & 13, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on February 21, 1979; and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-3.
3. That the area of the lot is 156.6952 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance,

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening shall be required and must satisfy Sect. 13-109 and Sect. 13-110 of the Zoning Ordinance except as qualified below.
7. All other conditions of the original use permit shall remain in effect.
8. Prior to use of new facility, applicant shall submit a revised plat to the Board showing parking for at least the required number of cars as provided in the Ordinance.
9. All parking must be on site.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 0 (Messrs. DiGiulian and Yaremchuk being absent).

Page 115, February 21, 1979, Scheduled case for

11:00 - JOHN E. & NORIS F. McGREEVY, appl. under Sect. 18-401 of the Ord. A.M. to allow construction of garage 22.9 ft. from outlet road (minimum 50 ft. required by Sect. 3-E07), located 1071 Cedrus Lane, Peacock Station Subd., 19-2((9))27, Dranesville Dist., 100,801 sq. ft., R-E, V-303-78. (Deferred from January 30, 1979 for revised plats showing location of septic tank and topographic contours).

This application was further deferred until March 6, 1979 at 11:30 A.M.

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APPROVAL OF MINUTES: Mr. Barnes moved that the Minutes for September 19, 1978 and September 26, 1978 be approved as amended. Ms. Ardis seconded the motion and it passed by a vote of 3 to 0 (Messrs. DiGiulian and Yaremchuk being absent).

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// There being no further business, the Board adjourned at 11:40 A.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

APPROVED: _____
DATE

Submitted to the BZA on _____.
Submitted to the other departments,
Board of Supervisors and Planning
Commission on _____.

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The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, March 6, 1979. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; John Yaremchuk and Barbara Ardis. George Barnes was absent.

The Chairman opened the meeting at 10:15 A.M. led with a prayer by Mr. Covington.

The Chairman called the scheduled 10 o'clock case.

10:00 - MOZAFAR & MAHIAN AMIGHI, appl. under Sect. 18-401 of the Ord. to allow resubdivision of two lots into four lots, two of which have width of 6 ft. (minimum 100 ft. required by Sect. 3-206), located 3434 & 3436 Holly Road, Richard Robinson Estate Subd., 59-2((2))1. and 2, Providence Dist., 2.3181 acres, R-2, V-305078. (Deferred from January 30, 1979 for Notices).

Again, the notices were not in order. Mr. Amighi stated that the engineer was handling the case and the notices. Chairman Smith stated that the Board would defer this only one more time and informed Mr. Amighi to get in touch with his engineer and straighten out the matter of the notices.

This case was again deferred until April 10, 1979 at 10:00 A.M. for notices.

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Page 117, March 6, 1979, Scheduled case for

10:10 - ENDURANCE CONSTRUCTION CORPORATION, appl. under Sect. 18-401 of the Ord. to allow subdivision into 3 lots, 2 of which have 12 ft. lot width (80 ft. minimum lot width required by Sect. 3-306), located 2205 Wittington Blvd., McConnell Subd., 111-1((1))14A, Mt. Vernon Dist., 46,701 sq. ft., R-3, V-20-79.

Mr. A. Andrew Giangreco, at attorney in Alexandria, represented the applicant. The required notices were not in order. Mr. Giangreco discussed the matter of notices with the Board and pleaded that the hearing take place as he did not feel that the notices were deficient.

The Board determined that the notices were not in order and, therefore, the hearing could not take place. This matter was deferred until April 10, 1979 at 10:10 A.M.

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Page 117, March 6, 1979, Scheduled case for

10:20 - ROBERT H. STROUD, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling 7.4 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-107), located 3604 Twilight Court, Waples Mills Estates Subd., 46-1((13))3, Centreville Dist., 21,894 sq. ft., R-1(c), V-21-79.

The required notices were in order. Mr. Robert Stroud of the above address informed the Board that he was applying for a variance because his property is such that the location of the house prevents any addition except where he is proposing to construct it. The septic fields on the property limit where construction could take place. He stated that he needs a garage because of all the trees on the property and his car being subject to damage by falling limbs and tree sap. In addition, his wife was self-employed and the garage would provide adequate storage space for her files. He stated that both he and his wife have handicapped brothers and need a covered area for them to enter the house. Chairman Smith noted that most of the lots in the subdivision had the same situation. Mr. Stroud stated that most of the lots would have adequate room for extra space and a garage on the property without a variance.

Mr. DiGiulian inquired as to whether the garage could be moved back. Mr. Stroud stated that he needs a variance to the overall total requirement of 40 ft. for side yards. He stated that he was unaware of this. His house is situated on the property at an angle. Mr. Stroud stated that originally they had only applied for a variance to the one side yard. He stated that they do need the extra space. The builder had planned garages but Mr. Stroud stated that at the time the house was built he could not afford the garage. Now he is in a position to afford to construct the garage.

Page 118, March 6, 1979
 ROBERT H. STROUD
 (continued)

Mr. Stroud stated that he could construct a single garage. He indicated that he would need 4 ft. for an entrance way to his house from the garage. The stairwell would be in the back corner of the garage. He stated that if he moved the garage back he would run into problems with the oil tank and the air conditioning unit. In addition, a large tree would have to be removed. Chairman Smith stated that none of this was shown on the plats. Mr. Stroud stated that he was not aware that it had to be included on the plats.

There was no one to speak in favor or in opposition to the application.

Page 118, March 6, 1979
 ROBERT H. STROUD

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-21-79 by ROBERT H. STROUD under Section 18-401 of the Ord. Zoning Ordinance to permit construction of garage addition to dwelling 7.4 ft. from side lot line (12 ft. minimum required by Sect. 3-107) on property located at 3604 Twilight Court, tax map reference 46-1((13))3, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 6, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1(C).
3. The area of the lot is 21,894 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

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

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

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

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

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Barnes being absent).

Page 118, March 6, 1979, Scheduled case for

10:30 - ROBERT J. & HELEN E. HING, appl. under Sect. 18-401 of the Ord. to allow enclosure of carport located 7.21 ft. from side property line (8 ft. total of 20 ft. required by Sect. 3-307), located 1659 East Avenue, Devine's Addition to Chesterbrook Subd., 31-3((8))4)5 & 6, Dranesville Dist., 9,776 sq. ft., R-3, V-24-79.

Mr. Robert Hing of the above address stated that he needed a variance of 8/10 of a foot on the side setback and a variance of 1 ft. to the overall total side yard requirement. The narrow width of the property prevents compliance with the present Zoning requirements. The Ordinance required an 8 ft. minimum and an overall minimum of 20 ft. He stated that they would like to enclose the existing carport. The purpose would be to park one car and house yard

Page 118, March 6, 1979
ROBERT J. & HELEN E. HING
(continued)

equipment, bicycles and household effects. He informed the Board that his house does not have a basement. Mr. Hing stated that his request would not cause any problems for the neighbors. In response to

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In response to questions from the Board, Mr. Hing stated that he was just enclosing the present carport and was not adding to it. He stated that there were only three other homes in the area like his own. All the others already have garages.

There was no one to speak in favor of the application and no one to speak in opposition of the application.

Page 119, March 6, 1979 Board of Zoning Appeals
ROBERT J. & HELEN E. HING

R E S O L U T I O N

In Application No. V-24-79 by ROBERT J. & HELEN E. HING, under Section 18-401 of the Zoning Ordinance to permit enclosure of carport located 7.21 ft. from side property line (8 ft. & total of 20 ft. required by Sect. 3-307), on property located at 1659 East Avenue, tax map reference 31-3((8))(4)5 & 6, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 6, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 9,776 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

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

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

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

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

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Barnes being absent).

Page 119, March 6, 1979, Scheduled case for

10:40 - DONALD B. JUNCAL, ET. AL., appl. under Sect. 18-401 of the Ord. to allow subdivision into 3 lots with proposed lot 2 having width of 176.21 ft. and proposed lot 3 having width of 15.04 ft. (200 ft. minimum lot width required by Sect. 3-E06), located 624 Walker Road, 7-4((1))42, Dranesville Dist., 6.9903 acres, R-E, V-22-79.

As the required notices were not in order, this application was deferred until April 10, 1979 at 10:20 A.M.

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Page 120, March 6, 1979, Scheduled case for

10:50 - CHRISTINA D. ZOGHAIB, appl. under Sect. 3-303 of the Ord. to permit A.M. school of special education-secretarial instruction, located 2719 Gallows Road, 49-2((1))44, Providence Dist., 0.303 acres, R-3, S-19-79.

Ms. Chris Zoghaib of 2719 Gallows Road in Vienna appeared before the Board. She stated that the hours of the school are to be 8 A.M. to 5 P.M. Classes would be from 8:30 until 3:30, five days a week. Classes would be small with no more than four at a time. The school was for secretarial instruction. She stated that she is presently teaching in her home but was made aware of the fact that if she has more than eight students in a given day that a special permit was necessary. She informed the Board that they plan to have more than eight but no more than twelve in any given day. Later on they hope to expand. She stated that this was an eight room house with two rooms being uses for classes. She stated that she has lived there for two years and are the newest people in the neighborhood.

In response to questions from the Board, Ms. Zoghaib stated that four parking spaces would be provided. She stated that she was aware that the parking would have to have a dustless surface. She stated that the school does not perform any secretarial work. Ms. Zoghaib and her husband are the only instructors at the school.

With respect to the parking requirements, Ms. Zoghaib informed the Board that it would take about two to three months to comply with the staff's recommendations.

Chairman Smith stated that this area already had a lot of use permits. He was informed by Mr. Covington that most of them were non-conforming. In response to further questions from Mr. Smith, Ms. Zoghaib stated that the land area consisted of a third of an acre. Mr. Yaremchuk stated that the area was surrounded by apartments and industrial complexes across the street. It appeared to be the perfect area for a small school.

An adjoining property owner of 2725 Gallows Road appeared to speak in support of the application. There was no one to speak in opposition to the application.

Page 120, March 6, 1979
CHRISTINA D. ZOGHAIB

Board of Zoning Appeals

R E S O L U T I O N

Ms. Ardis made the following motion:

WHEREAS, Application No. S-19-79 by CHRISTINA D. ZOGHAIB under Section 3-303 of the Fairfax County Zoning Ordinance to permit school of special education - secretarial instruction on property located at 2719 Gallows Road, tax map reference 49-2((1))44, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on March 6, 1979; and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-3.
3. That the area of the lot is 0.303 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind,

R E S O L U T I O N

changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.

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

6. Landscaping and screening shall be required and must satisfy Sect. 13-109 and Sect. 13-110 of the Zoning Ordinance except as qualified below.

7. The number of students shall be twelve (12).

8. The hours of operation shall be 8 A.M. to 5 P.M., Monday through Friday.

9. The number of parking spaces shall be four (4) and the driveway and the parking spaces must have a dustless surface.

10. This permit is granted for a period of three (3) years with the Zoning Administrator empowered to grant three (3) one-year extensions.

11. There shall be a specific prohibition of secretarial service associated with this use.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Barnes being absent).

Page 121, March 6, 1979, Scheduled case for

11:10 - BIBLEWAY CHURCH OF FAIRFAX, appl. under Sect. 3-103 of the Ord. to permit addition of vestibule to existing church, located 4340 Ox Road, 57-4(1)2, Annandale Dist., .432 acres, R-1, S-23-79.

Reverend John Allen of Stafford, Virginia, represented the church. He stated that they would like to add a vestibule to the entrance of the church. The roof is v-shaped. He stated that this request had been granted previously in 1975 for the same addition but was never built. Mr. Covington stated that the original addition was a much larger structure. In response to questions from the Board, Reverend Allen stated that the church planned to add three more parking spaces to make a total of fourteen parking spaces.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 121, March 6, 1979

Board of Zoning Appeals

BIBLEWAY CHURCH OF FAIRFAX

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-23-79 by BIBLEWAY CHURCH OF FAIRFAX under Section 3-103 of the Fairfax County Zoning Ordinance to permit addition of vestibule to existing church on property located at 4340 Ox Road, tax map reference 57-4(1)2, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and,

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on March 6, 1979; and

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

1. That the owner of the subject property is the Bibleway Church Trustees.
2. That the present zoning is R-1.
3. That the area of the lot is 0.432 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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R E S O L U T I O N

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening shall be required and must satisfy Sect. 13-109 and Sect. 13-110 of the Zoning Ordinance except as qualified below.
7. The hours of operation shall be normal hours of church activities.
8. The number of parking spaces shall be fourteen (14).

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Barnes being absent).

Page 122, March 6, 1979, Scheduled case for

11:20 - PHILANDER P. CLAXTON, appl. under Sect. 18-401 of the Ord. to allow subd. into 6 lots, with proposed corner lot #1 having a width of 156.08 ft. (175 ft. min. lot width required by Sect. 3-106), located 1155 Chain Bridge Road, Ballantrae Farms, R-1, V-16-79. (DEFERRED from February 21, 1979 for additional written information and decision).

Chairman Smith announced that at the original hearing there had not been a full Board present which was the reason for the deferral.

Mr. Philander Claxton of the above address stated that the property was a corner lot and fronts on Dolley Madison and Ballantrae Lane. He stated that the lot was irregularly shaped. The property is zoned R-1 but is master planned for one to two units per acre.

With respect to the previous hearing, Chairman Smith stated that the person carrying the opposition had requested time to submit written testimony. Mr. Claxton stated that his neighbor had stated that he was only concerned about the drainage and did not object to the variance.

The Board allowed testimony from the following persons. Mr. Richard Carney of 1144 Waverly Way stated that he lived down the street from the subject property. He stated that this was a small variance but would mean another house in the area which he was opposed to. It would increase the traffic and bring more services into the area. Chairman Smith stated that the request does not exceed the master plan and that the variance was only for a lack of street frontage as this was a corner lot. Mr. Carney presented the Board with a letter from another neighbor on Ballantrae Lane who was also in opposition.

The next speaker who resided at 1171 Chain Bridge Road stated he was also in opposition to the variance as it did not meet the lot size requirements of the laws in Fairfax County. He indicated that every house but one has at least 1½ acres or even 2 acres of land. He objected to dropping the land area down to 36,000 sq. ft. He stated that this area already had one house with less than an acre of ground that was built one year ago. He stated that this property should meet the requirements of the Ordinance.

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During rebuttal, Mr. Claxton informed the Board that the previous hearing took place two weeks before during a heavy snowstorm. Since that time, he had an opportunity to talk to the surrounding property owners. Most of the immediate neighbors do not object to the variance. Mr. Claxton stated that he appreciated the fact that many of his neighbors wanted to keep the nature of the area unchanged but he stated that he lived there also. This is a large irregular piece of land contains more than seven acres. It is a relatively small variance request. There is no change in the zoning. It is in compliance with the master plan.

Chairman Smith announced the conclusion of the public hearing. At the request of Mr. DiGiulian and Mr. Yaremchuk who wanted an opportunity to listen to the tapes of the previous hearing and review the file, the decision was deferred until March 13, 1979.

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Page 123, March 6, 1979, Scheduled case for

11:30 - JOHN E. & NORIS F. MCGREEVY, appl. under Sect. 18-401 of the Ord. to allow construction of garage 22.9 ft. from outlet road (min. 50 ft. required by Sect. 3-E07), located 1071 Cedrus Lane, Peacock Station Subd., 19-2((9))27, Dranesville Dist., 100,801 sq. ft., R-E, V-303-78. (

This application had been deferred from January 30, 1979 for revised plans showing topographic contours of the property and the location of the septic fields. Chairman Smith announced that the Board was in receipt of a letter from the applicants requesting withdrawal of the application.

Mr. DiGiulian moved that the application be withdrawn without prejudice. Mr. Yaremchuk seconded the motion. The motion passed by a vote of 4 to 0. (Mr. Barnes being absent).

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Page 123, March 6, 1979, After Agenda Items

APPROVAL OF MINUTES: The Board requested deferral of the approval of the Minutes for October 3, 1978 and October 11, 1978 until a full Board was present.

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Page 123, March 6, 1979, After Agenda Items

S-196-77 CHRISTIAN FELLOWSHIP CHURCH: The Board was in receipt of a further request for an extension on the special permit granted to the Christian Fellowship Church. The original permit was granted on September 20, 1977. One extension for 180 days was granted by the Board on September 12, 1978 and was due to expire on March 20, 1979. The Board had requested the applicant to furnish a detailed report on the actions taken to keep the special permit in effect. This report was given to the Board.

Ms. Ardis moved that the Board grant a further extension for a period of 180 days. Mr. DiGiulian seconded the motion. The motion passed by a vote of 4 to 0 (Mr. Barnes being absent).

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Page 123, March 6, 1979, After Agenda Items

V-304-78 John Parrot & Arif Hodzic: This variance application had been deferred to allow the applicant an opportunity to seek alternate means of subdividing without a variance. The Board was in receipt of a letter from Oscar Hendrickson of Preliminary Engineering. As a result, the Board instructed the Clerk to write Mr. Hodzic and inform him he would need to write a letter to the Board requesting withdrawal of this variance application.

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S-18-74 Central Fairfax Services, Inc.: The Board was in receipt of a request for an extension of the special permit due to expire April 24, 1979. The permit was originally granted April 24, 1974 and did not have any extensions left. The Board was in receipt of a letter from the Director of the Center requesting the extension for a brief period of time to allow them time to move to the new building. The Board announced that it would be up to the Zoning Administrator to allow them a period of 60 days to move into the new facility.

// There being no further business, the Board adjourned at 11:50 A.M.

BY Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

APPROVED: February 12, 1980
Date

Submitted to the BZA on Feb 5, 1980.
Submitted to the other departments,
Board of Supervisors and Planning
Commission February 5, 1980.

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The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, March 13, 1979. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes, John Yaremchuk and Barbara Ardis.

The Chairman opened the meeting at 10:15 A.M. led with a prayer by Mr. Barnes.

The Chairman called the scheduled 10 o'clock case.

10:00 - EUGENE R. APPLETON, appl. under Sect. 18-401 of the Ord. to allow subd. into 2 lots, one of which has proposed width of 15 ft. (200 ft. min. lot width required by Sect. 3-E07), located 817 Springvale Road, 7-2((1))53, Dranesville Dist., 3.780 acres, R-E, V-9-79.

This application had been deferred from February 6, 1979 for advertising and renotification purposes. The Board was in receipt of a letter from the engineer requesting withdrawal of the application without prejudice.

Mr. Barnes moved that the Board allow the application to be withdrawn without prejudice. Ms. Ardis seconded the motion. The motion passed unanimously by a vote of 5 to 0.

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10:10 - LOUIS A. & MARY C. SCHUPPIN, appl. under Sect. 18-401 of the Ord. to allow construction of a garage 11 ft. from rear lot line & 2 ft. from side lot line such that total side yards would be 7.3 ft. (min. 11 ft. rear setback & 8 ft. & a total of 20 ft. side setback required by Sect. 10-105), located 6404 13th Street, 83-4((2))25) 23 & 24, Mt. Vernon Dist., *7,000 sq. ft., R-3, V-25-79.* New Alexandria Subd.

Mr. Louis Schupp in of 6406 13th Street informed the Board that he and his wife were the owners of the property. He stated that they reside at 4006 N. 24th Road. He stated that he did not live at the subject property at the present time. He stated that he has owned the property since 1958. He actually lived at the property for about 8 or 9 years from 1958 to 1967. In response to questions from the Board, Mr. Schupp in stated that he wished to renovate the property and move back there. Mr. Schupp in stated that at this property he would need a garage to store his car, garden equipment, and to have a small workshop. The house does not have a basement. The proposed garage would be 28 ft. x 16 ft. with a gable roof. It would be 11 ft. in height and would be compatible with the buildings in the surrounding neighborhood. The garage would be the same color as the house. Mr. Schupp in stated that his lot faces 13th street and has a paved alley in the rear of the property. He stated that he could build a garage in the back yard. The back yard is extremely small. He stated that he needed a variance in order to locate the garage 2 ft. from the side lot line and about 5 ft. from the rear. He stated that this would then leave adequate back yard for recreation and a garden. Mr. Schupp in stated that this request was not unique in this subdivision. He stated that most of the lots have garages within 5 ft. from the rear property line and within 2 ft. of the side.

Chairman Smith inquired as to the topographic condition that Mr. Schupp in could not comply with that necessitates a variance. Mr. Schupp in stated that the lot was very small. He stated that if he complied with the setbacks, the garage would be located in the center of the back yard. The ground is flat and there is not any topographic problem.

There was no one to speak in favor of the application and no one to speak in opposition. The Board was in receipt of a letter from Mrs. Phyllis Porter asking that if the variance was granted that it be granted with certain conditions. Mr. Covington informed the Board that the property was a sub-standard lot having only 7,000 sq. ft. Prior to August of 1978, a variance would not have been necessary. Mr. Yaremchuk stated that Mr. Schupp in should not be penalized because of a change in the Ordinance.

R E S O L U T I O N

In Application No. V-25-79 by LOUIS A. & MARY C. SCHUPPIN under Section 18-401 of the Zoning Ordinance to permit construction of a garage 11 ft. from rear lot and 2 ft. from side lot line such that total side yards would be 7.3 ft. (minimum 11 ft. rear setback and 8 ft. with a total of 20 ft. side setback required by Sect. 10-105), tax map reference 83-4((2))(925)23 & 24, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 13, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 7,000 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, being a substandard lot including narrow.

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

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

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

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

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 126, March 13, 1979, Scheduled case for

10:20 - DARRELL L. RAINES, appl. under Sect. 18-401 of the Ord. to allow garage to remain as constructed 1.7 from side lot line (8 ft. setback indicated on building permit & 8 ft. min. required by Sect. 10-105), located 1937 Anderson Road, Pimmit Hills Subd., 40-1((13))49, Dranesville Dist., 10,010 sq. ft., R-4, V-26-79.

Mr. Darrell Raines of 1937 Anderson Road stated that he received a building permit in September to build a two car garage in his back yard. He stated that he had discussed his garage with the Zoning Office. The garage is to be 13 ft. in height. He stated that he was told by the Zoning Office that if the garage was over 8 ft. in height that he would have to be 8 ft. from the property line. He stated that he informed the Zoning Office that he was constructing the garage in the ground so that it would not be more than 8 ft. high above ground level. Mr. Raines stated that his garage does not violate the height limitations because he constructed it in the ground. According to the County Code, the garage was measured to be 13 ft. from the ground to the peak of the roof. Mr. Raines stated that on the side of the garage next to the fence, the garage was built into 3 ft. of ground and goes to 4 ft. in the rear. Mr. Raines stated that it measured only 7 ft. in height on the side. He stated that he could not build up the other side because of the drainage.

Chairman Smith asked for comments from Mr. Covington. Mr. Covington stated that Mr. Raines got a building permit stating that he would be 8 ft. from the side lot line. Chairman Smith stated that the fact that Mr. Raines built up the ground around the building has no bearing on the height of the garage.

Mr. Covington again stated that a building permit was issued based on the drawings submitted which showed the garage to be located 8 ft. from the side lot line. Mr. DiGiulian inquired that if the garage had been less than 7 ft. in height, how close could he come to the property line. Mr. Covington stated that if the height was under seven feet it could be located anywhere in the rear yard. The height determines the setback.

The question for the Board was whether the fact that the garage was partially submerged into the ground would still be included as part of the height of the structure. Mr. Yates informed the Board that the average level of the ground surrounding the building is where the height is measured. The sides of the building count as well. Mr. Yates suggested that the Board defer decision of the application until later in the meeting to allow time to research the issue.

The Board asked for testimony from the audience in case anyone would have some more legal points for research. Mr. Ray Mask of 1935 Anderson Road spoke in favor of the application. He stated that if Mr. Raines built the garage 8 ft. from the side lot line that it would be impossible to put the car in the garage. There is a steep bank on the property with about a 7 to 8 ft. fall. He stated that his property was higher than Mr. Raines. He stated that he had no objection to the variance request.

There was no one else to speak in favor of the application and no one to speak in opposition.

The Board deferred decision until later in the meeting.

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Page 127, March 13, 1979, Scheduled case for

10:30 - REINSTATEMENT: THE TOPAZ CORPORATION, appl. under Sect. 18-401 of A.M. the Ordinance to allow variance of lot width for lot 3-D, (118.38 ft. shown, 150 ft. required), located 1427 Trap Road, Shady Acres Subd., 28-2((1))8, Dranesville Dist., 1.672 acres, R-1, V-194-78.

This application was administratively withdrawn.

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Page 127, March 13, 1979, Scheduled case for

10:40 - W & N COMPANY, appl. under Sect. 18-401 of the Ord. to allow A.M. a subdivision into 4 lots with proposed lot 3 having width of 86.13 ft. & proposed lot 4 a width of 88.30 ft. (100 ft. min. lot width required by Sect. 3-206), located 9656 Blake Lane, Blake Lane Subd., 48-3((4))D, Providende Dist., 97,003 sq. ft., R-2, V-27-79.

The required notices were in order. Mr. William H. Gordon of Reston represented the applicant. He stated that the configuration of the lot was such that it has sufficient land area for four lots and even five lots. A variance would be necessary for the lot width requirements on two of the four lots requested. The property is zoned R-2. In response to questions from the Board, Mr. Gordon stated that W & N acquired the property six to eight months before applying for the variance. Chairman Smith inquired as to who George M. Neal, Trustee was. Mr. Gordon stated that he was a member of the W & N Co. Chairman Smith stated that Mr. Robert Wiser was listed as agent on the application. Mr. Gordon informed Chairman Smith that Mr. Wiser was Mr. Neal's partner. Chairman Smith asked for a copy of the deed. Mr. Gordon stated that he did not have one with him. He stated that he believed that this was a limited partnership. Chairman Smith deferred the hearing to allow Mr. Gordon time to determine how the deed was recorded.

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Page 128, March 13, 1979, Scheduled case for

10:50 - LAWRENCE C. PULLEY, appl. under Sect. 18-401 of the Ord. to allow subdivision into 3 lots with proposed lot 2 having width of 125.57 ft. & proposed lot 3 having width of 127.95 ft. (150 ft. min. lot width required by Sect. 3-106), located 8500 Ardfour Lane, 70-1((1)) 2, Annandale Dist., 3.4501 acres, R-1, V-29-79.

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As the required notices were not in order, the Board deferred the application until April 3, 1979 at 11:50 A.M.

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Page 128, March 13, 1979, Continuation of deferred case of:

W & N COMPANY, appl. under Sect. 18-401 of the Ord. to allow a subdivision into 4 lots with proposed lot 3 having width of 86.13 ft. & proposed lot 4 a width of 88.30 ft. (100 ft. min. lot width required by Sect. 3-206), located 9656 Blake Lane, Blake Lane Subd., 48-3((4))D, Providence Dist., 97,003 sq. ft., R-2, V-27-79.

Mr. Gordon returned to state that Mr. George M. Neal, II, has been Trustee as of November of 1978.

Mr. Yaremchuk moved that the application be amended to read W & N COMPANY & GEORGE M. NEAL, TRUSTEE. Ms. Ardis seconded the motion. The motion passed by a vote of 5 to 0.

Mr. Gordon stated that development of the existing parcel was impossible because of the lot width which would deprive the owner of the reasonable use of the land. He stated that the land meets the density requirements of the zone. Chairman Smith stated that there was an existing house and a barn on the property. Mr. Gordon stated that the address for the property was Blake Lane but the address for the two lots would be James Street. Mr. Covington told Mr. Gordon that addresses would not be assigned until the property was developed. In response to further questions from the Board, Mr. Gordon stated that the property on both sides of this lot were developed.

There was no one to speak in favor of the application. Mr. Robert Lopez of 8250 Townsend Street spoke in opposition to the application. He stated that he owned a house on James Street. He stated that he objected to more crowding on the cul-de-sac. Mr. Lopez stated that it would detract from the area. He stated that the cul-de-sac was already very crowded. Chairman Smith inquired if Mr. Lopez's home was constructed by the W & N Company. Mr. Lopez stated that his home was built 16 years ago and that W & N Company did not build it. There was no one else to speak in opposition.

Page 128, March 13, 1979 Board of Zoning Appeals

W & N COMPANY & GEORGE M. NEAL, TRUSTEE
R E S O L U T I O N

In Application No. V-27-79 by W & N COMPANY AND *GEORGE M. NEAL, II, TRUSTEE *(application amended at hearing) under Section 18-401 of the Zoning Ordinance to permit subdivision into 4 lots with proposed lot 3 having width of 86.13 ft. and proposed lot 4 a width of 88.30 ft. on property located at 9656 Blake Lane, tax map reference 48-3((4))D, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 13, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 97,000 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

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

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

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

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.
3. Removal of both structures shown on the plat is required.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 129, March 13, 1979, Scheduled case for

11:00 - WILLIAM M. COFER, appl. under Sect. 18-401 of the Ord. to allow construction of a fence 8 ft. high along front lot line (max. height of 4 ft. required by Sect. 10-105), located 7254 Spring Side Way, Spring Side Subd., 30-1((17))2A, Dranesville Dist., 17,170 sq. ft., R-3, V-32-79.

The Board recessed for five minutes in order for the Clerk to check the notices which were not submitted prior to the hearing. When the Board reconvened, the Chairman announced that this application would be passed over in order to continue with a case that had been deferred earlier.

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Page 129, March 13, 1979, Continuation of deferred case of

DARRELL L. RAINES, appl. under Sect. 18-401 of the Ord. to allow garage to remain as constructed 1.7 ft. from side lot line (8 ft. setback indicated on building permit & 8 ft. min. required by Sect. 10-105), located 1937 Anderson Road, Pimmit Hills Subd., 40-1((13))49, Dranesville Dist., 10,010 sq. ft., R-4, V-26-79.

Mr. Raines stated that the measurement of the garage came out to be 7.3 ft. Chairman Smith asked if there was any one else interested in the application. Chairman Smith stated that apparently there was a mistake on the part of someone in locating the building at its present location. After listening to the testimony and the analysis of the Ordinance, it was one that could be considered an honest mistake. However, if the applicant had followed the 8 ft. requirement in the location of the building he would not have any problem. Mr. Yaremchuk stated that he would like to hear from Mr. Yates, the Zoning Administrator. Mr. Yates informed the Board that the garage measured out to be 7.3 ft. in height. He stated that the applicant would need a variance from the 8 ft. side yard requirement. Mr. Yates stated that the Board might wish to entertain the thought of the variance under Section 18-406 as it was an honest mistake by Mr. Raines. Mr. Yaremchuk stated that everyone is human and everyone makes mistakes.

Page 129, March 13, 1979
DARRELL L. RAINES

Board of Zoning Appeals

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. V-26-79 by DARRELL L. RAINES under Section 18-406 of the Fairfax County Zoning Ordinance to permit garage to remain as constructed 1.7 ft. from side lot line (8 ft. setback indicated on building permit and 8 ft. minimum setback required by Sect. 10-105), on property located at 1937 Anderson Road, tax map reference 40-1((13))49, County of Fairfax, Virginia has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on March 13, 1979; and

R E S O L U T I O N

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

THAT non-compliance was the result of an honest error in the location of the building.

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

THAT the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

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

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 130, March 13, 1979, Continuation of deferred case of

WILLIAM M. COFER, appl. under Sect. 18-401 of the Ord. to allow construction of a fence 8 ft. high along front lot line (maximum height of 4 ft. required by Sect. 10-105), located 7254 Spring Side Way, Spring Side Subd., 30-1((17))2A, Dranesville Dist., 17,170 sq. ft., R-3, V-32-79.

Chairman Smith stated that this application was similar to the next two pending applications but that each would be considered under its own merit. This property was owned by Mr. Cofer. The next two properties were owned by the builder. Mr. Cofer requested the Board to hear the cases together since the builder was constructing the fence and was informed that it was not possible. He was told that the builder could represent him but each case would be considered separately. Mr. Cofer stated that the same condition existed at all three lots. The lots have two fronts. If one of the fronts was considered a back yard, the fence would be allowed. The homes face Spring Side Way. There is no access to Balls Hill Road from these properties. The builder informed the Board that he had originally planned to build an earth berm along Balls Hill Road and facing the cul-de-sac. This berm would have been 6 to 8 ft. high. The County told the builder that he could not slope the berm on the right-of-way and stated that they would prefer a fence instead.

The construction of a fence would provide some privacy for these homes. It is just a technicality that the lots are considered to have two front yards instead of a front and back yard. The houses will remain and will back up to the fence. The fence will provide privacy as well as eliminate loud noise from Balls Hill Road traffic.

Mr. Yaremchuk reminded the Board that it had previously granted a fence for the same type situation along Braddock Road. He stated that this was a good idea and was good planning.

The builder stated that he planned to make the fence more attractive by planting some evergreen trees. He stated that they were still in the process of selling homes here.

Chairman Smith inquired if there were other lots in the subdivision with this same problem. The builder stated that only lots 2-A, lot #1 and lot #9 had this problem and they were all under consideration for a variance. Lot 2-A is owned by Mr. Cofer. There would be a low rail fence constructed on the corner lot. Chairman Smith questioned Mr. Covington about the two front yards situation. Mr. Covington stated that if it was not considered two fronts, the man would not be here for a variance. Chairman Smith stated that it was his understanding that the front would be where the entrance was. Mr. Covington stated that was true for a pipestem lot but that these lots are not pipestems. Chairman Smith stated that apparently then there was no way to construct a 8 ft. fence without a variance. The builder's name was Joe Smyth of 6710 Weaver Avenue in MaLean.

There was no one to speak in favor of the application and the following persons spoke in opposition.

Mr. Flynn, residing at 1334 Balls Hill Road, stated that he lived across the street from the subject property. He stated that the fence was not constructed when he purchased his property. He believed that the fence would detract from the value of his property. In response to questions from the Board, Mr. Flynn stated that he lived at this property for nine months and that the house is nine years old.

Colonel Webb stated that his property adjoined the subject subdivision on the same side of the street. He stated that he was also speaking for one other neighbor living across the street. This person lives in Elmwood Estates. Colonel Webb informed the Board of a problem that the neighbors had with respect to a 3 ft. wire fence which became overgrown with briars and brush. He stated that they had great difficulty having it removed and had to do it themselves. The proposed 8 ft. fence would prevent them from seeing as they attempt to come out of their driveways. Traffic on Balls Hill Road is considerably greater than in other areas. Colonel Webb stated that the proposed fence was a hazard as it would block their view. He spoke of another problem fence in McLean behind the Jack-in-the-Box restaurant which was not maintained. The area between the fence and Dolley Madison is littered. The County comes through and mows it. Colonel Webb stated that this area is quite an eyesore with all the trash. After the County mows the trash, it is even more of an eyesore. In response to questions from the Board, Colonel Webb stated that his property is about 30 ft. from the proposed fence. That is where his driveway is located. Colonel Webb stated that other property owners were also in opposition. One other property owner in opposition was the McCarthys. Again, Colonel Webb stated that the fence should be denied.

The next speaker was Leroy C. Grayson of 1343 Balls Hill Road. He stated he was opposed to the fence because it would be an eyesore. He stated that the fence would interfere with his site distance coming out of his driveway. He stated that a fence of this nature was bad for Balls Hill Road. It would remind you of the beltway. He urged the Board to deny the request for the 8 ft. fence. He stated that it was unfortunate that a house was constructed here because a car could go out of control and injure children playing in the back yard.

The next speaker was Emily Casey of 1335 Balls Hill Road. She stated that the fence would be right next to her property. It would be just like she was in jail. She stated that she has lived here all of her life. She does not want to be fenced in and wants to be able to see.

The next speaker was Thomas C. Mercer of 1339 Balls Hill Road. He stated that he has lived here for 36 years. He was opposed to a fence going in front of his property as it would obstruct the view.

The next speaker was Henry Mackall, an attorney, of 4031 Chain Bridge Road, representing Mr. & Mrs. Walter Addison from Elwood Estates. He stated that they are opposed to the construction of the fence. He indicated that there were not any topographic conditions to warrant constructing an 8 ft. fence. The builder bought the land elected to construct homes along Balls Hill Road with the homes facing the cul-de-sac. He stated that the fence would create an eyesore in a very nice area. He stated that the homes could have faced the other way and still have had access from the cul-de-sac with a garage on that end of the house.

During rebuttal, Mr. Smyth, the builder, stated that he had no idea people would be upset about the construction of the 8 ft. fence. In fact, he assumed everyone would encourage it. Originally, a berm had been planned but everyone complained about it. He stated that he purchased the land from Mrs. Casey and Colonel Webb in order to build this subdivision. He stated that his problem was not pursuing the fence situation with the surrounding property owners. The County did not like the berm proposal. In response to questions from the Board, Mr. Smyth stated that the County had approved his plans for a 6 ft. berm for privacy screening. The Highway Department had stated that a berm would cause problems in mowing along that strip. The County approved it but the Highway Department asked that it not be constructed. Mr. Covington stated that the problem had been that part of the berm was on the state right-of-way. He suggested that the berm be built on the builder's property and it would solve the problem with the highway department.

Page 132, March 13, 1979
 WILLIAM M. COFER
 (continued)

Mr. Yaremchuk inquired of Colonel Webb as to whether he was aware of the plan for the berm. Colonel Webb replied that he was but that the berm was never more than 4 ft. high and there was a plan for trees to be planted on top of the berm. Chairman Smith stated that a berm with trees would be a better situation for the area.

After discussion by the Board, the application was deferred for decision until March 27, 1979 at 11:20 A.M. to allow the Board a chance to view the property.

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Page 132, March 13, 1979, Scheduled case for

11:00 WILLIAM H. PLANK & JOSEPH G. SMYTH, TRUSTEES, appl. under Sect. 18-401 A.M. of the Ord. to allow construction of fence 8 ft. high on front lot line and 4 ft. high around lot corner (max. height of 4 ft. required by Sect. 10-105) and max. height of 3½ ft. around lot corner required by Sect. 2-505), located 7256 Spring Side, Spring Side Subd., 30-1((17))1, Dranesville Dist., 17,185 sq. ft., R-3, V-33-79.

Chairman Smith stated that the Board would go ahead and hear the application but defer decision on the case until March 27, 1979 at 11:25 A.M.

Mr. Joseph Smyth of 6710 Weaver Avenue in McBean stated that the justification was the same as the case previously. The lot in question has two front yards. One of the front yards should be considered a side yard. Mr. Smyth inquired if the fence were changed to a maximum height of 6 ft., would it be allowed. He was informed that the Code only allowed a maximum height of 4 ft. for a front yard without a variance. Mr. Covington stated that lot 1 could only have a 3½ ft. fence because of the elevation and the fact that it was a corner lot. Mr. Yaremchuk suggested that Mr. Smyth talk to the citizens in the area to see if they would come to some kind of an agreement. Mr. Smyth stated that the fence would be tapered down for site distance. The fence is necessary to eliminate sound and visual problems for the people living in these homes. Mr. DiGiulian inquired if the builder still had approved plans for the berm and was informed that they did. Mr. Smyth stated that the berm tapered off and would average a height of 4 ft. Plants would be used on the berm for screening. Mr. Yaremchuk suggested that they set the berm back from the property line so that it would not slide into the highway department's right-of-way. Mr. Smyth stated that if they built a 4 ft. berm with 4 ft. of plants on top of that it would end up being the same height as the requested 8 ft. fence. Chairman Smith stated that the Board had set up a two week period in which to view the property. Mr. Yaremchuk stated that if they built the berm and kept it out of the right-of-way, the Board would not have to look at the site. Mr. Smyth inquired if a 4 ft. fence could go on top of the berm. Chairman Smith stated that the interpretation of the Ordinance was based on average ground level for the height of fence and that a 4 ft. fence on top of a 4 ft. berm would not have been approved. However, if the trees were planted as originally suggested, it would be allowed and would certainly improve the environment.

There was no one to speak in favor of the application. The following persons spoke in opposition to the application. Mr. Flynn of 1334 Balls Hill Road stated that the proposed fence would detract from his view and the value of his property. His entire property would face this fence and he urged the Board to deny the request. Colonel Webb of 1322 Balls Hill Road stated that he also represented the McCarthys and wanted his previous remarks to be included in this application. Ms. Casey of 1333 Balls Hill Road stated that she was still in opposition to this request. Mr. Thomas Mercer of 1339 Balls Hill Road stated that he was opposed to a fence being constructed in front of his property. Mr. Mackall asked that his comments from the previous hearing be included in this hearing.

Again, Chairman Smith announced that a decision in this matter would be deferred until March 27, 1979 at 11:25 A.M.

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Page 133, March 13, 1979, Scheduled case for

11:00 - WILLIAM H. PLANK & JOSEPH G. SMYTH, TRUSTEES, appl. under Sect. 18-401 of the Ord. to allow construction of fence 8 ft. high on front lot line and 4 ft. around lot corner (max. height of 4 ft. required by Sect. 10-105) and max. height of 3 1/2 ft. around lot corner required by Sect. 2-505), located 7259 Spring Side Way, Spring Side Subd., 30-1((17))9, Dranesville Dist., 14,248 sq. ft., R-3, V-34-79.

Chairman Smith stated that the Board would defer the application until March 27, 1979 at 11:30 A.M. for the applicant to work out a solution. If a solution could be worked out with the citizens, the Board would allow the applicant to withdraw the applications without prejudice in March.

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Page 133, March 13, 1979, Scheduled case for

11:15 - SPEECH & LANGUAGE CENTER OF NORTHERN VIRGINIA, appl. under Sect. 3-103 of the Ord. to permit continuation of preschool in existing church, located 888 Dolley Madison Boulevard, 31-2((1))4A, Dranesville Dist., 6 acres, R-1, S-28-79.

Mr. William Barton of 6924 Chelsea Road in McLean represented the preschool. He stated that the school has been in existence since 1965 but the permit lapsed. He stated that they were licensed for a maximum of 66 at any one time. The ages of the children are preschool, ages 2 1/2 to 3 and 4 years. The original permit was for ages two to six. The hours of operation would be 9:15 A.M. to 12:00 P.M. on some days. They do have an afternoon class sometimes. Mr. Covington stated that the original permit allowed hours of 9 A.M. to 4 P.M. five days a week, Monday through Friday. Chairman Smith stated that it would be best to continue it on that basis.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

Page 133, March 13, 1979 Board of Zoning Appeals
SPEECH & LANGUAGE CENTER OF NORTHERN VIRGINIA

R E S O L U T I O N

Ms. Ardis made the following motion:

WHEREAS, Application No. S-28-79 by SPEECH AND LANGUAGE CENTER OF NORTHERN VIRGINIA under Section 3-103 of the Fairfax County Zoning Ordinance to permit continuation of preschool in existing church on property located at 888 Dolley Madison Boulevard, tax map reference 31-2((1))4A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on March 13, 1979; and

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

1. That the owner of the subject property is Presbyterian Church of Washington, Trustee and that the applicant is the lessee.
2. That the present zoning is R-1.
3. That the area of the lot is 5.8341 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

R E S O L U T I O N

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

4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.

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

6. Landscaping and screening shall be required and must satisfy Sect. 13-109 and Sect. 13-110 of the Zoning Ordinance except as qualified below.

7. The maximum number of students at any one time shall be 66, ages 2 to 6.

8. The hours of operation shall be 9 A.M. to 4 P.M., Monday through Friday.

9. This permit is granted for a period of three (3) years with the Zoning Administrator empowered to grant three (3) one-year extensions upon presentation of a new lease 30 days prior to the expiration date of this permit.

Mr. Barnes seconded the motion.

The motion passed ~~unanimously~~ by a vote of 5 to 0.

Page 134, March 13, 1979, Scheduled case for

11:20 - PHILANDER P. CLAXTON, appl. under Sect. 18-401 of the Ord. to allow subdivision into 6 lots, with proposed corner lot #1 having a width of 156.08 ft. (175 ft. minimum lot width required by Sect. 3-106), located 1155 Chain Bridge Road, Ballantrae Farms, 31-1((2))38B1, 38, 38A, 40C, Dranesville Dist., 7.3103 acres, R-1, V-16-79.
 (Deferred from February 21, 1979 and March 6, 1979 for Decision only).

The Chairman inquired if the Board was prepared to make a motion.

Page 134, March 13, 1979
 PHILANDER P. CLAXTON

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-16-79 by PHILANDER P. CLAXTON under Section 18-401 of the Zoning Ordinance to permit subdivision into 6 lots with proposed corner lot #1 having a width of 156.08 ft. (175 ft. min. lot width required by Sect. 3-106) on property located at 1155 Chain Bridge Road, tax map reference 31-1((2))38B1, 38, 38A & 40C, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 21, 1979 and March 6, 1979 and deferred for decision until March 13, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 7.3103 acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow, and has an unusual condition in that the configuration of the land will not allow development in accordance with the existing zoning or the surrounding area without a variance.

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

R E S O L U T I O N

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

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

- 1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
- 2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Ms. Ardis seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 135, March 13, 1979, After Agenda Items

S-218-77 The Church of God of Prophecy: The Board was in receipt of a request for a determination as to whether the existing screening on the property would satisfy condition no. 6 of the special permit. It was the consensus of the Board that if Preliminary Engineering did not have a problem with it, it would meet with their approval.

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Page 135, March 13, 1979, After Agenda Items

APPROVAL OF MINUTES: Ms. Ardis moved that the Board approve the Minutes for October 3, 1978 and October 11, 1978 as amended. Mr. Barnes seconded the motion and they were unanimously approved.

Ms. Ardis moved that the minutes for October 17, 1978 and October 24, 1978 be approved as amended. Mr. Barnes seconded the motion and they were unanimously approved.

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Page 135, March 13, 1979, After Agenda Items

S-63-78 Temple Baptist Church: The Board was in receipt of a letter from Temple Baptist Church requesting an extension on the special permit. The permit was granted by the Board on April 18, 1978.

Mr. Yaremchuk moved that Temple Baptist Church be granted an 180 day extension. Mr. DiGiulian seconded the motion and it was unanimously approved.

// There being no further business, the Board adjourned at 12:50 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the

Daniel Smith
Daniel Smith, Chairman

Submitted to the BZA on February 5, 1980
Submitted to the other departments,
Board of Supervisors and Planning
Commission February 5, 1980.

APPROVED: February 12, 1980
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday Night, March 20, 1979. The following Board Members were present: Daniel Smith, Chairman; George Barnes, John Yaremchuk and Barbara Ardis. Mr. DiGiulian was absent.

The Chairman opened the meeting at 8:15 P.M. led with a prayer by Mr. Barnes.

The Chairman called the scheduled 8 o'clock case:

8:00 P.M. - C. D. PROFFIT, appl. under Sect. 3-803 of the Ord. to permit community tennis court, located 2708 & 2712 Popkins Lane, Bryant Towne Court Subd., 93-1((1))8 & 9, Mt. Vernon Dist., 12,030 sq. ft., R-8, S-35-79.

Mr. Fagelson, an attorney, represented Mr. Proffit. Mr. Fagelson informed the Board that Mr. Proffit and his brothers developed this property into townhouses after a rezoning to the R-8 category. One of the profers made at the time of rezoning was that they would build a tennis court and have the homes sell at a moderate level. The builders felt that the community should have a tennis court even though the homes were moderately priced. The proposed tennis courts will be used for the people living in the development and their guests. There will only be 14 houses in this subdivision which is why no parking for the tennis court was provided. The street through the subdivision is a private street owned by the home owners association. The tennis courts will be unlighted and Mr. Fagelson stated that there would not be any kind of a public address system or music. Adequate screening would be provided.

There was no one to speak in favor of the application and no one to speak in opposition of the application.

Page 136, March 20, 1979 Board of Zoning Appeals
C. D. PROFFIT

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-35-79 by C. D. PROFFIT, under Section 3-803 of the Fairfax County Zoning Ordinance to permit community tennis court on property located at 2708 & 2712 Popkins Lane, tax map reference 93-1((1))8 & 9, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on March 20, 1979; and

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

- 1. That the owner of the subject property is the applicant.
- 2. That the present zoning is R-8.
- 3. That the area of the lot is 12,040 sq. ft.
- 4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses In R Districts as contained in Section 8-006 of the Zoning Ordinance; and

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

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
- 2. This special permit shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
- 3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board.

R E S O L U T I O N

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It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.

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

6. Landscaping and screening shall be required and must satisfy Sect. 13-109 and Sect. 13-110 of the Zoning Ordinance.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 137, March 20, 1979, Scheduled case for

8:20 - SHEFFIELD DEVELOPMENT LTD. PARTNERSHIP, appl. under Sect. 3-503 of P.M. the Ord. to permit community tennis courts (unlighted) located 7525 & 7571 Pohick Road, Summerhill Subd., 108-1((1))35 & 41, Lee Dist., 14,400 sq. ft., R-5, S-30-79.

Mr. George Rathman of 9900 Georgia Avenue in Bethesda represented Sheffield Development Ltd. Partnership. He stated that they have filed for a special permit for tennis courts. There are 89 townhouse lots and 124 single family lots to be constructed. The tennis court will be owned by the Sheffield Recreation Association. The area will be connected by trails to the townhouses and single family residences. The tennis courts would be used during daylight hours only. In response to questions from the Board, Mr. Rathman explained that the recreation association would not be the home owners association. It was separate from the home owners association. The recreation association would hold title to the land and assume full control of the tennis courts. Mr. Rathman informed the Board that the courts would be within walking distance even though located on 66 acres because of the trails connecting the areas. The trails was a profer at the time of rezoning. Ms. Ardis inquired as to when the courts would be in operation and was informed that would depend on the selling rate of the homes. Mr. Rathman stated that they would like to construct the tennis courts as soon as possible as the recreation association was ready to assume responsibility. He stated that they would maintain the courts until the recreation association took them over. Mr. Barnes stated that 66 acres was a lot to have to walk. Mr. Rathman explained that the tennis courts would be used by the people living in the development and that the courts would be regulated. Mr. Barnes stated that they would have to set up rules that no automobiles are allowed to park near the courts. He was concerned about parking in someone's driveway or blocking access. Mr. Covington stated that his only concern was the transfer of ownership from the development company over to the recreation association. He suggested that the Board have the recreation association come back as a new occupant when they assume responsibility. Mr. Rathman stated that they do not have final approval except for the subdivision. They are waiting for bonding before they could begin construction. He stated that it would probably take 2 to 2 1/2 years before complete control could be given to the recreation association. No construction of either the townhouses or the single family homes have actually begun yet. He stated that they were going to start by building 49 single family homes and then some of the townhouses. There will not be any membership fees. Chairman Smith stated that the permit should be limited to a certain period of years for the courts to be built. Mr. Rathman stated that shortly after the construction begins, the common area will be conveyed. It will be controlled by the developer. The tennis courts are planned for the third phase of the construction time table of the developer. Chairman Smith stated that two to three years should be ample time in which to construct tennis courts and transfer ownership of the property. Mr. Rathman stated that the recreation association would have ownership but no control until all of the homes are sold. He anticipated that the courts would be built within 12 to 18 months from the hearing date. Ms. Ardis asked Mr. Covington if two years would satisfy his concern. He suggested that the recreation association come back at the end of that time. Chairman Smith stated that perhaps it should be set for reevaluation in two years.

There was no one to speak in favor or in opposition to the application.

R E S O L U T I O N

Ms. Ardis made the following motion:

WHEREAS, Application No. S-30-79 by SHEFFIELD DEVELOPMENT LTD. PARTNERSHIP under Section 3-503 of the Fairfax County Zoning Ordinance to permit two unlighted community tennis courts on property located at 7525 & 7571 Pohick Road, tax map reference 108-1((1))35 & 41, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public, and a public hearing by the Board of Zoning Appeals held on March 20, 1979; and

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

1. That the owner of the subject property is Ra F. Crist, Trustee.
2. That the present zoning is R-5.
3. That the area of the lot is 14,400 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation at the permitted use.
6. Landscaping and screening shall be required and must satisfy Sect. 13-109 and Sect. 13-110 of the Zoning Ordinance.
7. This permit is granted for a period of two (2) years.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 138, March 20, 1979, Scheduled case for

8:40 P.M. - COLUMBIA BAPTIST CHURCH, appl. under Sect. 3-403 of the Ord. to amend existing permit to allow continued use of trailer for Sunday School classrooms, located 6200 Indian Run Parkway, Bren Mar Subd., 81-1((1))9B, Mason Dist., 5 acres, R-4, S-31-79.

As the required notices were not in order, this application was deferred until May 1, 1979 at 10:00 A.M.

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Page 139, March 20, 1979, After Agenda Items

APPROVAL OF MINUTES: Mr. Barnes moved that the Minutes for October 31, 1978 be approved as amended. Ms. Ardis seconded the motion and it was passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

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Page 139, March 20, 1979, After Agenda Items

S-348-77 American Horticultural Society: The Board was in receipt of a letter from the attorney for the American Horticultural Society requesting an extension on the special permit granted by the Board on April 18, 1978. As this use was now governed by the Board of Supervisors under the new Zoning Ordinance, the Board deferred the applicant's request pending review by the County Attorney's Office to determine if the Board had authority to grant an extension.

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Page 139, March 20, 1979, After Agenda Items

V-6-78 Elsie Leigh: The Board was in receipt of a request for an extension on the variance granted to Elsie Leigh by the Board on April 4, 1978.

Mr. Yaremchuk moved that the Board grant an extension for a period of 180 days. Mr. Barnes seconded the motion. The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

// There being no further business, the Board adjourned at 9:05 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

APPROVED: February 12, 1980
Date

Submitted to the BZA on Feb. 5, 1980.
Submitted to the other departments,
Board of Supervisors and Planning
Commission Feb. 5, 1980.

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, March 27, 1979. The following Board Members were present: Daniel Smith, Chairman; George Barnes and John Yaremchuk. John DiGiulian and Barbara Ardis were absent.

The Chairman opened the meeting at 10:05 A.M. led with a prayer by Mr. Barnes.

The Board adjourned into Executive Session to discuss legal matters. The Board reconvened at 10:30 A.M. to continue with the scheduled 10 o'clock case.

10:00 - PROCTOR HATSELL PRIVATE SCHOOL, INC., appl. under Sect. 3-103 of the Ord. to amend S-100-76 for a day care center to permit increase in max. number of students from 75 to 105 and an increase in land area to 28,828 sq. ft., located 7136 Telegraph Road, 91-4((1))pt. of 8A & 91-4((3))12, Lee Dist., 28,828 sq. ft., R-1, S-11-79.

This application had been deferred from February 13, 1979 for proper application. Mr. Dexter Odin of 4013 University Drive in Fairfax represented the applicant. Chairman Smith announced that the Board was in receipt of a memo dated March 26th from the Assistant to the County Executive, Verdria Haywood, stating that based on the issues discussed in the report and other legal concerns, Supervisor Alexander was requesting the Board of Zoning Appeals to defer the application for a period of at least 30 days. In the interim, the County would attempt to resolve some of the legal matters involved in this request.

Mr. Odin stated that he was not aware of the request from Mr. Haywood. He stated that he was present at the original Board hearing in February and was not aware of any such request. He stated that he had no objections to the continuance of the application as it would not delay the enrollment of students.

Mr. Yaremchuk stated that a full Board was not present and it might be to the applicant's advantage to wait for a full Board. Chairman Smith inquired if there was anyone from the Board of Supervisors present at the hearing and there was not. He stated that he was concerned about the delay of 30 days without being given any specific reason. He stated that perhaps the Board should defer any action until the full Board was present but he objected to the 30 day deferral. Mr. Yaremchuk stated that he object to the 30 day deferral also because it had already been deferred once. Chairman Smith stated that if the legal concerns involved the site plan, that could be addressed by the proper County agency at the time of site plan review. He stated that the school has been in operation for a number of years and is a well liked school. It has served the community well. He stated that he would need to know something more specific before granting a further deferral.

Mr. Yaremchuk inquired if Mr. Yates was present at the Board of Supervisors hearing when they made their decision to ask deferral of this application. Mr. Yates stated that he was not present but he was aware of the decision. He stated that Mr. Alexander has some problems with the findings in the Board's resolution. He indicated that a 30 day deferral would allow Supervisor Alexander time to get together with the County Executive to try to resolve some of the problems associated with this use.

Chairman Smith inquired if the other Board members would object to a two week deferral period. After much discussion, Mr. Yaremchuk moved that the application be deferred for a period of 30 days. Mr. Barnes seconded the motion but the motion failed by a vote of 2 to 1 (Mr. Smith). Chairman Smith announced that the Board would defer decision on this matter for a one week period in order to have the full Board consider the deferral as requested by Supervisor Alexander. Mr. Yaremchuk moved that as the Board would have to wait for a decision from the full Board that the Clerk send a memorandum to Verdria Haywood asking if a two week deferral would be sufficient. Mr. Barnes seconded the motion and it was unanimously passed by a vote of 3 to 0 (Mr. DiGiulian and Ms. Ardis being absent).

Chairman Smith requested the Clerk to hand deliver the memorandum to the County Executive's Office.

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Page 141, March 27, 1979, Scheduled case for

10:20 - INTERNATIONAL TOWN & COUNTRY CLUB, appl. under Sect. 3-103 of the A.M. Ord. to amend existing use permit to allow continued use of temporary trailer for tennis, located 13200 Lee Jackson Highway, 45-1(1)11, Centreville Dist., 240.87 acres, R-1, S-13-79.

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This application had been deferred at the request of the application from February 13, 1979.

Chairman Smith announced that there were only three Board members present and informed the applicant that it would be to his benefit to seek a further deferral. Chairman Smith stated that there was a special permit already granted previously with a maximum of two years for the temporary trailer to be used for tennis. He indicated that he could not support any additional time for the use of the trailer as a pro-shop. The spokesman for the country club stated that they had looked into a more permanent structure to be constructed but more urgent needs had arisen. The club has spent money on the areas that needed immediate attention. Mr. Yaremchuk inquired as to the objection for the trailer being used for tennis. Chairman Smith stated that it was granted as a temporary trailer for two years and that time is up. Mr. Yaremchuk stated that the club had the right to come back and request continued use of the trailer. Again, Chairman Smith stated that the club should ask for a deferral. Mr. Barnes stated that he travels by the club all the time and he hardly sees the trailer. He did not feel it was that noticable. Mr. Yaremchuk agreed with Mr. Barnes. Mr. Barnes stated that he would be willing to extend the special permit because of the money situation.

The spokesman for the club stated that the trailer was well screened. They have planted a number of trees. He indicated that the club does want a permanent structure later in this same vicinity. He stated that the club was having problems with the septic fields. They are being required to correct that situation immediately. It is costing them a large sum of money in order to correct the situation. The pro-shop is very much needed by the members but at this time the club is without money to construct a permanent structure. Mr. Yaremchuk stated that he was very familiar with this area and the surrounding subdivisions.

This matter was deferred until April 17, 1979 at 11:20 for a full Board.

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Page 141, March 27, 1979, Scheduled case for

10:30 - LONNIE D. GADDY, JR. & SHIRLENE C. GADDY AND L. D. GADDY CONSTRUCTION CO., INC., appl. under Sect. 18-401 of the Ord. to allow subd. into 7 lots, 2 of which have width of 5 ft. and 1 of which has width of 10 ft. (80 ft. min. lot width required by Sect. 3-306), located 7618 Shreve Road, 49-2(1)161, Providence Dist., 2.57 acres, R-3, V-15-79. (Deferred from 2/21/79 for readvertising).

The spokesman for the above-captioned application requested a deferral until there was a full Board present. This application was deferred until April 10, 1979 at 11:20 A.M. for a full Board.

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Page 141, March 27, 1979, Scheduled case for

10:40 - BOYER COMPANIES, LTD., appl. under Sect. 18-401 of the Ord. to allow resubdivision of two existing lots such that proposed corner lot 14A would have width of 205.86 ft. (min. lot width of 225 ft. for corner lots required by Sect. 3-E06), located 2000 Roundhouse Road, Hunter's Station Subd., 27-1(1)4, Centreville Dist., 3.5434 acres, R-E, V-36-79.

Mr. Charles Runyon, an engineer in Falls Church, represented the applicant. Chairman Smith announced that there were only three Board members present. Mr. Runyon decided to proceed with the public hearing. He stated that this is an existing subdivision that has been recorded. They ran into a gasline and find that the road will have to be shifted. Doing this will create a corner lot which will necessitate a variance to the lot width requirement. Chairman Smith inquired if there was an additional lot being added to this subdivision. Mr. Runyon emphasized that there would only be two lots and that they were only shifting boundaries around because of the gasline problem.

There was no one to speak in favor of the application and no one to speak in opposition of the application.

R E S O L U T I O N

In Application No. V-36-79 by BOYER COMPANIES, LTD. under Section 18-401 of the Zoning Ordinance to allow resubdivision of two existing lots such that proposed corner lot 14A would have width of 205.86 ft. (225 ft. minimum lot width required by Sect. 3-E06) on property located at 2000 Roundhouse Road, tax map reference 27-1((1))4, County of Fairfax, Virginia, Mr. Yarmchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 27, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 3.5473 acres.
4. That the applicant's property has exceptional topographic problems.

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

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

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

1. This approval is granted for the location indicated in the plans included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 0 (Mr. DiGiulian and Ms. Ardis being absent).

Page 142, March 27, 1979, Scheduled case for

10:50 - EMIL G. & ELAINE M. SABA, appl. under Sect. 18-401 of the Ord. to allow subdivision of parcel into an outlot & a lot having width of 15.03 ft. (200 ft. min. lot width required by Sect. 3-E06), located 9411B Arnon Chapel Road, 8-4((1))11, Dranesville Dist., 5.267 acres, R-E, V-38-79.

Mr. Kenneth White, a surveyor in Alexandria, represented the applicants. He was informed by the Chairman that only three Board members were present. Mr. White indicated that he would proceed with the hearing. Mr. White stated that the variance was to allow a 15 ft. strip of land to Arnon Chapel Road to allow the further subdivision of the five acre parcel. Part of the outlot would be conveyed to the property in the south. The outlot has terrain and drainage problems and is of no use to the applicant but it could be used in the development to the south. Mr. Saba proposes to sell the outlot. This outlot A will be attached to the property of Schnell containing 9.7 acres going all the way to Riverbend Road. This will bring the total land area of Schnell to 11 acres.

Chairman Smith noted that there was an existing dwelling and inquired if the applicant owned the dwelling. Mr. White stated that is where the applicants live. In response to further questions from the Board, Mr. White stated that the applicants have been using the existing easement for access for a period of four years. Chairman Smith inquired as to why a variance was necessary since the house was already there as well as the driveway. Mr. Covington replied that the Zoning Administrator interpreted that a variance was necessary. The land was non-conforming and the applicants are now asking that it be brought into conformance. Mr. Covington stated that Subdivision Control would not allow the applicants to sell off the outlot until the land was brought into conformance. Chairman Smith stated that he felt the variance was unnecessary. He stated that the applicants have the right to do what they want with the

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land since there were no other structures on that outlot.. He stated that the land would conform when the outlot was connected to the other parcel.

There was no one to speak in favor of the application. Mr. David Mason spoke in opposition to the variance. He stated that he owned the parcel of five acres adjacent to Mr. Saba's property but his land does not actually touch Mr. Saba's property. Mr. Mason stated that the road frontage requirement was 200 ft. Chairman Smith stated that this was 2 acre zoning and the variance would not change the requirements of the zone. He stated that the only reason the applicant was before the Board was to get some kind of action to bring his property into conformance. Chairman Smith stated that no changes would take place. Mr. Mason stated that his concern was the other lot across the street. They have six acres and could subdivide into six lots. Mr. Mason was concerned that if the Board granted a variance to Mr. Saba it would set a precedent for the other surrounding lots. Chairman Smith informed Mr. Mason that this variance request was for an action that would not create anything that was not already existing on the property. He stated that all this variance request would do would be to eliminate unsuitable land and transfer it to a contiguous property owner. Mr. Mason inquired as to why an action was required from the Board. Chairman Smith stated that the County required the action of a variance in order to delete the unsuitable land to the adjoining property owner. He stated that he disagreed with the County's ruling. Mr. Barnes stated that it was the Zoning Administrator who made that interpretation. Mr. Mason stated that the request was being treated as a variance. Chairman Smith stated that this was non-conforming at the present time. It is permitted by right to remain there for an indefinite period of time. If the house were to burn down and it was not rebuilt in two years in the same area it would lose the grandfather provision.

Mr. Covington stated that this situation was created under a former Zoning Ordinance that permitted it. If the Board were to deny the variance, it would not affect the grandfathered situation. Mr. Mason stated that as long as it was grandfathered and would not set a precedent for the area, he did not have any objections to it.

R E S O L U T I O N

In Application No. V-38-79 by EMIL G. & ELAINE M. SABA under Section 18-401 of the Zoning Ordinance to allow subdivision of parcel into an outlot & lot having width of 15.03 ft. (200 ft. minimum lot width required by Sect. 3-E06), on property located at 9411B Arnon Chapel Road, tax map reference 8-4((1))11, County of Fairfax, Virginia, Mr. yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 27, 1979; and

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

- 1. That the owner of the property is the applicant.
- 2. The present zoning is R-E.
- 3. The area of the lot is 5.267 acres.
- 4. That the applicant's property is exceptionally irregular in shape.

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

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

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

R E S O L U T I O N

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1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.

2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 0 (Mr. DiGiulian and Ms. Ardis being absent).

Page 144, March 27, 1979, Scheduled Case for Board of Zoning Appeals

11:00 - DANIEL R. DARNELL, appl. under Sect. 18-401 of the Ord. to
A.M. allow construction of a porch addition to the rear of existing residence to 15.9 ft. from rear lot line (25 ft. min. setback required by Sect. 3-307), located 12041 Forbes Glen Drive, Stuart Ridge Subd., 11-3((3))59, Dranesville Dist., 12,041 sq. ft., R-3(c), V-40-79.

The required notices were in order. Mr. Dan Darnell of 12041 Forbes Glen Dr. in Herndon was informed that there were only three Board members present. He was informed by the Chairman that it would take a unanimous vote in order for the variance to be granted. Mr. Darnell stated that he wished to proceed with the hearing. In response to questions from the Board, Mr. Darnell stated that he settled on the property in November 1976 and bought the property from Carr Developers. He stated that he occupies the premises at the present time. Mr. Darnell stated that he was requesting a variance to allow a porch addition to the rear of the house. This addition would be 12 ft. x 14 ft. The required setback is 25 ft. and a variance of 9.1 ft. would be necessary for the construction of the porch. Mr. Darnell stated that his request should be granted as the property is irregularly shaped and is a shallow lot. If the house had been moved forward or if the lot had been regularly shaped, the variance would not have been necessary. There are no houses either directly behind or on either side of the subject property. Most of the land is owned by the Fairfax County Park Authority. Mr. Darnell stated that he did not believe the addition would affect or infringe on the rights of any current property owners. He stated that he has contacted property owners who border the property and explained the requested variance. No one objects to the addition.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

Page 144, March 27, 1979 Board of Zoning Appeals
DANIEL R. DARNELL

R E S O L U T I O N

In Application No. V-40-79 by DANIEL R. DARNELL Under Section 18-401 of the Zoning Ordinance to allow construction of a porch addition to rear of existing residence to 15.9 ft. from rear lot line (25 ft. minimum setback required by Sect. 3-307), on property located at 12041 Forbes Glen Drive, tax map reference 11-3((3))59, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 27, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3(C).
3. The area of the lot is 12,041 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including shallow.

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

R E S O L U T I O N

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

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

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

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 0 (Mr. DiGiulian and Ms. Ardis being absent).

Page 145, March 27, 1979, Scheduled case for

11:10 - IMMANUEL PRESBYTERIAN CHURCH, appl. under Sect. 8-103 of the Ord. A.M. to permit addition of new sanctuary & fellowship hall to existing church, located 888 Dolley Madison Boulevard, 31-2((1))4A, Dranesville Dist., 5.834 acres, R-1, S-37-79.

Mr. Frederick M. Gloeckler of 6814 Wemberly Way in McLean represented the church. He stated that he was an elder in the church and a member of the building committee. Immanuel Presbyterian church has been in operation on the present site since 1960. The existing sanctuary and fellowship hall are inadequate and the church proposes to build a new sanctuary and fellowship hall on the existing five acres. The site will hold 200 people. The existing parking area will accommodate 57 parking spaces which the church believes is adequate for the use. The architectural design of the new sanctuary and the fellowship hall will be in keeping with the surrounding architecture. It will be 26 ft. high and have 5,000 sq. ft. of floor space. Mr. Gloeckler stated that the present sanctuary was bursting at the seams. The finances are lined up and the church proposes to proceed with the new construction at the present time.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-37-79 by IMMANUEL PRESBYTERIAN CHURCH under Section 8-103 of the Fairfax County Zoning Ordinance to permit addition of new sanctuary and fellowship hall to existing church on property located at 888 Dolley Madison Boulevard, tax map reference 31-2((1))4A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and,

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on March 27, 1979; and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-1.
3. That the area of the lot is 5.834 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

R E S O L U T I O N

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening shall be required and must satisfy Sect. 13-109 and Sect. 13-110 of the Zoning Ordinance.
7. The hours of operation shall be normal hours of operation for a church.
8. The number of parking spaces shall be 57.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 0 (Mr. DiGiulian and Ms. Ardis being absent).

Page 146, March 27, 1979, Scheduled case for

11:20 - WILLIAM M. COFER, appl. under Sect. 18-401 of the Ord. to allow construction of a fence 8 ft. high along front lot line (maximum height of 4 ft. required by Sect. 10-105), located 7254 Spring Side Way, Spring Side Subd., 30-1((17))2A, Dranesville Dist., 17,170 sq. ft., R-3, V-32-79.

This application had been deferred from March 13, 1979). As there were only three Board members present, the Chairman stated that a further deferral would be granted for a period of one week.

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Page 146, March 27, 1979, Scheduled case for

11:25 - WILLIAM H. PLANK & JOSEPH G. SMYTH, TRUSTEES, appl. under Sect. 18-401 of the Ord. to allow construction of fence 8 ft. high on front lot line and 4 ft. required by Sect. 10-105) and maximum height of 3½ ft. around lot corner required by Sect. 2-505), located 7256 Spring Side, Spring Side Subd., 30-1((17))1, Dranesville Dist., 17,185 sq. ft., R-3, V-33-79.

This application had been deferred from March 13, 1979. As there were only three Board members present, the Chairman stated that a further deferral would be granted for a period of one week.

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Page 146, March 27, 1979, Scheduled case for

11:30 - WILLIAM H. PLANK & JOSEPH G. SMYTH, TRUSTEES, appl. under Sect. 18-401 of the Ord. to allow construction of fence 8 ft. high on front lot line and 4 ft. high around lot corner (max. height of 4 ft. required by Sect. 10-105) and max. height of 3½ ft. around corner lot required by Sect. 2-505), located 7259 Spring Side Way, Spring Side Subd., 30-1((17))9, Dranesville Dist., 14,248 sq. ft., R-3, V-34-79.

This application had been deferred from March 13, 1979. As there were only three Board members present, the Chairman stated that a further deferral would be granted for a period of one week.

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Page 147, March 27, 1979, After Agenda Items

S-105-73 First Baptist Christian Day School: The Board was in receipt of a request from Mrs. Marcia Gibson, Director of the First Baptist Christian Day School, for the ages of the children to be amended from two years to twenty-two months provided the child would be two by November 1st. It was the consensus of the Board that no formal action needed to be taken. It was the opinion of the Chairman that if Mrs. Gibson followed the same policy as the public school system which was if the child would reach the minimum age within 90 days of the start of the school year, that he would not have a problem with the age limitation on the special permit. The second part of the request was seeking an increase in the number of children allowed. The Board stated that an increase could only be accomodated through a public hearing process.

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Page 147, March 27, 1979, After Agenda Items

American Horticultural Society: S-348-77: The Board was in receipt of a request for an extension of time on the special permit of the American Horticultural Society. This matter had been deferred in order to determine whether the BZA had the authority to grant an extension since the adoption of the current Zoning Ordinance put this type of category as a special exception to the Board of Supervisors. The Board was in receipt of a memorandum from the Zoning Administrator. As there was not a full Board present, the Chairman deferred this matter for a one week period.

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Page 147, March 27, 1979, After Agenda Items

Request from Planning Commission for the Board of Zoning Appeals to change their scheduled night meeting in May so that the Planning Commission could hold a public hearing. The Chairman asked the Clerk to inform the Planning Commission that it would reschedule the night meeting to accomodate their request.

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Page 147, March 27, 1979, After Agenda Items

Langley High School Government Class Project: Some high school students from Langley High School had attended the BZA meeting. At the conclusion of the scheduled after agenda items they asked questions of the Board regarding policies and procedures of the zoning Board.

// There being no further business, the Board adjourned at 12:15 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

APPROVED: _____
Date

Submitted to the BZA on _____.
Submitted to the other departments,
Board of Supervisors and Planning
Commission _____.

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, April 3, 1979. The following Board members were present: Daniel Smith, Chairman; John DiGiulian, Vice Chairman; George Barnes and Barbara Ardis. John Yaremchuk was absent.

The Chairman opened the meeting at 10:35 A.M. led with a prayer by Mr. Barnes.

The Chairman called the scheduled 10 o'clock case:

10:00 - GEORGE V. GRAHAM, JR., appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrator's refusal to issue building permit for a greenhouse for a commercial nursery on property in an R-1 district, located 10614 & 10618 Leesburg Pike, 12-3((1))11 & 12, Dranesville Dist., 3.5776 acres, R-1, A-39-79.

The required notices were in order. Mr. Sheehan, an attorney, represented the applicant. For minutes of this hearing, please refer to the verbatim transcript located in the file of George V. Graham, Jr.

Page 148, April 3, 1979
GEORGE V. GRAHAM, JR.

Board of Zoning Appeals

R E S O L U T I O N

Mr. DiGiulian moved that the Board grant the appeal of George V. Graham, Jr. and direct the Zoning Administrator to approve Mr. Graham's building permit application in accordance with its decision of December 12, 1978.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Yaremchuk being absent).

Page 148, April 3, 1979

The Chairman informed Mr. Dexter Odin, an attorney presenting Proctor Hatsell Private School, that the case had been scheduled for April 10, 1979 at 11:30 A.M. in accordance with Supervisor's Alexander's request for a two week deferral.

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Page 148, April 3, 1979, After Agenda Item

Town & Country School of Vienna, S-87-76 (EDG Joint Venture & Educo, Inc.): The Board was in receipt of a request from Mr. Richard V. McCool, the Headmaster of the Town & Country School of Vienna, requesting the Board to approve some changes. The school wished to renovate storage space into classroom space without any increase in the number of students and wanted the approval without going through the public hearing process. It was the consensus of the Board that an application to amend the special permit would be necessary before the Board could take action on the request.

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Page 148, April 3, 1979, Scheduled case for

10:30 - DEWEY ASSOCIATES, appl. under Sect. 18-401 of the Ord. to allow approval of a "grandfathered" site plan revision whereby a partially-constructed industrial building is located 43 ft. from a C district zoning boundary line (50 ft. min. setback required by Sect. 30-3.4.4 of the previous Zoning Ord. which is applicable to this site plan revision), located 2937 through 2995 Prosperity Avenue, 49-3((1))100, Providence Dist., 4.5198 acres, I-5, V-41-79.

Mr. Douglas R. Fall of Dewberry, Nealon & Davis represented the applicants. The required notices were in order. Mr. Fall stated that Dewey Associates was requesting a variance from the Board to the minimum yard requirements of Chapter 12 of the Zoning Ordinance. This situation was created by the adoption of the new Zoning Ordinance. The site plan was grandfathered as it was filed before the new Zoning Ordinance went into effect. It was filed around June 16, 1978 which was approximately four months before the adopted effected date of the new Ordinance. This site plan was approved by Environmental Management on

on September 25, 1978. The approved site plan provided for a 43 ft. setback from the adjoining boundary. Actually one corner of the building was situated at the 43 ft. The Zoning Ordinance required a 50 ft. setback from the C District boundary line. The variance request is to allow the building to be constructed 43 ft. from this boundary line as shown on the approved site plan.

In response to questions from the Board as to whether this building would have been allowed prior to the adoption of the new Zoning Ordinance, Mr. Fall stated that the new Zoning Ordinance does not have any side yard restrictions. It is the old Ordinance that has the 50 ft. setback requirement and because the site plan was grandfathered under the Old Ordinance, compliance must be met or a variance applied for. The Site Plan had been erroneously approved and the building partially constructed before the mistake was discovered. Chairman Smith stated that it appeared to be an administrative error. Mr. Fall stated that the applicants were seeking a variance to relieve DEM of the problem. The construction had already commenced in accordance with the approved site plan. When a revised site plan was submitted, it was rejected because it did not comply with the setback requirements of the old Ordinance. The mistake was not discovered until several months after the initial approval. If the mistake had only been a matter of 5 ft., the Zoning Administrator could administratively approve a variance. However, the mistake is 7 ft. Again, Mr. Fall stated that the new Zoning Ordinance does not require any setback for a side yard. The adjoining property owner, Mr. Roland Thompson, supported the requested variance.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

R E S O L U T I O N

In Application No. V-41-79 by DEWEY ASSOCIATES, under Section 18-401 of the Zoning Ordinance to permit approval of a "grandfathered" site plan revision whereby a partially-constructed industrial building is located 43 ft. from a C district zoning boundary line on property located at 2937 - 2995 Prosperity Avenue, tax map reference 49-3(1)100, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 3, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is I-5.
3. The area of the lot is 4.5198 acres.
4. That the applicant's property has an unusual condition in the location of the existing building on the subject property.

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

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

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

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

R E S O L U T I O N

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Yaremchuk being absent).

Page 150, April 3, 1979, Scheduled case for

10:40 - DIANE B. & PAUL N. ZITO, appl. under Sect. 18-401 of the Ord. to
A.M. allow construction of deck at rear of existing dwelling to 14 ft.
from rear lot line (19 ft. min. setback required by Sect. 3-107)
and Sect. 2-402), located 3025 Miller Heights, Cinnamon Subd.,
47-1((6))58, Centreville Dist., 25,391 sq. ft., R-1(C), V-44-79.

The required notices were in order. Mrs. Diane Zito appeared before the Board with her husband requesting consideration for a variance to allow the construction of an open deck. She stated that plans for a deck had been contemplated since occupancy of the residence. Mrs. Zito stated that they had permission from the highway department to place the support for the deck within 5 ft. required area. This deck will be on the first floor living area. The next door neighbor does not object to the request. Mrs. Zito presented a petition from the neighbors in favor of the request.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

R E S O L U T I O N

In Application No. V-44-79 by DIANE B. & PAUL N. ZITO under Section 18-401 of the Zoning Ordinance to permit construction of a deck at rear of existing dwelling to 14 ft. from rear lot line on property located at 8025 Miller Heights, tax map reference 47-1((6))58, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 3, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1(C).
3. The area of the lot is 25,391 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

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

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

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

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

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Yaremchuk being absent).

10:50 - RANDALL C. FOLTZ, appl. under Sect. 18-401 of the Ord. to allow
A.M. construction of garage to 2.6 ft. from side lot line (8 ft. min.
side yard required by Sect. 3-407), located 2310 Malraux Dr.,
Tysons Woods Subd., 39-3((28))81, Providence Dist., 8,407 sq. ft.,
R-4, V-45-79.

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Mr. Foltz informed the Board that they had granted a variance for him to construct a garage in December of 1978. Unfortunately, when he had the plans drawn up, it was discovered that there was a problem with the location of the heat pump which is too difficult to move. In addition, there is a window that would have to be boarded shut. Now, he is seeking another variance to alleviate these problems. Mr. Foltz stated that he planned to move the garage forward instead of back as previously shown on the approved plats. Mr. Foltz presented the Board with a letter from the neighbor next door stating that he did not have any objection to this new request. The original variance was for construction at 3.5 ft. The new request was for 2.6 ft. to allow slightly more room.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

Page 151, April 3, 1979 Board of Zoning Appeals
RANDALL C. FOLTZ

R E S O L U T I O N

In Application No. V-45-79 by RANDALL C. FOLTZ under Section 18-401 of the Zoning Ordinance to permit construction of garage to 2.6 ft. from side lot line on property located at 2310 Malraux Drive, tax map reference 39-3((28)) 81, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 3, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-4.
3. The area of the lot is 8,407 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and has an unusual condition in the location of the existing buildings on the subject property.

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

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

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

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

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Yaremchuk being absent).

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Page 152, April 3, 1979, Scheduled case for

11:00 - KNIGHTS OF COLUMBUS, FAIRFAX COUNCIL #4522, appl. under Sect. 3-303
A.M. of the Ord. to permit bingo, located 3305 Glen Carlyn Rd.,
61-2((1))8 & 8A, Mason Dist., 13.44004 acres, R-3, S-42-79. 152

As the required notices were not in order, the Board deferred this application until May 1, 1979 at 12:00 P.M.

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Page 152, April 3, 1979, Scheduled case for

11:20 - REORGANIZED CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS, under Sect.
A.M. 3-303 of the Ord. to permit addition of a new sanctuary and other
facilities to existing church, located 5616 Inverchapel Road,
Ravensworth Subd., 79-2((3))3C, Annandale Dist., 2.55 acres,
R-3, S-43-79.

As the required notices were not in order, the Board deferred the application until May 8, 1979 at 10:00 A.M.

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Page 152, April 3, 1979, Scheduled case for

11:40 - EMILY A. MAHONY, appl. under Sect. 3-103 of the Ord. to permit
A.M. school of general education in private residence, located 1924
Freedom Lane, Marlborough Subd., 40-2((12))93, Dranesville Dist.,
11,577 sq. ft., R-3, S-47-79.

Mr. Terence Mahony informed the Board that the application was to allow a school of general education at 1924 Freedom Lane in an R-3 zoning district. He stated that the school would not be incompatible with the surrounding neighborhood. There is a growing need for this service in this immediate area. The program is for students with learning disabilities. It would not replace any existing programs in the public schools but would provide additional help for these students. More and more children are being identified as having learning disability problems. The public schools cannot adequately provide help for these youngsters. The proposed school would continue the education of the disabled youngster even during the summer months. Children of school age would attend the program Monday through Friday from 9 A.M. to 12 P.M. During the summer, another teacher would be provided. The winter program would be much smaller in scope. It would have children of kindergarten age with a maximum of four children during the winter. Mr. Mahony stated that he did not believe this school would generate any amount of traffic. The traffic would be staggered to prevent any backup. Children would be dropped off in a maximum of two minutes. The departures would also be staggered. The drivers would be cautioned to drive slowly throughout the neighborhood. The size of the class would be limited to four students and would be similar to a school of special instruction which is allowed by right.

The intent of the school and primary function is the summer program. He stated that it would provide beneficial support to the student's education. In response to questions from the Board, Mr. Mahony stated that the earliest hours would be 9 A.M. to 12 P.M. and the latest would be 4 P.M. to 7 P.M. Mr. Mahony stated that his wife was a learning disability teacher at West Springfield. He stated that he and his wife have lived on Freedom Lane since March 5, 1977. Chairman Smith inquired as to why the special permit was necessary as this was similar to schools allowed by right in the zone. The reason is because of the definition of schools of special education.

The following persons spoke in opposition to the application. Ms. Pam Davis of 2004 Freedom Lane stated that she was not sure what the implication would be if the special permit was granted. She inquired as to what would happen if Mr. Mahony sold the property and was informed that the special permit was not transferable. Ms. Davis stated that she objected to the application because it would change the general character of the neighborhood. She was informed by the Chairman that if the permit was granted there would be certain conditions under which the applicant must abide. She stated that this would set a precedent in the area and asked the Board to deny the request.

The next speaker was Mr. Beardley of 1927 Freedom Lane who lives across the street. He stated that he has lived there since 1969 when the subdivision was originally formed. He informed the Board that this use was against the covenants of the subdivision. He was informed by the Chairman that the covenants were a civil matter which did not enter into the Board's consideration.

Mr. Beardley stated that he was strongly opposed to this application as this appeared to be the first instance of a residential use being altered. He stated that he was unconvinced that there was a great need for this service. It was his opinion that if there was a strong need that the public schools could carry out the program without the need of a school in someone's home. Mr. Beardley informed the Board of the traffic hazard that would be present. He informed the Board that many youngsters in this area have been struck by vehicles in the past year. He stated that they did not need the increased risk of additional vehicles. He indicated that conditions could be set on the use but that it would be difficult to enforce them. He stated that this use would not be of benefit to his children. He requested the Board to deny the permit.

The next speaker was Pauline Skinner of 6520 Tremont Lane. She stated that Mr. Mahony had indicated that the students would be arriving at 5 minute intervals in the morning. She stated that there was no way to get children ready without some kinds of delays. She stated that if several cars arrived at the same time it would cause a traffic hazard. She requested the Board to obtain a traffic survey before granting such a request.

During rebuttal, Mr. Mahony stated that when the application was being considered, he had been sensitive to the traffic hazards. He stated that he read the Zoning Ordinance and there is a distinction between schools of special education and general education. The schools of special instruction are allowed by right and the schools of general education are allowed with a special permit. Mr. Mahony stated that he was not sure of the reason for the distinction. He stated that the granting of this request would not set a precedent as each application is considered on its own merit. He stated that this use would not affect property values. In addition, it would not change the character of the area. He indicated that he was abiding by the covenants. With respect to the traffic, he believed that a staggered arrival and departure would work. If it doesn't, he would insist upon a carpool arrangement. If that doesn't work, then he stated that he would terminate the arrangement himself. With respect to the staff report about an outside play area, he indicated that the program would only last about three hours inside the home and then the pupil would depart. There would not be a need for an outside play area. There would not be any children under the age of five in the program.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-47-79 by EMILY A. MAHONY under Section 3-103 of the Fairfax County Zoning Ordinance to permit school of general education in private residence on property located at 1924 Freedom Lane, tax map reference 40-2((12))93, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on April 3, 1979; and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-3.
3. That the area of the lot is 11,577 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has not presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

Mr. Barnes seconded the motion.

The motion failed by a vote of 2 to 2 (Mr. Smith and Ms. Ardis). As the decision resulted in a tie vote, Chairman Smith stated that the absent Board member, Mr. Yaremchuk, would be allowed the opportunity to participate in the decision and that the matter would be deferred in order to allow this.

Page 154, April 3, 1979, Scheduled case for

11:50 - LAWRENCE C. PULLEY, appl. under Sect. 18-401 of the Ord. to allow
A.M. subdivision into 3 lots with proposed lot 2 having width of 125.57
ft. & proposed lot 3 having width of 127.95 ft. (150 ft. min. lot
width required by Sect. 3-106), located 8500 Ardfour Lane, 70-1((1))
2, Annandale Dist., 3.4501 acres, R-1, V-29-79.

Mr. Thomas R. Scott of Scott Builders represented the applicant. The required notices were in order. Mr. Scott stated that the purpose of the variance was to turn the land into 3 lots with 2 lots requiring a variance as they did not meet the minimum lot width requirements of the R-1 zone. Mr. Scott stated that one of the lots was a corner lot and that the land is covered with a lot of trees and oak fences which they wish to keep intact. There is an existing house on lot 2 which is the residence of the Pulleys and it will remain. The chairman questioned whether the existing house would meet all of the set-back requirements if the land was subdivided. Mr. Scott stated that it would. He indicated that the only variances necessary were for the lot width requirements for lots 1 and 2. Lot 3 was the corner lot and it met the lot width requirements. He stated that the Pulleys have owned this land for 30 years.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 154, April 3, 1979
LAWRENCE C. PULLEY

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-29-79 by LAWRENCE C. PULLEY under Section 18-401 of the Zoning Ordinance to permit subdivision into 3 lots with proposed lot 2 having width of 125.57 ft. and proposed lot 3 having width of 127.95 ft. on property located at 8500 Ardfour Lane, tax map reference 70-1((1))2, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 3, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 3.4501 acres.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property and the property is irregular in shape.

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

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

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

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Yaremchuk being absent).

Page 154, April 3, 1979, After Agenda Items

Proctor Hatsell Private School S-11-79: This matter was again deferred until April 10, 1979 at 11:30 A.M.

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Page 155, April 3, 1979, After Agenda Items

Dr. Wember: The Board was in receipt of a letter from Dr. Wember requesting an out-of-turn hearing on his application for a home professional office. It was originally scheduled for May 1st but Dr. Wember requested an earlier hearing in order to meet his contract deadline. The Board scheduled the hearing for April 24, 1979 at 8:50 P.M.

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Page 155, April 3, 1979, After Agenda Items

American Horticultural Society, S-348-77: The Board had been in receipt of a request for an extension on S-348-77 which was deferred from March 27, 1979 for lack of a full Board. At its meeting of April 3, 1979, with only four Board members present, the Board took action to grant the extension based on a decree from Judge Plummer and because they did not agree with the County staff recommendation.

Ms. Ardis moved that the Board adopt the resolution amending the Special Permit amendment which is set to expire April 18, 1979 and that the specific items be amended to permit an extension of time for one year subsequent to the final judicial review; and, further to add the restrictions stipulated by the Court as follows:

1. No function which is not directly related to horticulture shall be permitted on the property;
2. The AHS shall be permitted to have outdoor social functions, provided they are directly related to horticulture, on three (3) days per calendar year but in no event shall such functions be permitted any closer to the existing Halpin house than is the main house of the American Horticultural Society and such functions must terminate by 10:00 P.M. on the day held;
3. Social functions which are directly related to horticultural may be held indoors on the property, provided total attendance at any such function does not exceed 100 persons, and provided such functions are completed by 10:00 P.M. Mondays through Saturdays and by 6:00 P.M. on Sundays;
4. Because of the particular hardship imposed on the American Horticultural Society as a result of these findings, and there being no objection by the parties, the American Horticultural Society may hold its previously scheduled outdoor social event in May 1979 on the property;

And, it was further stated that the major access road should be completed one year after the final judicial review.

Mr. DiGiuliano seconded the motion. The motion passed by a vote of 4 to 0 (Mr. Yaremchuk being absent).

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Page 155, April 3, 1979, After Agenda Items

The Board was in receipt of a letter from Ivy Mitchell of the Wolf Run Civic Association, Inc. regarding possible violations of the Zoning Ordinance at the R. Wayne Hirst residence at 12000 Henderson Road in Clifton. As the letter was addressed to the Zoning Administrator, the Board did not take any action and left the matter to Mr. Yates.

// There being no further business, the Board adjourned at 1:10 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

APPROVED: _____
DATE

Submitted to the BZA on _____
Submitted to the other departments,
Board of Supervisors and Planning
Commission _____

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, April 10, 1979. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George-Barnes; John Yaremchuk and Barbara Ardis.

The meeting began at 10:20 A.M. led with a prayer by Mr. Barnes.

Ms. Ardis moved that the Board adjourn into Executive Session to discuss legal matters. Mr. Barnes seconded the motion. The Board reconvened into public session at 10:40 A.M.

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Mr. Lenn Koneczny introduced three new Zoning Inspectors to the Board of Zoning Appeals. They were Betty Tiches, John Hardy and Joe Bakos.

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The Chairman called the scheduled 10:00 case:

10:00 - MOZAFAR & MAHIAN AMIGHI, appl. under Sect. 18-401 of the Ord. to allow resubdivision of two lots into four lots, two of which have width of 6 ft., (min. 100 ft. required by Sect. 3-206), located 3434 & 3436 Holly Rd., Richard Robinson Estate Subd., 59-2((2))1 & 2 Providence Dist., 2.3181 acres, R-2, V-305-78. (Deferred from January 30, 1979 and March 6, 1979 for Notices).

The required notices were in order. Mr. Charles Huntley, an engineer, represented the applicants. He stated that the request was to allow two lots to be developed into four lots which would have less than the required street frontage. In response to questions from the Board, Mr. Huntley stated that the applicants have owned the property for over a year. Chairman Smith inquired if the applicant had been before the Board previously. Mr. Huntley informed the Board that the application had been deferred previously because of a deficiency in the notice requirements. He stated that the applicant had never been before the Board at any other time. The justification for the variance request was because of the configuration of the property. The land is 408 ft. deep and only has 247 ft. of frontage on a public street. This request would create pipestem lots which would not significantly alter the character of the neighborhood.

There was no one to speak in favor of the application. Mr. David Hart of 8107 Gale Street spoke in opposition to the application. He stated that this request backed up to four lots on Gale Street. He stated that they were in opposition to this request as there was a 10 ft. strip of land included in the applicant's request which was deeded to the four property owners along Gale Street. This matter is being investigated by the Title Insurance Company. Mr. Hart stated that Mr. Amighi had assured them that the 10 ft. strip of land would not be included when the Site Plan was submitted for subdivision approval. Mr. Hart stated that they would support the variance request as it provided for single family homes as long as the 10 ft. of land was conveyed.

Chairman Smith informed Mr. Hart that the Board does not have the authority to approve land transfers. Mr. Hart stated that he only wanted to make the Board aware of the question of the 10 ft. strip as to ownership. He stated that he felt that the gentleman's agreement was sufficient at this point. Chairman Smith stated that the Board could not enforce a gentleman's agreement. If the Board granted the variance, it would be as submitted and the Board could not require the applicant to abide by any verbal agreements made to other parties.

There was no one else to speak in opposition of the application. Mr. DiGiulian inquired of Mr. Huntley as to whether the 10 ft. strip of land was included in the plats presented to the Board. Mr. Huntley stated that the land had already been removed since it was being investigated by the insurance company. He assured Mr. DiGiulian that the certified plats were valid.

R E S O L U T I O N

In Application No. V-305-78 by MOZAFAR & MAHIAN AMIGHI under Section 18-401 of the Zoning Ordinance to permit resubdivision of two lots into four lots, two

R E S O L U T I O N

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of which have width of 6 ft. (min. 100 ft. required by Sect. 3-206), on property located at 3434 & 3436 Holly Road, tax map reference 59-2((2))1 & 2, County of Fairfax, Virginia, Mr. DiGiullian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 10, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 2.3181 acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

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

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

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

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 157, April 10, 1979, Scheduled case for

10:10 - ENDURANCE CONSTRUCTION CORPORATION, appl. under Sect. 18-401 of the A.M. Ord. to allow subdivision into 3 lots, 2 of which have 12 ft. lot width (80 ft. min. lot width required by Sect. 3-306), located 2205 Wittington Blvd., McConnell Subd., 111-1((1))14A, Mt. Vernon Dist., 46,701 sq. ft., R-3, V-20-79.

This application had been deferred from March 6, 1979 for Notices. The required notices were in order. Mr. Giangreco, an attorney at 110 N. Royal Street in Alexandria, represented the applicant. He informed the Board that the request for pipestem lots was compatible with the pipestem lots now existing in the Mt. Vernon area. He stated that Mt. Vernon was one of those areas where you have numerous irregularly shaped lots. The proposed lots would be in excess of the current zoning requirements. There is an existing one story house which has been renovated by the applicant. These proposed lots will back up to Ft. Hunt Park. The applicant has constructed a storm drain cover at his own expense. Mr. Giangreco stated that Wittington Blvd. is a very dangerous and narrow road. Mr. Cash has posted bond which requires him to provide for storm drainage, curb and guttering. This land had been swamp land before Endurance Construction acquired it. He stated that they felt this subdivision would enhance the neighborhood.

In response to questions from the Board, Mr. Giangreco stated that the plat did show four lots. The lot with the house on it was owned by Mr. Cash and was not a part of the variance request. Mr. Giangreco stated that the proposed three lots averaged about 15,000 sq. ft. each.

Mr. Peyton Brown of 2201 Wittington Blvd. spoke in favor of the application. He informed the Board that he was an engineer and felt the request would enhance his property. He indicated that the land was a breeding ground for mosquitoes. Mr. Cash had renovated the old house and cleaned up the swamp. He stated that he lived very close by and would like to see the application

granted. In response to questions from the Board, Mr. Brown stated that he has lived at his property since December 1975.

Mr. Edward S. Holland, a professional engineer from Alexandria, stated that he has been practicing as an engineer since 1940. This area was one of the earliest areas that he had worked. He indicated that this area was somewhat repressed because of the street situation. He stated that this particular piece of land was an eyesore and had been a problem for the neighbors and the County ever since the street cars were removed. He stated that Mr. Cash had taken an irregularly shaped piece of land and bonded himself to improving the area. He stated that there were many pipestem lots nearby and this request would not be strange to the area.

The following persons spoke in opposition to the application. Mr. Peter Brinitzer informed the Board that he was the Mt. Vernon representative on the Fairfax County Planning Commission. He stated that the applicant had his day in court and was turned down. The community has seen many trucks, large trailers and callousness. He stated that there was no justification for granting this request. He stated that the community did not ask him to buy the lot. Wittington Blvd. is poorly paved. He stated that the builder has flaunted the authority of the County and done many things in direct violation of the County Code. He stated that the pipestem lots in this area have created many problems for Stratford Landing. In response to questions from the Board as to whether he would still be opposed if another builder with a better record applied for a pipestem variance, Mr. Brinitzer stated that he would still be opposed because of bad experiences with pipestems. He cited problems with storm drainage, the people living there and problems left by a builder to grate on everyone's nerves. When asked by the Board what he felt should be done with the property, Mr. Brinitzer stated that another house should be built leaving the old schoolhouse and leaving large yards for the houses. Mr. Brinitzer informed the Board of code violations against the builder. Mr. Konieczny from the Zoning Enforcement Division related to the Board the various problems the County had had with the builder.

The next speaker in opposition was Walter Gillis of 2225 Wittington Blve. He stated that when this matter first came before the Board, they had presented a petition in opposition to the request. He stated that it was the unanimous opinion of those signing the petition that the proposed variance for a pipestem would have an adverse impact on the community. Everyone was amazed that he could reapply to the Board after being turned down once already. In addition, the neighbors had little sympathy towards the applicant as he was aware of the problems associated with the property when he bought it. Mr. Gillis stated that if the request was granted that it would reduce the property values of the land surrounding it.

The next speaker was Jerry Kintz of 8710 Mercedes Court. He stated that the property sat vacant and unimproved until a year ago. Since that time, a lot has happened to the property with the builder beginning construction on weekends. After calling the County, it was learned that the builder did not have the proper permits to begin construction. Later on, Mr. Kintz was informed that he could not prevent a grading permit from being issued. Mr. Kintz was informed by the Chairman that the only matter before the Board was the request for a variance.

The next speaker was Kevin J. Keaney of 2218 Somerset Lane who stated that he was an abutting property owner. He stated that the Board had heard this request previously and was amazed that it was being considered again. He stated that he did not object to a developer making money but felt that the developer should abide by the same limitations as others when developing property. He stated that the property was irregularly shaped before the developer purchased it. He indicated that the pipestem request would make a mockery of the law.

During rebuttal, Mr. Giangreco stated that Mr. Keaney's property is located to the rear of the subject property and he did not understand how he could be affected. He indicated that most of the arguments presented were based on emotion. He informed the Board that the plans drawn up by Mr. Holland had shown a swell. After the building permit was issued, there was a slight change in that Mr. Cash undertook to construct a pipe when the plan had called for a swell. Mr. Giangreco stated that there are two trailers located on the property for storage of equipment and for an office. He stated that some of the property owners have signed a petition in favor of the application and are excited about having the property developed. Mr. Giangreco stated that the variance would be an asset to the community.

R E S O L U T I O N

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In Application No. V-20-79 by ENDURANCE CONSTRUCTION CORPORATION under Section 18-401 of the Zoning Ordinance to permit subdivision into three (3) lots, two of which have 12 ft. lot width (80 ft. minimum lot width required by Sect. 3-306) on property located at 2205 Wittington Blvd., tax map reference 111-1 ((1))14A, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board of April 10, 1979; and

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-3.
3. The area of the lot is 46,701 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, has an unusual condition in that the configuration of the lot will not allow development in accordance with the existing zoning or that of the surrounding area.

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

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

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

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax county.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 2 (Mr. Yaremchuk and Mr. Smith).

Page 159, April 10, 1979, Scheduled case for

10:20 - DONALD B. JUNCAL, ET. AL., appl. under Sect. 18-401 of the Ord. to allow subdivision into 3 lots with proposed lot 2 having width of 176.21 ft. and proposed lot 3 having width of 15.04 ft. (200 ft. min. lot width required by Sect. 3-E06), located 624 Walker Road, 7-4((1))42, Dranesville Dist., 6.9903 acres, R-E, V-22-79.

This application had been deferred from March 6, 1979 for notices. Mr. Charles Runyon, an engineer in Falls Church, represented the applicant. He stated that a variance was requested as the proposed lots did not meet the minimum lot width requirements for street frontage along Walker Road. Three lots were being proposed with lot 3 having 3.26 acres. The requirement for dedication would be met by the applicant in that 30 ft. would be dedicated for future construction. This is the only way that the property could be developed because of the narrowness of the property. The property was in conformance with all other zoning requirements of the zone. Mr. Runyon stated that this request was similar to other requests for this area except that there was an outlot for the development. He stated that this was a reasonable request and urged the Board to grant the request.

There was no one to speak in favor of the application and no one to speak in opposition.

R E S O L U T I O N

In Application No. V-22-79 by DONALD B. JUNCAL under Section 18-401 of the Zoning Ordinance to permit subdivision into three lots with proposed lot 2 having width of 176.21 ft. and proposed lot 3 having width of 15.04 ft. (200 ft. minimum lot width required by Section 3-E06) on property located at 624 Walker Road, tax map reference 7-4((1))42, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 10, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 6.9903 acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

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

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

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

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 160, April 10, 1979, Scheduled case for

10:30 - SAMUEL LEVY, appl. under Sect. 18-401 of the Ord. to allow construction of a room addition to existing dwelling 23.5 ft. from rear lot line (25 ft. min. rear yard required by Sect. 3-307), located 1904 Great Falls Street, Great Falls Manor Subd., 40-2((20))5, Dranesville Dist., 8,400 sq. ft., R-3, V-46-79.

The required notices were in order. Mr. Samuel Levy of 1904 Great Falls St. in McLean informed the Board that at present there existed a deck which he proposed to continue and enlarge and enclose for a sun room. He stated that the deck would be replaced with this new addition.

There was no one to speak in favor of the application and no one to speak in opposition of the application.

R E S O L U T I O N

In Application No. V-46-79 by SAMUEL LEVY under Section 18-401 of the Zoning Ordinance to permit construction of addition to existing dwelling 23.5 ft. from rear lot line (25 ft. minimum rear yard required by Sect. 3-307) on property located at 1904 Great Falls Street, tax map reference 40-2((20))5, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

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R E S O L U T I O N

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 8,400 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including shallow.

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

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

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

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

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

Page 161, April 10, 1979, Scheduled case for

10:40 - DEMETRIOS & ASPASIA & GEORGE NICHOLAKOS, appl. under Sect. 18-401 A.M. of the Ord. to allow resubdivision of 2 lots into 4 lots, with proposed lots 1-B, 2-A & 2-B having widths of 97.07 ft., 94.47 ft. & 91.02 ft., respectively (100 ft. min. lot width required by Sect. 3-206), located 1355 Windy Hill Road, 30-1(1)24, Dranesville Dist., 2.0 acres, R-2, V-58-79.

The Board recessed for fifteen minutes in order for the Clerk to check the notices which had not been submitted to the Zoning Office prior to the hearing. Mr. Russell Rosenberger, an attorney at 9401 Lee Highway in Fairfax, represented the applicants. He informed the Board that the subject lots were to be resubdivided into 4 lots of about 1/4 acre each. The lots would meet all of the other zoning requirements for the district. The Master Plan calls for 2 to 3 dwelling units per acre. Because of the shape of the lot, a variance is necessary to the lot width requirement. Other options would be to have a pipestem to serve all four lots. The applicants felt it would be more appropriate to spread out the variance throughout all three lots rather than having just three lots meeting the requirements and one lot requiring a large variance. Mr. Rosenberger requested the Board to grant the variance because of the shape of the lot and because the request would be in harmony with the surrounding development in the area.

In response to questions from the Board, Mr. Rosenberger stated that the property had just recently been rezoned to the R-2 category. The rezoning took place January 22, 1979. He informed the Board that the applicants purchased the property in 1978.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

Page 161, April 10, 1979

Board of Zoning Appeals

DEMETRIOS & ASPASIA & GEORGE NICHOLAKOS

R E S O L U T I O N

In Application No. V-48-79 by DEMETRIOS AND ASPASIA AND GEORGE NICHOLAKOS under Section 18-401 of the Zoning Ordinance to allow subdivision of 2 lots into 4 lots with proposed lots 1-B, 2-A & 2-B having widths of 97.07 ft., 94.47 ft. & 91.02 ft. respectively (100 ft. minimum lot width required by Sect. 3-206) on property located at 1355 Windy Hill Road, County of Fairfax, Virginia, tax map reference 30-1(1)24, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 10, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 2.0 acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

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

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

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

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 162, April 10, 1979, Scheduled case for

10:50 - ST. GEORGE'S UNITED METHODIST CHURCH, appl. under Sect. 3-103 of A.M. the Ord. to permit construction and operation of a church, located 4912 Ox Road, 68-1(1)10 & pt. of 14, Springfield Dist., 5.842 acres, R-1, S-49-79.

Mr. John T. Hazel of 4084 University Drive in Fairfax represented the church. He stated that his secretary and his wife are both members of the church. It is located on Roberts Road next to the George Mason University. The current church will move over to this new site and the George Mason University will take over the old property. The property is served by public water and sewer. There is ample room for expansion. The plat shows 72 parking spaces in excess of what is required by the Ordinance. Mr. Hazel suggested that the Board only approve the required number of parking spaces so that the church would not be bound to a larger number. With respect to the staff report, Mr. Hazel stated that the church did not have a problem with the dedication of 15 ft. along the front of the church property. The staff report requested a standard service drive. Mr. Hazel stated that he believed a travel lane was all that would be necessary. He indicated that there was only one more parcel from the church's property to the corner. He indicated that a service drive would be an unreasonable burden on the church. He indicated that the matter should be left to the Site Plan review for final determination. Mr. Hazel stated that the church did not have any problems with the landscaping and screening requirements.

In response to questions from the Board, Mr. Hazel stated that there was a 25 ft. setback requirement for the parking. He stated that they could move the parking back 10 ft. Chairman Smith stated that the Board would need a revised plat showing the revised parking. Mr. Hazel stated that he could submit a revised copy to the Board at such time as the site plan was filed. Ms. Ardis inquired if there was a reason the church was requesting hours of 9 A.M. to 9 P.M. daily. Mr. Hazel stated that there would be people coming and going on a daily basis. He stated that they did not anticipate transferring the day care center located in the existing church. The children attending this center would transfer to the Salvation Army day care center instead. The church would be open on a daily basis and would have a secretary working there.

There was no one to speak in favor of the application and no one to speak in opposition.

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Ms. Ardis made the following motion:

WHEREAS, Application No. S-49-79 by ST. GEORGE'S UNITED METHODIST CHURCH under Section 3-103 of the Fairfax County Zoning Ordinance to permit construction and operation of a church on property located at 4912 Ox Road, tax map reference 68-1(1)10 and part of 14, County of Fairfax, Virginia, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on April 10, 1979; and

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

1. That the owner of the subject property is the St. George's United Methodist Church.
2. That the present zoning is R-1.
3. That the area of the lot is 5.842 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening shall be required and must satisfy Sect. 13-109 and Sect. 13-110 of the Zoning Ordinance except as qualified below.
7. The hours of operation shall be 9:00 A.M. to 5:00 P.M. daily plus evening meetings.
8. The number of parking spaces shall be 88.
9. This permit is subject to submission of revised site plans showing the 25 ft. setback for parking and after applicant has resolved problem with travel land as requested by Preliminary Engineering.

Mr. Barnes seconded the motion.

The motion passed by a vote of 5 to 0.

Page 164, April 10, 1979, Scheduled case for

11:10 - SPA LADY, INC. T/A SPA LADY, appl. under Sect. 4-603 of the Ord. to permit health club, located in the Cardinal Forest Shopping Center at Rolling Rd. and Bauer Dr., 79-3((4))2, 43 & 44, Springfield Dist., 3,280 sq. ft. floor area within 6.9447 acres, C-6, S-52-79.

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Mr. James Rees of 8150 Leesburg Pike in Vienna represented the applicant. Mr. Rees informed the Board that the applicant had originally submitted an application for a health club which cannot be granted because of the setback from the residential property. After being informed by the Zoning staff of this problem, Mr. Howard Newson spoke to the landlord and has been allowed to relocate the health club in another location in the shopping center which will meet the setback requirement. Mr. Rees submitted new plats showing the new proposed location. With respect to the staff report comments on parking, Mr. Rees informed the Board that there were 3,377 off-street parking spaces available for the shopping center. This number does comply with the minimum required by the Ordinance.

In response to questions from the Board, Mr. Rees stated that the health club would be on a membership basis only for ladies only. They would be counseled in weight reduction. The facility would include a sauna, a whirl pool and an exercise floor.

Chairman Smith noted that the plats did not show the setback requirement for the new proposed location in its exact location. It was the consensus of the Board to defer the hearing until April 17, 1979 at 11:30 in order that new plats could be submitted. In addition, the Board requested a clarification on the parking questions as it related to the staff report comments. The Board requested a computation as to the number of spaces required for this type of use to be provided by the applicant.

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Page 164, April 10, 1979, Scheduled case for

11:20 - LONNIE D. GADDY, JR. & SHIRLENE C. GADDY AND L. D. GADDY CONSTRUCTION CO., INC., appl. under Sect. 18-401 of the Ord. to allow subd. into 7 lots, 2 of which have width of 5 ft. and 1 of which has width of 10 ft. (80 ft. min. lot width required by Sect. 3-306), located 7618 Shreve Road, 49-2((1))161, Providence Dist., 2.57 acres, R-3, V-15-79.
(Deferred from February 21, 1979 for Notices and from March 27, 1979 for full Board).

Mr. Lonnie D. Gaddy, Jr. appeared before the Board. He stated that this property had been purchased two years ago in order to build townhouses. After discussing the possibility with the County, it was determined that the property could not be used for the construction of townhouses. A variance is requested to allow subdivision into 7 lots to make reasonable use of the land. The property is unusually shaped and does not meet the minimum lot width requirements. The land is located off of Rt. 7.

In response to questions from the Board, Mr. Gaddy stated that the entire 2.57 acres is owned by him. Mr. DiGiulian stated that he did not see any dimensions shown on the site plan and inquired if all of the lots necessitated a variance. Mr. Gaddy responded that lots 4, 3 2 and 1 all have 80 ft. or more required frontage. Lots 5, 6 & 7 are in the rear and do not meet the frontage requirements.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

Page 164, April 10, 1979

Board of Zoning Appeals

LONNIE D. GADDY, JR. & SHIRLENE C. GADDY AND
L. D. GADDY CONSTRUCTION CO., INC.

R E S O L U T I O N

In Application No. V-15-79 by LONNIE D. GADDY JR. AND SHIRLENE C. GADDY AND L. D. GADDY CONSTRUCTION COMPANY, INC. under Section 18-401 of the Zoning Ordinance to allow subdivision into 7 lots, 2 of which have width of 5 ft. and 1 of which has width of 10 ft. (80 ft. minimum lot width required by Sect. 3-306) on property located at 7618 Shreve Road, tax map reference 49-2((1))161 County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 10, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 2.57 acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

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

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

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

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless subdivision has been recorded among the land records of Fairfax County.

Ms. Ardis seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith) with one abstention (Mr. Yaremchuk).

Page 165, April 10, 1979, After Agenda Items

The Board was in receipt of a memorandum from Kathe Anderson requesting the Board to reconsider its motion in the George Graham Appeal. Please refer to the verbatim transcript located in the ~~George Graham Appeal~~ file.

Following discussion of the memorandum, Mr. DiGiulian moved that the Board deny the request for reconsideration of the motion in the George Graham Appeal. Mr. Barnes seconded the motion. The motion passed by a vote of 3 to 2 (Mr. Smith & Ms. Ardis). The request for reconsideration was denied.

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Page 165, April 10, 1979, Scheduled case for

11:30 - PROCTOR HATSELL PRIVATE SCHOOL, INC. appl. under Sect. 3-103 of
A.M. the Ord. to amend S-100-76 for a day care center to permit increase in maximum number of students from 75 to 105 and an increase in land area to 28,828 sq. ft., located 7136 Telegraph Road, 91-4((1))pt. of 8A & 91-4((3))12, Lee Dist., 28,828 sq. ft., R-1, S-11-79. (Deferred from February 13, 1979 for proper application and from March 27, 1979 at request of Supervisor Alexander).

Mr. Dexter Odin, an attorney in Fairfax, represented the school. Chairman Smith announced that if there were no objections, the staff memorandum of the issues raised by the Board of Supervisors would be made a part of the record of the hearing.

Mr. Odin informed the Board that the Proctor Hattsell Private School had been operating a day care center for thirteen years in Fairfax. He stated that he had been representing them for eight years. Mr. Odin stated that he was unaware of any citizen complaint against the school except from Mr. Overvik. He stated that the school is well run and exceeds the standards required. In addition, the school has a good staff. The building was designed for 135 students and is now operating with 75 students.

The following person spoke in favor of the application. Mrs. Jane Rosman stated that her child attends Proctor Hattsell School. She stated that she was thankful that there was a school of such integrity as Proctor Hattsell School. Her child has been attending the school since July of 1977. She stated that her child has a secure feeling which she owes to Mr. and Mrs. Wheeler. Mrs. Rosman urged the Board to allow the increase in students as it would help the parents to be secure.

Mr. Glenn Overvik spoke in opposition to the application. He informed the Board that he had submitted a letter in opposition as he objected to the extension of the permit. He stated that the proposed use does not meet the zoning requirements. He stated that he was the owner of lot 13 which has a right-of-way. This is the only access to a building site for the school. He indicated that fencing of any kind would block his access. He stated that he had attached a copy of the recorded deed regarding the right-of-way with his letter. He stated that the use would not be compatible and would adversely affect his property.

Chairman Smith informed Mr. Overvik that the matter of the recorded right-of-way was a civil matter. Mr. Overvik stated that the proposed use must comply with Group III standards as well as the zoning district requirements. He indicated that the use does not have adequate outdoor space. Mr. Overvik stated that the use was both a day care center as well as a school. Under the R-1 district requirements, the minimum lot area is 40,000 sq. ft. He stated that lot 12 did not meet the requirements even including lot 13. He stated that the applicant has not met the requirements and in addition, he was concerned about the applicant placing a fence across his right-of-way. He urged the Board not to grant the permit that would in any way restrict his right-of-way.

During rebuttal, Mr. Odin stated that in so far as the easement was concerned that it must not interfere with Mr. Overvik's access assuming that Mr. Overvik was entitled to access as the property has been fenced for two years. In addition, Mr. Overvik's property has frontage on Telegraph Road in which to provide him ingress and egress to his property.

In response to questions from the Board, Mr. Odin stated that lot 8 was owned by Metropolitan Mortgage Fund by deed in 1977. Mr. Yaremchuk inquired as to whether the problems to which the Board of Supervisors were investigating had been resolved. Mr. Yates stated that he had met with Supervisor Alexander and he had no comments. All the problems that had been presented to Supervisor Alexander for investigation have been addressed by the zoning staff. In response to whether the staff had viewed the site, Mr. Yates stated that they did not go out into the field. There were no further questions from the Board.

Page 166, April 10, 1979 Board of Zoning Appeals
 PROCTOR HATSELL PRIVATE SCHOOL, INC.
 R E S O L U T I O N

Ms. Ardis made the following motion:

WHEREAS, Application No. S-11-79 by Proctor Hattsell Private School, Inc. under Section 3-103 of the Fairfax County Zoning Ordinance to amend S-100-76 and to increase maximum number of students from 75 to 105 and an increase in land area to 28,828 sq. ft. on property located at 7136 Telegraph Road, tax map reference 91-4((1))pt. of 8A and 91-4((3))12, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on April 10, 1979; and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-1.
3. That the area of the lot is 28,828 sq. ft.
4. That compliance with the Site Plan is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance; and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening shall be required in accordance with Article 13 of the Zoning Ordinance and provided to the satisfaction of the Director of Environmental Management.
7. The number of students shall be 105.
8. This permit is subject to all provisions of S-100-76 which have not been altered or amended by this resolution.

Mr. Barnes seconded the motion.

The motion passed by a vote of 5 to 0.

Page 167, April 10, 1979, Scheduled case for

11:50 - EMILY A. MAHONY, appl. under Sect. 3-103 of the Ord. to permit school of general education in private residence, located at 1924 Freedom Lane, Marlborough Subd., 40-2((12))93, Dranesville Dist., 11,577 sq. ft., R-3, S-47-79. (Deferred from March 27, 1979 after vote of 2 to 2 for Mr. Mahoney to decide whether he wished Mr. Yaremchuk to consider voting to break tie vote.)

The Board was in receipt of a letter from Mr. Terence P. Mahony requesting that his wife's application S-47-79 for operation of a school for learning disabled children be withdrawn without prejudice. In addition, Mr. Mahony requested that if the Board desired not to withdraw the application that Mr. Yaremchuk be allowed to participate in the final decision.

Mr. DiGiulian moved that the Board allow the withdrawal without prejudice. Mr. Barnes seconded the motion and it passed by a vote of 4 to 0 with 1 abstention (Mr. Yaremchuk).

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Page 167, April 10, 1979, Scheduled case for

12:00 - WILLIAM H. PLANK & JOSEPH G. SMYTH, TRUSTEES, appl. under Sect. 18-401 of the Ord. to allow construction of fence 8 ft. high on front lot line and 4 ft. high around lot corner (max. height of 4 ft. required by Sect. 10-105 and max. height of 3 1/2 ft. around lot corner required by Sect. 2-505), located 7256 Spring Side, Spring Side Subd., 30-1((17))1, Dranesville Dist., 17,185 sq. ft., R-3, V-33-79. (Deferred from March 13, 1979 for applicant to work out solution)

To be heard along with:

12:00 - WILLIAM H. PLANK & JOSEPH G. SMYTH, TRUSTEES, app. under Sect. 18-401 of the Ord. to allow construction of fence 8 ft. high on front lot line and 4 ft. high around lot corner (max. height of

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4 ft. required by Sect. 10-105 and max. height of 3 1/2 ft. around lot corner required by Sect. 2-505), located 7259 Spring Side Way, Spring Side Subd., 30-1((17))9, Dranesville Dist., 14,248 sq. ft., R-3, V-34-79. (Deferred from March 13, 1979 for applicant to work out solution.)

To be heard with:

12:00 P.M. - WILLIAM M. COFER, appl. under Sect. 18-401 of the Ord. to allow construction of a fence 8 ft. high along front lot line (max. height of 4 ft. required by Sect. 10-105), located 7254 Spring Side Way, Spring Side Subd., 30-1((17))2A, Dranesville Dist., 17,170 sq. ft., R-3, V-32-79. (Deferred from March 13, 1979 for applicant to work out solution.)

The Board was in receipt of a letter from Mr. Smyth regarding V-33-79; V-34-79 and V-32-79 requesting that the variances be withdrawn as he was able to work out another alternative solution.

Mr. Yaremchuk moved that the Board allow the withdrawal of V-33-79, V-34-79 and V-32-79 without prejudice. Ms. Ardis seconded the motion. The motion passed by a unanimous vote of 5 to 0.

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Page 168, April 10, 1979, After Agenda Items

APPROVAL OF MINUTES: Mr. DiGiulian moved that the Board approve the Minutes of November 7, 1978 as amended. Mr. Barnes seconded the motion and it passed unanimously.

// There being no further business, the Board adjourned at 1:50 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

APPROVED: _____
Date

Submitted to the BZA on _____.
Submitted to the other departments, Board of Supervisors and Planning Commission on _____.

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, April 17, 1979. The following Board Members were present: Daniel Smith, Chairman; George Barnes; John Yaremchuk and Barbara Ardis (arriving at 11:00 A.M.). Mr. DiGiulian was absent.

The Chairman opened the meeting at 10:55 A.M. led with a prayer by Mr. Barnes. The Chairman called the scheduled 10 o'clock case:

10:00 - SUSANNE R. DeWOLF, appl. under Sect. 18-401 of the Ord. to allow subdivision into 3 lots each of which would have a width of 16.67 ft. (200 ft. min. lot width required by Sect. 3-E06), located 1149 Bellview Road, 19-2(1)58, Dranesville Dist., 5.8448 acres, R-E, V-50-79.

Chairman Smith announced that the Board was operating with three members as Ms. Ardis had been detained in Court and Mr. DiGiulian was absent. He informed the applicant that if they wished to be deferred to a later date for a full Board they could do so. As the Board was discussing the possibility of a deferral, Ms. Ardis arrived and the Board proceeded with the application.

Mr. Henry Mackall of 4031 Chain Bridge Road in Fairfax represented the applicant. He stated that the property was exceptionally irregular in shape and has narrow frontage. One of the proposed lots has the existing house located on it and there are two other proposed building sites. Mr. Mackall showed the Board a sketch of how the property could be developed under the existing Ordinance. Because of the topography of the land, it would involve a lot of cutting and filling to the street. Mr. Mackall stated that it would be very difficult to develop this property under the standards provisions of the Ordinance. He then showed the Board a second drawing developing the property under the cluster arrangement. There would not be a problem with developing this property in this manner as far as Mr. Mackall could determine. The only problem with cluster is that it would not be feasible for only two building lots. Mr. Mackall stated that the plan submitted with the application is more logical and more practical and was in harmony with the surrounding area. The lots would almost be 2 acres and would have woods along the boundary line.

There was no one else to speak in favor of the application. The following persons spoke in opposition. Mr. Mark Friedlander of 1201 Tollston Road stated that he was contiguous property owner. He stated that the DeWolfs have been his neighbors for many years and he liked them but he opposed the plan submitted to the Board. He stated that the property already has a house. To further develop the property would create strange and unusual lots. He stated that the applicant does not have the right to a variance as he has not demonstrated hardship. Instead, the applicant is requesting a special privilege because he has a house and wishes to sell it off. Because of the topography of the land, it is going to create very unusually shaped lots if the plan is approved. The applicant has not proven hardship. The plan is detrimental to the surrounding area because of the plan to make pipestem lots out of the narrow alley. Again, he stated that as a contiguous property owner he was opposed to the request. He informed the Board that there are five acres lots below this property that have been developed with large homes.

In response to questions from the Board, Mr. Knowlton stated that if the applicant only requested two lots he would still need a variance as there was not adequate lot width.

The next speaker in opposition was Jean Louis Martin who presented the Board with a letter in opposition to the request. Mr. James T. McBroom of 1145 Bellview Road stated that he owned property to the north of the DeWolfs. He stated that he objected to the variance and requested the Board to deny the request as it would set a precedent. He stated that he purchased his land in 1960 and all the rest of the neighbors bought at a later date. He indicated that he valued his privacy and this request would infringe on that privacy. In addition, this request would damage the value of his property. He stated that the DeWolfs property drains into a stream which cuts through his property. The DeWolfs property is on a slope and his property is on a flat bed. He indicated that the drainage would affect his property. In addition, the stream bed would collect a lot of silt. The stripping of trees in order to build houses would further erode the soil. He stated that he was afraid the silt would cause flooding on his property if the stream bed is blocked. He was also concerned that the additional tanks and septic fields would contaminate his water supply. Mr. McBroom stated that if Mr. DeWolf

was determined to subdivide, that he subdivide into two lots including his present residence. Mr. McBroom urged the Board to deny the request.

The next speaker in opposition was Mr. Thomas White who owned land east of the subject property. He stated that he owned lot 56 containing 15 acres. He stated that most of the people who live in this area do have more than the normal amount of land. He stated that there are a semi-private community. He indicated that this was the first time anyone in the community had tried to divorce the covenants. He indicated that after the pipestems are turned into streets that the land would not be even close to 2 acres as suggested by the applicant's attorney. He indicated that the applicants are asking for more of a privilege than is necessary to grant. He stated that the proposed lot 1 was a vary irregular shaped lot consisting of an hour-glass configuration. This is because of the location of the existing septic field. In order to build houses, it would necessitate cutting down a large number of cedar trees. Mr. White suggested that the County Arborist be contacted before this is done. Another concern was that the area was scheduled for dedication by the State Highway Department. The road was to be widened which would take down a row of hedge trees along the road which were about 80 years old. Mr. White also stated that if the road was widened to 30 ft. it would require a lot of filling in of the McBroom's property which would be devastating.

There was no one else to speak in opposition. During rebuttal, Mr. Mackall stated that the restrictive covenants should have no bearing on his client or his right to use his land. The only thing being requested in this application is a variance to the lot width requirements for the lots. He stated that they are not asking for a variance to the zoning. The land would stay in the same zoning category. The lots would be developed in accordance with the requirements of Preliminary Engineering. He stated that this was a nice area in which he himself resided. There have been some cluster developments in this area. In fact, Mr. Mackall developed some of his land into a cluster development. Mr. and Mrs. DeWolf have purchased one of these lots and that is where they plan to move. Mr. Mackall stated that a lot of the area has already been developed in lots of less than five acres and some with less than two acres. To keep this tract in five acres does not make sense. The only thing the DeWolfs are requesting is that the property be developed with less than the required lot width or 200 ft. frontage requirement.

In response to questions from the Board, Mr. Mackall stated that the DeWolfs have owned this property since 1963.

**** RESOLUTION ****

In Application No. V-50-79 by SUSANNE R. deWOLF under Section 18-401 of the Zoning Ordinance to allow subdivision into 3 lots, each of which would have a width of 16.67 ft. (200 ft. minimum lot width required by Sect. 3-E06) on property located at 1149 Bellview Road, tax map reference 19-2((1))58, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 17, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 5.8448 acres.

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

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

**** R E S O L U T I O N ****

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

This motion FAILED for lack of a second.

R E S O L U T I O N

Ms. Ardis made the following counter motion.

In Application No. V-50-79 by SUSANNE R. DeWOLF under Section 18-401 of the Zoning Ordinance to allow subdivision into 3 lots, each of which would have a width of 16.67 ft. (200 ft. minimum lot width required by Sect. 3-E06) on property located at 1149 Bellview Road, tax map reference 19-2((1))58, County of Fairfax, Virginia, Ms. Ardis made the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 17, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 5.8#48 acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow and has an exceptional topographic problem.

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

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

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

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Barnes seconded the motion.

The motion FAILED by a vote of 2 to 2 (Mr. Smith & Mr. Yaremchuk).

R E S O L U T I O N

Mr. Yaremchuk offered the following substitute motion:

In Application No. V-50-79 by SUSANNE R. DeWOLF under Section 18-401 of the Zoning Ordinance to allow subdivision into 3 lots, each of which would have a width of 16.67 ft. (200 ft. minimum lot width required by Sect. 3-E06) on property located at 1149 Bellview Road, tax map reference 19-2((1))58, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 17, 1979; and

R E S O L U T I O N

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

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 5.8448 acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow and has an exceptional topographic problem.

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

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

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED IN PART *(to allow subdivision into 2 lots to be divided as evenly as possible) with the following limitations:

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.
3. This approval is subject to submission of revised plats showing subdivision for 2 lots approved by the Board.

Ms. Ardis seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. DiGiulian being absent).

Page 172, April 17, 1979, Scheduled case for

10:10 - OX HILL BAPTIST CHURCH, appl. under Sect. 3-103 of the Ord. to permit addition of building and parking to existing church, located 4101 Elmwood St., Rockland Village Subd., 34-4((6))46, 47, 48 71 & 72, Springfield Dist., 3.3996 acres, R-1, S-55-79.

As the required notices were not in order, this application was deferred until May 22, 1979 at 10:00 A.M.

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Page 172, April 17, 1979, Scheduled case for

10:10 - OX HILL BAPTIST CHURCH, appl. under Sect. 18-301 of the Ord. to allow addition to church such that floor area ratio will be 0.18 (maximum F.A.R. of 0.15 required by Sect. 3-107), located 4101 Elmwood St., Rockland Village Subd., 34-4((6))46, 47, 48, 71 & 72, Springfield Dist., 3.3996 acres, R-1, V-56-79.

As the required*notices were not in order, this application was deferred until May 22, 1979 at 10:00 A.M.

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Page 172, April 17, 1979, Scheduled case for

10:30 - JACOBSEN BROTHERS, INC. & HAWTHORNE ESTATES HOMEOWNERS ASSOCIATION, appl. under Sect. 3-203 of the Ord. to permit construction and operation of community tennis courts, located 9520 Liberty Tree Lane, Hawthorne Estates, 28-3((16))A, Centreville Dist., 3.36974 acres, R-2, S-51-79.

Mr. Hank Gordon, an engineer, represented the applicant. Mr. Gordon stated that Mr. Jacobsen was the developer of this 40 acre development. The first section contains 20 lots. Some of these lots have been sold. The second section will have approximately 20 lots. The applicant is requesting permission to construct two tennis courts. One will be constructed immediately but the applicant would like approval for two courts at this time. The other court could be built by the homeowners association. The tennis court area is surrounded by trees. In view of this, the applicant was requesting that the transitional screening required by Preliminary Engineering be waived.

In response to questions from the Board as to when the second tennis court would be built, Mr. Jacobsen stated it was his intent to build the first court now and then turn the land over to the homeowners association. They would then be responsible for building the second court. Perhaps it would never be constructed. Chairman Smith stated that the Board could not grant an indefinite construction period for the second tennis court. He inquired if three years would be ample time for the second court. Chairman Smith stated that construction would have to be completed on the first court within the year and on the second court within three years.

With respect to the screening, Mr. Knowlton informed the Board that the question of a waiver was the responsibility of the Director of Environmental Management. Mr. Gordon informed the Board that a site plan was not required for a tennis court; only a grading plan was. Chairman Smith stated that it would still be taken care of Preliminary Engineering.

There was no one to speak in favor of the application and one to speak in opposition.

Page 173, April 17, 1979
JACOBSEN BROTHERS, INC. &
HAWTHORNE ESTATES HOMEOWNERS ASSOCIATION
R E S O L U T I O N

Board of Zoning Appeals

Ms. Ardis made the following motion:

WHEREAS, Application NO. S-51-79 by JACOBSEN BROTHERS, INC. & HAWTHORNE ESTATES HOMEOWNERS ASSOCIATION, under Section 3-203 of the Fairfax County Zoning Ordinance to permit construction and operation of two community tennis courts on property located at 9520 Liberty Tree Lane, tax map reference 28-3((16))A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public, and a public hearing by the Board of Zoning Appeals held on April 17, 1979; and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-2.
3. That the area of the lot is 3.36974 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of the permitted use.

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6. Landscaping and screening shall be required and must satisfy Sect. 13-109 and Sect. 13-110 of the Zoning Ordinance.

7. Construction of the first tennis court shall begin within one year and construction of the second tennis court shall begin within three years of this date.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 174, April 17, 1979, Scheduled case for

10:50 - CHESTERBROOK SWIMMING CLUB, INC. appl. under Sect. 3-103 of the A.M. Ord. to amend S-289-75 to permit construction of lights on two existing tennis courts and a change of hours on all four, located 1812 Kirby Road, D.P. Divine Subd., 31-3((5))1 & 1A, Dranesville Dist., 6.1241 acres, R-1, S-54-79.

Diane Small of 1969 Massachusetts Ave, President of the swimming club, informed the Board that the club came into existence 25 years ago. In 1969, the club decided to construct a new pool. The original club had a family membership of 250 and with the construction of the new pool and tennis facilities, the family membership was expanded to 500. In response to its members requests, the club lighted its two existing tennis courts and constructed two new courts. At this time, the club is requesting an extension of its hours and permission to light the other two courts. The present hours are from 8 A.M. to 10 P.M. The club is asking that the hours be changed to 7 A.M. until 11 P.M.

The following person spoke in favor of the application. Mr. Richard Smith stated that he was a member of the Board of Directors responsible for tennis. He stated that there were four existing tennis courts. In 1976, the older courts were lighted. He stated that he believed that the existing lighting as well as the proposed lighting would not be detrimental to the surrounding property owners. There is natural screening to protect the effects of the lighting. In 1976, the club completed two additional tennis courts. The entrance for these courts is from Kirby Road and is not adjacent to any residences. The lights will be operated by a timing mechanism and will be used by members only. The lights will be operated with a key which only the members will have. It would be impossible to operate the lights after hours. Only 50% of the club membership participate in the tennis program. The club has a full time tennis pro available to the members. This proposed change of hours will not increase noise or traffic. He urged the Board to grant the request.

In response to questions from the Board, Mr. Smith stated that the lights would be controlled with a timing mechanism. In addition, he stated that there were 100 parking spaces off of Kirby Road. Chairman Smith stated that the parking was determined in 1968 when the additional courts were being requested. The original permit goes back to 1954 when only 44 to 54 parking spaces were provided. There have been several amendments to the permit since that time.

The following persons spoke in opposition to the request. Mrs. Marjorie Brown of 6405 Divine Street stated that she was a member of the club in good standing. She uses the club facilities and enjoys the pool. The only objection she had was to the increase in hours and the lights. She stated that 11 o'clock was very late to be playing tennis. She stated that she has a small child and elderly parents living with her. She stated that she can see the lights and hear the noise from the courts. She stated that she had no objection to the members playing tennis until 10 o'clock. She could not see any reason for the additional hour until 11 o'clock. Mr. Richard Smith stated that the reason for the extra hour was to allow enough time for the members to play tennis. He stated that many members had expressed concern to him that they would play tennis until 11 o'clock if possible. Mrs. Brown stated that not everyone from the club plays tennis. Some members only use the pool. Chairman Smith stated that he could not support the request for the increase in hours when there was evidence that it would be detrimental to the surrounding property owners. In addition, he stated that most clubs in the area only played tennis until 10 o'clock at night. Mr. Richard Smith stated that the club could put up screening at eye level to eliminate the effects of the lights. There were several other speakers in opposition to the request.

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-54-79 by CHESTERBROOK SWIMMING CLUB under Section 3-103 of the Fairfax County Zoning Ordinance to amend S-289-79 to permit construction of lights on 2 existing tennis courts and a change in hours on all 4 courts, on property located at 1812 Kirby Road, tax map reference 31-3 ((5))1 & 1A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on April 17, 1979; and

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

1. That the owner of the subject property is the applicant;
2. That the present zoning is R-1.
3. That the area of the lot is 6.1241 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening shall be required and must satisfy Sect. 13-109 and Sect. 13-110 of the Zoning Ordinance.
7. The hours of operation shall be 7 A.M. to 10 P.M.
8. The number of parking spaces shall be 100 as originally required.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 175, April 17, 1979, Scheduled case for

11:10 - THE SPRINGS, INC., A MONTESSORI SCHOOL, appl. under Sect. 3-203 of A.M. the Ord. to permit private school of general education 3-8 years of age (Montessori School), located 5407 Backlick Rd., 80-2((1))4, Annandale Dist., 147,559.5 sq. ft., R-2, S-57-79.

Mr. Thomas P. Kerreister stated that his wife, Barbara, was the administrator of the school. The request was to renew the special permit for the school. The school has been in operation since 1966. It was reviewed in 1970 and 1974. The school is in its 13th year of operation. It is located at the Springfield Christian Church on Braddock Road, just south of Edsall Road. The school operates the same school year as the public schools.

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Chairman Smith informed the Board that the present permit would expire on May 12th. If the Board grants an extension, it would become effective on the 12th of May. No other changes to the permit were being requested except to the ages of the children. Mrs. Kerreister stated that they changed the ages from 2 1/2 years to 3 years minimum because of the State Welfare licensing. She stated that this was not a day care center. All other conditions of the special permit are to remain the same.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

Page 176, April 17, 1979 Board of Zoning Appeals
THE SPRINGS, INC., A MONTESSORI SCHOOL
RESOLUTION

Ms. Ardis made the following motion:

WHEREAS, Application No. S-13-79 by THE SPRINGS, INC., A MONTESSORI SCHOOL under Section 3-203 of the Fairfax County Zoning Ordinance to permit private school of general education, 3 to 8 years of age, on property located at 5407 Backlick Road, tax map reference 80-2(1)4, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on April 17, 1979; and

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

1. That the owner of the subject property is the Springfield Christian Church and that the applicant is the lessee.
2. That the present zoning is R-2.
3. That the area of the lot is 3.4819 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening shall be required and must satisfy Sect. 13-109 and Sect. 13-110 of the Zoning Ordinance.
7. The number of students shall be 119, ages 3 to 8.
8. The hours of operation shall be 8:30 A.M. to 3:00 P.M., five days a week, Monday through Friday.
9. This permit is granted for a period of three (3) years with the Zoning Administrator being empowered to grant three (3) one - year extensions.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 177, April 17, 1979, Scheduled case for

11:20 - INTERNATIONAL TOWN & COUNTRY CLUB, appl. under Sect. 3-103 of the Ord. to amend existing use permit to allow continued use of temporary trailer for tennis, located 13200 Lee Jackson Highway, 45-1((1))11, Centreville Dist., 240.87 acres, R-1, S-13-79. (Deferred from 2/13/79 for Notices and from 3/27/79 for full Board).

Mr. Michael Valendia of Sterling Cup Lane in McLean, Chairman of the Tennis Committee, represented the club. He stated that they were asking for an extension of the time for the trailer that were granted for the tennis season. The trailer is used as a pro shop. He stated that the club does have plans to construct a permanent facility as the club as a very fine pro shop. As soon as funds permit, the club will build a permanent facility. The club has to serve all of its members and is meeting some opposition from the other members with regard to the construction of a permanent structure at this time. He stated that he has been assured that as soon as funds are available the pro shop will be built. During the past 2 years that the trailer has existed the club has done some landscaping and planted some pine trees around the tennis courts.

Chairman Smith stated that the original permit was for two years to allow a temporary trailer. He was concerned about the request for additional time. Mr. Barnes stated that he was familiar with the site and that you could hardly see the trailer. The trees have grown up around the tennis courts and they shield the trailer.

There was no one to speak in favor of the application and no none to speak in opposition to the application.

Page 177, April 17, 1979 Board of Zoning Appeals
INTERNATIONAL TOWN & COUNTRY CLUB
R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-13-79 by INTERNATIONAL TOWN & COUNTRY CLUB, INC. under Section 3-103 of the Fairfax County Zoning Ordinance to allow continued use of temporary trailer for tennis on property located at 13200 Lee Jackson Highway, tax map reference 45-1((1))11, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on April 17, 1979, and deferred from February 13, 1979 for Notices and from March 27, 1979 for full Board, and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-1.
3. That the area of the lot is 240.87 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this

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Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.

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

6. Landscaping and screening shall be required and must satisfy Sect. 13-109 and Sect. 13-110 of the Zoning Ordinance.

7. This permit is granted for a period of two (2) years.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. DiGiulian being absent).

Page 178, April 17, 1979, Scheduled case for

11:30 - SPA LADY, INC. T/A SPA LADY, appl. under Sect. 4-603 of the Ord. to permit health club, located in the Cardinal Forest Shopping Center at Rolling Road and Bauer Drive, 79-3((4))42 & 43, Springfield Dist., 3,280 sq. ft. floor area within 6.9447 acres, C-6, S-52-79. (Deferred from 4/10/79 for revised plats showing 100 ft. setback from residential property & for engineering computation on parking).

Mr. Rees, an attorney in Vienna, represented the health club. He informed the Board that the applicant was requesting an amendment of the floor area to 4,180 sq. ft. The location of the use had been changed to comply with the 100 ft. setback requirement from the adjoining residential property. In response to questions from the Board, Mr. Knowlton stated that the property behind the new site was zoned commercial. Mr. Rees stated that the proposed use was for a ladies health spa which would have an exercise area, showers, a whirlpool bath, sauna and a dressing area. The purpose of the club was for weight reduction and muscle tone. There would not be any massage facilities located in the club. The use would be limited to 48 patrons at any one time. In response to the number allowed by the Fire Marshal, Mr. Rees stated that the maximum occupancy load was 225. He stated that the ladies using the facility would work at their own schedule and that the number would be distributed throughout the day. There are 409 parking spaces available. The type of stores existing in the shopping center will be compatible with the use. The proposed hours of operation are 9 A.M. to 9 P.M. Monday through Friday and from 9 A.M. to 5 P.M. on Saturday. The spa would be closed on Sundays. Chairman Smith stated that as this was a commercial area, it could remain open from 9 A.M. to 9 P.M., seven days a week if desired.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 178, April 17, 1979
 SPA LADY, INC. T/A SPA LADY

Board of Zoning Appeals

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Ms. Ardis made the following motion:

WHEREAS, Application No. S-52-79 by SPA LADY, INC. T/A SPA LADY under Section 4-603 of the Fairfax County Zoning Ordinance to permit operation of a health club on property located at Cardinal Forest Shopping Center, tax map reference 79-3((4))42, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on April 17, 1979 and deferred from April 10, 1979 for revised plats; and

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

1. That the applicant is the lessee.
2. That the present zoning is C-6.
3. That the area of the lot is 4,180 sq. ft. within 300,346 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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AND, WHEREAS, the Board has reached the foøllowing conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in C Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than lminor engineering details) whether or not these additional uses or changes require A Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of thas Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax durint the hours of operation of the permitted use.
6. Landscaping and screening shall be required and must satisfy Sect. 13-109 and Sect. 13-110 of the Zoning Ordinance.
7. The maximum number of persons on premises shall be limited to 52 at any one time.
8. The hours of operation shall be 9 A.M. to 9 P.M., seven days a week.
9. The number of parking spaces shall be 20.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 179, April 17, 1979, Scheduled case for

11:50 - JOHN PARROTT & ARIF HODZIC, appl. under Sect. 18-401 of the Ord. to allow subd. into two lots, one of which would have width of 20 ft. (min. 100 ft. required by Sect. 3-206), located 2116 Elliott Avenue, Crimmins Subd., 41-1((16))3, Dranesville Dist., 1.474 acres, R-2, V-304-78.
(Deferred from January 17, 1979 for period of 60 days to allow applicant time to work with Preliminary Engineering so variance would not be necessary).

The Board was in receipt of a letter from the applicant requesting that the application be withdrawn as he was able to work out a solution with Preliminary Engineering so that a variance would not be necessary.

Mr. Yaremchuk moved that the Board allow the applicant to withdraw the application without prejudice. Mr. Barnes seconded the motion and the motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

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Page 179, April 17, 1979, After Agenda Items

V-81-79 VINSON E. ALLEN & JOHN F. McMAHON, JR.; The Board was in receipt of a letter from Charles Runyon, engineer for the applicant, requesting an out-of-turn hearing. It was the consensus of the Board to grant the request and the variance hearing was scheduled for May 15, 1979 at 8:45 P.M.

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Page 180, April 17, 1979, After Agenda Items

S-82-79 The Potomac School: The Board was in receipt of a request for an out-of-turn hearing for the Potomac School to allow construction of a wading pool. It was the consensus of the Board to grant the out-of-turn hearing and the hearing was scheduled for Tuesday, May 8, 1979 at 11:45 A.M.

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Page 180, April 17, 1979, After Agenda Items

McLean Swimming and Tennis Association: The Board was in receipt of a letter from Mr. Joseph L. Violette, President of the McLean Swimming and Tennis Assoc. requesting permission for the club to build a small, open shelter adjacent to the existing bathhouse. It was the consensus of the Board that as a building permit was required for this type of construction that it could not be considered a minor engineering change and would require a public hearing. The Clerk was instructed to so inform the club and to forward the appropriate forms for filing.

// There being no further business, the Board adjourned at 1:15 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

APPROVED: _____
Date

Submitted to the BZA on _____.
Submitted to the other departments,
Board of Supervisors and Planning
Commission on _____.

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, April 24, 1979. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian; Vice Chairman; John Yaremchuk and Barbara Ardis. George Barnes was absent.

The Chairman opened the meeting at 8:15 P.M. led with a prayer by Mr. Covington.

The Chairman called the scheduled 8 o'clock case:

8:00 P.M. - MONTESSORI SCHOOL OF McLEAN, INC., appl. under Sect. 3-103 of the Ord. to permit private school of general education, located 8517 Lewinsville Road, 29-1((1))22, Dranesville Dist., 7.500 acres, R-1, S-61-79.

Mr. Robert Lawrence, an attorney in Fairfax, represented the applicant. He stated that the applicants were currently operating a school in McLean. This new location contained 7 1/2 acres and would be under site plan control. The construction phase would be closely worked out as to details during the site plan process. In response to questions from the Board, Mr. Lawrence stated that the present location has been in operation on Kirby Road for six years. The proposed size of the new building would be 120 ft. x 75 ft. and would be a one-story building. The approximate height of the structure was 20 ft. The building would be above ground. The school would serve children from kindergarten through the sixth grade. The hours of operation would be 8:30 A.M. to 3:30 P.M. Transportation was to be provided by the use of two buses which would contain 15 passengers each.

Mr. Neil McGowan of 6607 Billings Drive in Annandale requested the Board to defer the hearing for approximately three months. He stated that he was an adjoining property owner and represented three other associates who did not live in the area. They have not had time to study the proposal. Mr. McGowan stated that their property was located in a flood plain area. In addition, there is no sewerage provided. He was requesting additional time from the Board in order to study the proposal and its effects on his property. He stated that he needed to consult some experts in order to protect his interests. He wanted to ensure that there would not be any spillage of sewerage onto his water supply. In addition, he wanted to know what restrictions would be placed on the school as far as control.

Mr. McGowan was informed by Chairman Smith that a 90 day deferral was out of the question. He stated that the Board does not defer an application for more than one or two weeks normally. Chairman Smith stated that the reasons cited for the deferral would be controlled by the site plan process. Site Plan would protect the adjoining property to insure that there were no adverse effects. Mr. McGowan questioned the Board as to the notification procedure as he was under the impression that he had not received proper notification of the hearing. Chairman Smith stated that the notices were in order. The trustee of the property had been notified and that was sufficient.

There was no one to speak in favor of the application and no one else to speak in opposition. During rebuttal, Mr. Lawrence stated that Mr. McGowan was unaware of the process involved in which the County controlled site plan, drainage, etc. He indicated that they wished to be good neighbors. A percent has already been done on the site and it was approved by the Health Department. The property would have to conform with all County standards and requirements. He stated that they would not create any problems for Mr. McGowan and did not believe that a deferral was necessary.

Page 181, April 24, 1979 Board of Zoning Appeals
MONTESSORI SCHOOL OF McLEAN, INC.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-61-79 by MONTESSORI SCHOOL OF McLEAN, INC. under Section 3-103 of the ZFairfax County Zoning Ordinance to permit private school of general education on property located at 8517 Lewinsville Road, tax map reference 29-1((1))22, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on April 24, 1979; and

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

1. That the owner of the subject property is Lewin B. Boston and that the applicant is the contract purchaser.
2. That the present zoning is R-1.
3. That the area of the lot is 7.5148 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The number of students shall be 175, from kindergarten through sixth grade.
8. The hours of operation shall be 8:30 A.M. to 3:30 P.M.
9. The number of parking spaces shall be fifteen (15).
10. This permit is granted for a period of five (5) years with the Zoning Administrator empowered to grant three (3) one year extensions.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 0 with 1 abstention (Ms. Ardis) (Mr. Barnes being absent).

Page 182, April 24, 1979, Scheduled case for

8:20 - GEORGE B., JR. & HELEN C. HARTZOG, appl. under Sect. 3-403 of the
 A.M. Ord. to permit antique shop in older structure, located 6728
 Lowell Avenue, Bryn Mawr Subd., 30-2(9)58 & pt. of 57, Dranesville
 Dist., 16,441 sq. ft., R-4, S-62-79.

Mr. Charles Shumate, an attorney with Hansbarger & Shumate in Fairfax, represented the applicant. This was an application for a special permit to operate an antique shop. The building was erected prior to 1938. It is in compliance with the Zoning Ordinance as it was existing prior to 1941. The property is zoned R-4 and fronts on Lowell Avenue in McLean. It is located in a CBD and the property to west of the site is vacant. The property is extremely run down. An antique shop would be a good interim use for the property until such time as the master plan calling for 8 to 12 dwelling units per acre is enacted. Mr. Shumate presented the Board with a letter from Maya Huber in support of the proposed request. She had served on the PLUS Task force when the master plan was being adopted.

With respect to the staff report, Mr. Shumate stated that this use could be allowed for a period not to exceed five years. The proposed hours of operation would be 9 to 9. However, Mr. Shumate stated that the applicants would like some flexibility as to the hours. There would only be two employees. With regard to the staff comment on the transitional screening, Mr. Shumate stated that was a matter best left to the engineer to work out with the Director of Environmental Management.

Mr. Verlin Smith appeared to speak in favor of the application. He stated that this was an excellent application and was surrounded by commercial property on two sides.

There was no one else to speak in favor of the application and no one to speak in opposition.

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-62-79 by GEORGE B. JR. & HELEN C. HARTZOG under Section 3-403 of the Fairfax County Zoning Ordinance to permit antique shop in older structure on property located at 6728 Lowell Avenue, tax map reference 30-2((9))58 & pt. of 57, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on April 24, 1979; and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-4.
3. That the area of the lot is 16,400 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This Special Permit shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The hours of operation shall be 9:00 A.M. to 10:30 P.M.
8. The number of parking spaces shall be ten (10).

GEORGE B. JR. & HELEN C. HARTZOG
(continued)

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9. This permit is granted for a period of five (5) years with the Zoning Administrator being empowered to grant three (3) one year extensions.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Barnes being absent).

Page 184, April 24, 1979, Scheduled case for

8:40 - TRUSTEES OF CALVARY CHURCH OF THE NAZARENE, appl. under Section
P.M. 3-203 of the Ord. to permit church, located 8250 Little River
Turnpike, 59-3(1)32, Providence Dist., 9.31 acres, R-2, S-63-79.

Mr. Walter L. Phillips, Jr. represented the church. The application was to allow construction of a church on a small part of a 23 acre parcel located on Little River Turnpike. The church owns all of the 23 acres but proposes to place only 9.31 acres under the special permit. The church is presently located on Wilson Boulevard in Arlington County. It has been there for the past 25 years and is very crowded for space.

Mr. Edward Uhler spoke in favor of the application. He represented the parties who owned lots 64 and lot 65 in Mill Creek Park. He asked the Board for some understanding as to the land involved. He inquired as to what the church proposed to do with the remaining land from the 23 acre parcel as the neighbors were under the impression that the entire 23 acres would be used for the church. Chairman Smith stated that a lot of the land appeared to be in floodplain. Mr. Yaremchuk informed Mr. Uhler that the church was not rezoning the property. If they attempted to change the zoning, they would have to go before the Board of Supervisors for a public hearing. The citizens would be notified at that time.

For clarification of the land issue, Mr. Phillips stated that there was a problem with drainage in this area and that the land was in a floodplain. That was one of the reasons why the property had not been developed in the past. The property is very difficult to develop which is another reason why this would be an ideal location for a church. They could use a large amount of acreage without a lot of improvements. The Calvary Church does not need 23 acres of land for a church. There is an area of the property that has no real value to the church. This area consists of approximately 5 to 7 acres and the church desires to sell it. As far as the rest of the 23 acres, there is no plan for any development at this time. The amount of land under the use permit would only be 9.318 acres.

There was no one else to speak in favor of the application and no one to speak in opposition.

Page 184, April 24, 1979

TRUSTEES OF CALVARY CHURCH OF THE NAZARENE

R E S O L U T I O N

Ms. Ardis made the following motion:

WHEREAS, Application No. S-63-79 by TRUSTEES OF CALVARY CHURCH OF THE NAZARENE under Section 3-203 of the Fairfax County Zoning Ordinance to permit church on property located at 8250 Little River Turnpike, tax map reference 59-3(1)32, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on April 24, 1979; and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-2.
3. That the area of the lot is 9.31 acres.
4. That compliance with the Site Plan Ordinance is required.

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

That the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The hours of operation shall be normal church activities.
8. The number of parking spaces shall be 200.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Barnes being absent).

Page 185, April 24, 1979, Scheduled case for

8:50 - DAVID G. WEMBER, M.D., appl. under Sect. 3-103 of the Ord. to P.M. permit home professional medical office, located 7810 Helena Drive, North Idylwood Subd., 39-4((8))4, Providence Dist., 0.8714 acres, R-1, S-64-79.

Dr. Wember represented himself. He stated that he was applying for a home professional office for an medical office. The location of the office was to be in a home presently under contract. He stated that he has had a home professional office in his present home for the past four years. He stated that he would like to continue the same type of practice in his new home. Dr. Wember informed the Board that he has a small practice, seeing only six to ten per day. The hours of operation would be 9 A.M. to 5 P.M. He only has one full time employee. In response to whether he had any part-time employees Dr. Wember indicated that he did not. He stated that he did not anticipate any adverse traffic flow in the neighborhood. In response to the Board as to what type of medical office, Dr. Wember stated that it was a general practice. He indicated that he practices preventive medicine. Most of his patients are scheduled for a full hour. In response to whether he owned the property, Dr. Wember stated that he was still a contract purchaser at the present time. The house sits on an acre of land. He stated that the downstairs level of the home would be used for his office and that he and his family would live upstairs. He indicated that he has the exact setup in his present location.

With respect to other uses in the area, Dr. Wember stated that in September 1966 a use was started but that it ended in June 1977. There is no other use in this area. He presented the Board with 39 letters of approval from home owners in the area.

There was no one to speak in favor of the application and no one to speak in opposition.

R E S O L U T I O N

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Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-64-79 by DAVID G. WEMBER, M.D. under Section 3-103 of the Fairfax County Zoning Ordinance to permit home professional medical office on property located at 7810 Helena Drive, tax map reference 39-4((8))4, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on April 24, 1979; and

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

1. That the owner of the subject property is James Joseph II & Florence C. Delaney and that the applicant is the contract purchaser.
2. That the present zoning is R-1.
3. That the area of the lot is 0.8174 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The number of employees shall be one (1).
8. The hours of operation shall be 9 A.M. to 5 P.M., Monday through Friday.
9. This permit is granted for a period of three (3) years.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Barnes being absent).

Page 186, April 24, 1979, After Agenda Items

Discussion of landscaping and screening requirements as outlined in condition 6 of the special permit resolution form took place. Ms. Kelsey informed the Board that the present wording of the condition would not allow the Director of Environmental Management the opportunity to waive that section of the Code in accordance with Article 13. As the present wording exists, he would only be able to waive Sect. 13-109 and Sect. 13-110 of Article 13.

After discussion, Mr. Yaremchuk moved that the Board adopt the recommendation of the staff as it related to the Hartzog application and that the Director of Environmental Management should be given the latitude to waive Article 13 of the Zoning Ordinance. Mr. DiGiulian seconded the motion and it passed by a vote of 4 to 0 (Mr. Barnes being absent).

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Page 187, April 24, 1979, After Agenda Items

It was the consensus of the Board that the special permit resolution forms be amended with respect to condition no.6 to read; "Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management." Chairman Smith asked that this amendment be made to the resolution forms to be provided to the Board at the next meeting.

Ms. Ardis moved that the Board amend the condition no. 6 for all special permit applications which were decided at the meeting this date. Mr. DiGiulian seconded the motion and it passed by a vote of 4 to 0 (Mr. Barnes being absent).

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Page 187, April 24, 1979, After Agenda Items

Camelot Community Club: The Board was in receipt of a request from Mr. Frank Quinn, President of the Camelot Community Club, seeking approval to construct a 40' x 12' redwood deck on a grassy area adjacent to the existing pool. It was the consensus of the Board that as a building permit was required for the construction of the deck that the club would have to go through the public hearing process. The Clerk was advised to forward an application form to the club.

// There being no further business, the Board adjourned at 9:30 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

APPROVED: _____
Date

Submitted to the BZA on _____.
Submitted to the other departments,
Board of Supervisors and Planning
Commission on _____.

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, May 1, 1979. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes; John Yaremchuk and Barbara Ardis.

The Chairman opened the meeting at 10:15 A.M. led with a prayer by Mr. Barnes.

T The Chairman called the scheduled 10 o'clock case:

10:00 - COLUMBIA BAPTIST CHURCH, appl. under Sect. 3-403 of the Ord. to amend existing permit to allow continued use of trailer for Sunday school classrooms, located 6200 Indian Run Parkway, Bren Mar Subd., 81-1((1))9B, Mason Dist., 5 acres, R-4, S-31-79.

Mr. William Higgins of 6703 Oakwell Avenue in Springfield represented the church. He stated that this request was to allow the continued use of a trailer which was granted in 1976. The trailer is situated behind the church building and is used for Sunday school classes. Chairman Smith inquired as to how long the church proposed to use the trailer. He indicated that the church was only to use the trailer on Sundays for religious education. Mr. Higgins stated that he did not know how long the church proposed to use the trailer. It is presently being used by about ten people on Sundays. In response to questions from the Board with respect to the location of the church, Mr. Higgins stated the church was located in Bren Mar in Fairfax County. He stated that he hoped the church would be able to build some additional buildings in the future and get rid of the trailer.

The Board questioned Mr. Covington with respect to the trailer. Mr. Covington stated that he had attached everything pertaining to the request to the staff report. He indicated that there was no problem with the operation and no complaints about the trailer. He stated that they have a valid occupancy permit.

Chairman Smith stated that apparently the time for the trailer had expired. Mr. Covington stated that it expired in 1978. Chairman Smith stated that he was reluctant to grant the use for more than two years because of the site plan conditions. He indicated that if a site plan could be granted for more than two years that he would not have any problems with it. Chairman Smith suggested that the Board grant the request for two years with two one year renewals provided the site plan conditions are met.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 188, May 1, 1979
COLUMBIA BAPTIST CHURCH

Board of Zoning Appeals

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-31-79 by COLUMBIA BAPTIST CHURCH under Section 3-403 of the Fairfax County Zoning Ordinance to permit amendment to existing permit to allow continued use of trailer for Sunday school classroom on property located at 6200 Indian Run Parkway, tax map reference 81-1((1))9B, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-4.
3. That the area of the lot is 5 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

R E S O L U T I O N

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. This permit is granted for a period of two (2) years with the Zoning Administrator empowered to grant two (2) one year extensions provided requirements of Site Plan are met.
8. All other requirements of S-157-76 shall remain in effect.

Mr. Barnes seconded the motion.

The motion passed by a vote of 5 to 0.

Page 189, May 1, 1979, Scheduled case for

10:40 - GEORGE H. JR. & KRISTJANA B. DIMON, appl. under Sect. 18-401 of the A.M. Ord. to allow enclosure of a carport into a garage such that total side yard will be 18.4 ft. (total min. side yards of 20 ft. required by Sect. 3-307), located 5613 Meridian Hill Place, Signal Hill Subd., 78-2((14))81, Annandale Dist., 9,285 sq. ft., R-3(c), V-58-79.

The required notices were in order. Mr. George Dimon of the above address stated that on his street, there were 3 houses that had carports instead of garages. His request to enclose the existing carport would be consistent with the neighborhood. There exists a unique situation with respect to an existing easement on an adjoining neighbor's property. If the easement had been split between the two subject properties, the total side yard required by the Ordinance could have been met. The builder had apparently relocated property lines in order that the easement remain on one property. As such, Mr. Dimon's side yard was smaller than others in the area. Mr. Dimon stated it would have been better if the easement had been split between the two properties. Another consideration for a variance was that the front of the property is conclave. The house is situated back from the cul-de-sac. The carport is attached to the existing house. The house next door has to view the unsightly materials stored on the carport. Mr. Dimon stated that he would be doing his neighbor a favor by enclosing the carport.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 189, May 1, 1979

Board of Zoning Appeals

GEORGE H. JR. & KRISTJANA B. DIMON

R E S O L U T I O N

In Application No. V-58-79 by GEORGE H. JR. & KRISTJANA B. DIMON under Section 18-401 of the Zoning Ordinance to permit enclosure of a carport into a garage such that total side yards will be 18.4 ft. (total minimum side yard of 20 ft. required by Sect. 3-307) on property located at 5613 Meridian Hill Place, tax map reference 78-2((14))81, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

R E S O L U T I O N

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 1, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3(C).
3. The area of the lot is 9,285 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and has an unusual condition in the location of the existing buildings on the subject property.

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

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

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

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

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

 Page 190, May 1, 1979, Scheduled case for

10:50 - ROBERT KINBERG, appl. under Sect. 18-401 of the Ord. to allow construction of garage to existing dwelling to 20.6 ft. from front lot line (35 ft. min. front yard required by Sect. 3-207), located 6501 Lakeview Drive, Lake Barcroft Subd., 61-3((14))359, Mason Dist., 14,306 sq. ft., R-2, V-59-79.

Mr. Kinberg informed the Board that he was seeking a variance in order to build a garage next to his house. He stated that he had a split rambler style home. The proposed garage would provide access to his home. The ground is level. There is very little shubbery in this area to remove. The garage will be 25 ft. in length in order to accommodate a standard sized car. This also allows for the extension of the chimney into the garage area. The garage will extend into the required front setback. It will be 20.6 ft. and does not meet the required 35 ft. minimum. A variance would be necessary even if the garage was built anywhere else on the property because of the exceptional topographic conditions in the rear yard. In addition, if the garage was built to the rear of the house, it would block the two rear entrances to the house. It would be expensive to remove the old driveway to build in the rear yard. Mr. Kinberg stated that it would be a hardship to place the garage in any other location. He indicated that his lot was a corner lot. It was accessible to Jay Miller Drive but he preferred not to have to construct another driveway. Mr. Kinberg presented a statement from the Lake Barcroft Architectural Review Committee stating that they had no objections to the garage being built in this location. In addition, he presented another statement from one of his neighbors who was also in favor of the application.

There was no one to speak in favor of the application and no one to speak in opposition.

R E S O L U T I O N

In Application No. V-59-79 by ROBERT KINBERG under Section 18-401 of the Zoning Ordinance to allow construction of a garage to existing dwelling to 20.6 ft. from front lot line (35 ft. minimum front yard required by Sect. 3-207) on property located at 6501 Lakeview Drive, tax map reference 61-3((14))359, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 1, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 14,306 sq. ft.
4. That the applicant's property has exceptional topographic problems and has an unusual condition in the location of the existing buildings on the subject property.

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

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

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

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

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 191, May 1, 1979, Scheduled case for

11:00 - DUANE MARSHALL BENTON, appl. under Sect. 18-401 of the Ord. to A.M. allow construction of carport addition to existing dwelling to 3.1 ft. from side lot line such that total side yards would be 15.7 ft. (5 ft. min. but 17 ft. total min. side yards required by Sect. 3-307 & Sect. 2-412), located 5000 King Richard Drive, Canterbury Woods Subd., 70-3((5))80, Annandale Dist., 10,768 sq. ft., R-3(C), V-53-79.

The required notices were in order. Chairman Smith noted that two variances were necessary for the construction of the carport. One was for the minimum side yard requirement and the other for the total overall side yard requirement. Mr. Benton informed the Board that his hardship was that his property was irregular shaped in that it was pie-shaped. It narrows out in the rear. This unusual condition along with the location of the existing house makes it difficult to comply with the Zoning Ordinance requirements. He stated that he wished to build the carport over an existing concrete slab on the north side of the property. Only one portion of the addition would come near the property line. Mr. Benton stated that he had a statement from Mr. Lloyd Jones, his neighbor on the north side, who supported the application. In addition, he presented a statement from a neighbor across the street also in support.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

R E S O L U T I O N

In Application No. V-53-79 by DUANE MARSHALL BENTON under Section 18-401 of the Zoning Ordinance to allow construction of carport addition to existing dwelling to 3.1 ft. from side lot line such that total side yards would be 15.7 ft. (5 ft. minimum but 17 ft. total minimum side yards required by Sect. 3-307 and Sect. 2-412) on property located at 5000 King Richard Drive, tax map reference 70-3((5))80, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 1, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3(c).
3. The area of the lot is 10,768 sq. ft.
4. That the applicant's property is exceptionally irregular in shape.

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

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

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

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

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 192, May 1, 1979, Scheduled case for

11:10 - JOHN ARANT, appl. under Sect. 18-401 of the Ord. to allow subdivision into 4 lots with proposed lots 2 and 3 having widths of 12 ft. and proposed lot 4 having area of 63,797 sq. ft. (200 ft. min. lot width and 75,000 sq. ft. min. lot area required by Sect. 3-E06), located 9620 Arnon Chapel Road, Orchard Hill Subd., 8-1((1))39A, Dranesville Dist., 8.0744 acres, R-E, V-60-79.

Mr. James Farris, an attorney for the applicant, stated that he would like the Board to defer the application for at least three weeks. There had been some misunderstanding in the purchase of the property. The applicant was under the impression that the parcel contained more than 8 acres; however, later it was determined that it contained less than 8 acres. The applicant would need to seek additional land in order to apply for a variance to subdivide the property. Mr. Covington stated that another consideration was that he had received a call from the Health Department stating that one of the septic fields would be located within 100 ft. setback from a neighbor's well. That problem would also have to be worked out before the variance hearing. Chairman Smith stated that it would take more than three weeks to work out these problems.

Mr. Harold Burtran of the Egon Hills Homeowners Association stated that the Board would be granting Mr. Arant the right to establish cluster development if they granted the variance. Chairman Smith informed Mr. Burtran that he was arguing the merits of the case and would have to wait until the time of the public hearing.

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Mr. Burtran stated that Mr. Arant did not have the right to use the existing easement as part of this development. He went on to state that it might be unfair to have Mr. Arant purchase additional land when he could not use the entire land. Chairman Smith inquired of the applicant if he had use rights to the easement. Mr. Farris replied that they did. Chairman Smith inquired if Mr. Farris was aware that the Master Plan did not allow cluster type development. He suggested that the applicant work with Mr. Covington as to the various problems with the property. Mr. Covington stated that the only thing to be worked out was the easement. As long as the applicant had the right to the easement, then it could be counted in the land area in order to meet the minimum land area requirements. Chairman Smith stated that he would like revised plats. In addition, the applicant would have to meet the Health Department code. He suggested that the applicant amend the application and submit it to the Zoning Office.

This matter was deferred until June 12, 1979 at 10:00 A.M.

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Page 193, May 1, 1979, Scheduled case for

11:20 - LOUIS R. STOLCIS, appl. under Sect. 18-401 of the Ord. to allow
A.M. construction of carport addition to existing dwelling to 1.4 ft.
from side lot line such that total side yards would be 14.2 ft.
(min. 5 ft. and total minimum 17 ft. required by Sect. 2-412),
located 2300 Londonderry Rd., Stratford Landing Subd., 102-3((2))(24)
(24)13, Mt. Vernon Dist., 10,640 sq. ft., R-3, V-65-79.

The required notices were in order. Mr. Louis R. Stolcis of the above address informed the Board that this was his second request to seek a variance. He stated that he applied in 1962 but was told it would be a waste of the Board's time. Since that time, the elements have destroyed a number of autos. His wife's parents are now living with them. The parents are quite old and feeble. One is a stroke victim. They have to be transported to doctor's appointments frequently. The carport would make it easier and less of a walk to the autos. Mr. Stolcis stated that he had the support of his neighbors in this variance request. In response to questions from the Board, Mr. Stolcis stated that he has owned the property since 1961.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 193, May 1, 1979
LOUIS R. STOLCIS

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-65-79 by LOUIS R. STOLCIS under Section 18-401 of the Zoning Ordinance to allow construction of carport addition to existing dwelling to 1.4 ft. from side lot line such that total side yards would be 14.2 ft. (minimum 5 ft. and total minimum 17 ft. required by Sect. 2-412 and Sect. 3-307) on property located at 2300 Londonderry Road, tax map reference 102-3((2))(24) 13, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 1, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 10,640 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

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

R E S O L U T I O N

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

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

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

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 194, May 1, 1979, Scheduled case for

11:50 - PETER & WILHELMINA A. KLAASSEN, appl. under Sect. 3-203 of the
 A.M. Ord. to permit day care center for max. of 67 children, ages 2 to 5, located 9655 Blake Lane, Willow Point Subd., 48-3((19))2, Providence Dist., 24,329 sq. ft., R-2, S-71-79.

AND

11:50 - PETER & WILHELMINA A. KLAASSEN, appl. under Sect. 18-401 of the
 A.M. Ord. to allow parking areas and driveways at day care center with other than a dustless surface (dustless surface required by Sect. 11-102), located 9655 Blake Lane, Willow Point Subd., 48-3((19))2, Providence Dist., 24,329 sq. ft., R-2, V-72-79.

The Board was in receipt of a request for deferral of the above captioned applications. After discussion, the applications were deferred until June 19, 1979 at 10:00 A.M.

For further information regarding the applications, please refer to the verbatim transcript located in the Clerk's Office.

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Page 194, May 1, 1979, Scheduled case for

12:00 - KNIGHTS OF COLUMBUS, FAIRFAX COUNCIL #4522, appl. under Sect.
 P.M. 3-303 of the Ord. to permit bingo, located 3305 Glen Carlyn Rd., 61-2((1))8 & 8A, Mason Dist., 13.44004 acres, R-3, S-42-79.

Mr. Michael Valencia of 6532 Eren Mar Drive in Alexandria represented the applicant. He stated that they were seeking a special permit in order to conduct Bingo at St. Anthony's Church on Glen Carlyn Road. He informed the Board that they have been conducting Bingo there for the past five years. They have volunteers to assist with the game, generally about 12 volunteers. The average traffic generated is 70 cars, arriving at 6:30 and departing at 10:30 or 11 o'clock. All ingress and egress is from Glen Carlyn Road. The parking lot at St. Anthony's can handle 100 cars.

Chairman Smith inquired if they had an agreement with the church to use the property. Mr. Valencia stated that the agreement was included with the application. In response to questions from the Board, Mr. Valencia stated that they conduct Bingo on Tuesday nights. Mr. Covington informed the Board that he had observed their operation and had no problems with it. However, there were some recommendations in the staff report.

There was no one to speak in favor of the application and no one to speak in opposition.

The Board discussed the County requirements regarding Bingo. Mr. Covington informed the Board that the requirements were due to change in July of this year. With respect to the granting of this permit, Chairman Smith suggested that the permit run from the date of the granting until the end of the first scheduled Bingo year and then allow four one year renewals after that. The Board discussed the time frame with the applicant's attorney, Mr. James R. Canfield. Following the discussion, Mr. Yaremchuk made the following motion.

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-42-79 by MNIGHTS OF COLUMBUS, FAIRFAX COUNCIL #4522, under Section 3-303 of the Fairfax County Zoning Ordinance to permit Bingo on property located at 3305 Glen Carlyn Road, tax map reference 61-2((1))8 & 8A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on May 1, 1979; and

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

1. That the owner of the subject property is Rev. Thomas J. Welch, Bishop of the Catholic Diocese of Arlington, Va. and his successors in Office and that the applicant is the lessee.
2. That the present zoning is R-4.
3. That the area of the lot is 13.44004 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. This permit shall become effective for the balance of this year upon the date of compliance with all laws adopted by the General Assembly and the County of Fairfax with regard to operation of Bingo and shall continue for a period of one year for the ensuing Bingo year with the Zoning Administrator empowered to grant four (4) one year renewals.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Ms. Ardis being absent).

Page 195, May 1, 1979, After Agenda Items

BURKE COMMUNITY CHURCH, S-109-78: The Board was in receipt of a request for a six month extension of the special permit for the Burke Community Church. The special permit was originally granted July 5, 1978 and the church stated that they would be unable to begin construction prior to the expiration.

Mr. Barnes moved that the Board grant the Burke Community Church a six month extension of S-109-78. Ms. Ardis seconded the motion. The motion passed by a vote of 5 to 0. (This after agenda item was considered earlier in the meeting when Ms. Ardis was present.)

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// There being no further business, the Board adjourned at 12:35 P.M.

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By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

APPROVED: _____
Date

Submitted to the Board of Zoning
Appeals on _____.
Submitted to the Board of Super-
visors, Planning Commission and
other departments on _____.

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, May 8, 1979. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes, John Yaremchuk and Barbara Ardis.

The Chairman called the meeting at 10:10 A.M. led with a prayer by Mr. Barnes.

The Chairman called the scheduled 10 o'clock case:

10:00 - REORGANIZED CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS, appl. A.M. under Sect. 3-303 of the Ord. to permit addition of a new sanctuary and other facilities to existing church, located 5616 Inverchapel Road, Ravensworth Subd., 79-2((3))(3)C, Annandale Dist., 2.55 acres, R-3, S-43-79. (Deferred from April 3, 1979 for Notices).

The required notices were in order. Mr. Jack Gerhart, President of the Building Committee of the Church, of 2506 Meredith Drive in Vienna, represented the church. He informed the Board that this was an existing church built in 1964. He stated that the church was now seeking a special permit in order to construct a new sanctuary which would be adjacent to and connecting to the existing church. In response to questions from the Board, Mr. Gerhart stated that the proposed materials for construction would be brick to blend with the existing structure. They planned to use the same color brick and style of architecture. The new structure would blend with the neighborhood also. Mr. Gerhart stated that the church was not under a special permit at this time. There are 80 parking spaces proposed. The church does not use that many but that is the number required by the County.

There was no one to speak in favor of the application. The following persons spoke in opposition to the application. Ms. Sally Hill of 5543 Queensberry Avenue in Springfield, Vice-President of the Ravensworth Farms Civic Association, stated that they opposed this application. She indicated that they had met to discuss the application and even though they are good neighbors of the church and do not oppose the expansion, they are concerned about the traffic impact on the neighborhood. She stated that the church plans to increase the existing parking spaces going from 80 to 200 spaces which would bring substantial traffic into the area. She asked the Board to consider the effects of traffic from 10 A.M. to all day during the weekends. Most of the church members come from outside Ravensworth Farms. She stated that the streets would be used primarily by church members and visitors. This request would impact on parking on the public streets and the surrounding homes around the church. Ms. Hill stated that the neighbors were not allowed any objections when the church was originally built and asked that some restrictions be placed on the church at this time.

Mr. DiGiulian stated that the plat showed only 80 parking spaces, both existing and proposed. Chairman Smith stated only 80 parking spaces are required. This is a small congregation of 215 people. Ms. Hill stated that it would still increase traffic throughout the neighborhood. Chairman Smith stated that was one thing the Board has a problem with when it comes to churches. He stated that he questioned whether the church could be before the Board for a special permit. Churches were originally allowed by right. This church was built at that time in 1964. It was in 1974, that churches were required to apply for a special permit. This was to soften the blow on the surrounding community. However, this was an existing church. Chairman Smith indicated that according to the plats there were only a total of 80 parking spaces. Ms. Hill stated that this location was tucked away in a corner of the development. She stated that the only way to get to the church was to go through half of the community. Ms. Hill stated that there was a curve and a very narrow street in this area. If people park in front of the church, it would make it difficult for others to get through. Chairman Smith informed her that they are not allowed to park in the streets. Ms. Hill stated that occasionally church members do park in the streets. She indicated that it was no great problem at this time. Chairman Smith informed Ms. Hill that some of the information she may have received was incorrect. Hopefully, there should not be any great change as far as traffic was concerned.

The next speaker in opposition was Dave Guss of 8006 Gasport Lane in Springfield. He asked for clarification from the Board that the parking would be limited to a total of 80 cars and that the permit would not allow parking on the public streets. Chairman Smith stated that this use would be under special permit if it was granted for the expansion. As such, all use associated with the

Page 198, May 8, 1979
 REORGANIZED CHURCH OF JESUS CHRIST
 OF LATTER DAY SAINTS
 (continued)

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church would have to be on the site. This would control the parking situation Mr. Guss stated that he wished to echo the sentiments of his neighbor. He asked about the notification procedure for the application. Chairman Smith stated that in the first scheduled hearing, the church had failed to notify one contiguous property owner and the hearing had been deferred. Mr. Guss stated that he felt this application would be a significant impact on the area and inquired if the church had notified everyone in the area. Chairman Smith informed him that was not required. The proper procedures had been followed. He further indicated that the church would be under site plan control and that the zoning is not being changed in any way.

During Rebuttal, Mr. Gerhart stated that the church was composed of 280 members. Most of these people have been meeting in this location for a number of years. He stated that the church does not anticipate any great increase in the membership of the church. When membership reaches about 300, they look for another site to build an additional site. As such, the church does not anticipate any increase in traffic through the Inverchapel or Queensberry Ave. access road. He assured the Board and the neighbors that the church would not park in the public streets. Mr. Gerhart stated that the church was used primarily on Wednesday evenings and Sundays mornings. It is used throughout the rest of the week by community groups. He indicated that he did not believe there was much traffic involved. The community groups using the church facilities are the Girls Scouts, the Boy Scouts, and the Kiwanis Club. Mr. Gerhart stated that the church would like to continue to work with the community and try to resolve any problems.

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 REORGANIZED CHURCH OF JESUS CHRIST OF
 LATTER DAY SAINTS

Board of Zoning Appeals

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-43-79 by REORGANIZED CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS under Section 3-303 of the Fairfax County Zoning Ordinance to permit addition of new sanctuary and other facilities to existing church on property located at 5616 Inverchapel Road, tax map reference 79-2((3))(3)C, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on May 8, 1979; and

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.

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R E S O L U T I O N

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

6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.

7. The hours of operation shall be hours of normal church activities.

8. The number of parking spaces shall be 80.

Mr. Yaremchuk seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 199, May 8, 1979, Scheduled case for

10:20 - READING & MATH TUTORING CENTER, appl. under Sect. 18-401 & 12-305 A.M. of the Ord. to allow a building-mounted sign at an entrance in a shopping center for an individual enterprise lacking frontage from a street, located 7950 Ft. Hunt Road, Hollin Hall Subd., 102-2((2)) (1)1, C. B, Mt. Vernon Dist., 105,987 sq. ft., C-5, V-67-79. (Deferred from

Mr. George Morino represented the applicant. The required notices were not in order. Mr. Morino explained to the Board that he had notified the surrounding contiguous storekeepers and not the surrounding property owners.

This matter was deferred until Tuesday, June 5, 1979 at 12:00 for Notices.

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Page 199, May 8, 1979, Scheduled case for

10:30 - NATIONAL AUDIO-VISUAL ASSOCIATION, INC., (NAVA), appl. under Sect. A.M. 18-401 of the Ord. to allow construction of an office building addition partially in C-8 District 11.4 ft. from rear lot line, (20 ft. min. rear yard required by Sect. 4-807), located 3150 Spring Street, 48-3((1))27, Providence Dist., 33,658 sq. ft.; C-8; 17,600 sq. ft.; I-5; 16,058 sq. ft.; C-8 & I-5, V-69-79.

Mr. James R. Howell, an architect representing NAVA, of 252 W. Broad Street in Falls Church, stated that this request was for the third portion of the building. The building was originally constructed in 1957. The rear yard was limited at 11.4 ft. at the time of the original construction. In 1967, an addition was built to this. Under the Ordinance, the rear yard required was 20 ft. A portion of that addition was in line with the existing building. At that time, a waiver was requested and granted for 11.4 ft. At the present time, the applicants are proposing an addition on the right hand side of the building which would line up with the rear wall of the existing structure. The exterior wall would be 11.4 from the rear wall. Some of it would encroach into the rear yard. Some of the building lies in the I-5 zone and could be built right to the property line. The building will line up across the rear and across the front so as to be a symmetrical structure.

Chairman Smith inquired as to why they did not rezone the entire property to the industrial category. Mr. Howell stated that they never attempted it. The original parcel was zoned C-8 and is now zoned C-8. A portion was added from the I-5 zone to this parcel. The use is permitted in the I-5 zone and since a large portion of the property is in C-8, the applicants did not see any reason to seek a rezoning.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 199, May 8, 1979

Board of Zoning Appeals

NATIONAL AUDIO-VISUAL ASSOCIATION, INC. (NAVA)

R E S O L U T I O N

In Application No. V-69-79 by NATIONAL AUDIO-VISUAL ASSOCIATION, INC. (NAVA) under Section 18-401 of the Zoning Ordinance to allow construction of an office building addition partially in C-8 district 11.4 ft. from rear lot line (20 ft. minimum rear yard required by Sect. 4-807) on property located at 3150 Spring Street, tax map reference 48-3((1))27, County of Fairfax, Virginia. Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

R E S O L U T I O N

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 8, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is C-8 and I-5.
3. The area of the lot is 47,084 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

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

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

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

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

Mr. Barnes seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 200, May 8, 1979, Scheduled case for Board of Zoning Appeals

10:40 - ROAD AGGREGATES, INC., appl. under Sect. 18-401 of the Ord. to allow
A.M. subdivision into 4 lots with proposed lots 2 and 3 having width of
15 ft. (80 ft. min. lot width required by Sect. 3-306) located 4412
Upland Drive, Clermont Subd., 82-1((4))31B, Lee Dist., 2.8432 acres,
R-3, V-70-79.

The required notices were in order. However, there was not anyone present to represent Road Aggregates before the Board. Chairman Smith passed over the application.

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Page 200, May 8, 1979, Scheduled case for

10:50 - MICHAEL P. TRADER, appl. under Sect. 18-401 of the Ord. to allow
A.M. construction of attached garage & family quarters 33'7" from front
property line (40 ft. min. front yard required by Sect. 3-107),
located 701 Ellsworth Avenue, Green Acres Subd., 7-4((5))69, Dranes-
ville Dist., 29,080 sq. ft., R-1, V-73-79.

As the required notices were not in order, the Board deferred the application until Tuesday, June 5, 1979 at 12:15 P.M.

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Page 200, May 8, 1979, After Agenda Items

Chesterbrook Swimming Club, S-54-79: The Board was in receipt of a letter from Ms. Sofia M. Wilson regarding the above application heard by the Board on April 17, 1979. Ms. Wilson questioned the lighting for the tennis courts and stated that her home received the full impact of the brilliant lights.

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Page 201, May 8, 1979, After Agenda Items
(continued)
Chesterbrook Swimming Club

Mr. DiGiulian examined the plats contained in the file of Chesterbrook Swimming Club and stated that the Wilson property was 800 ft. from the tennis courts. He suggested that the Board leave the use permit as granted. Chairman Smith stated that there were no violations. However, the Enforcement Division could watch the construction of the new tennis courts for future violations if any.

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Page 201, May 8, 1979, Recalled scheduled case

10:40 Road Aggregates, Inc. V-70-79.

As there was still not anyone present to represent the applicant, Mr. Barnes moved that the Board reschedule the hearing. Mr. DiGiulian seconded the motion and the motion passed by a vote of 3 to 2 (Ms. Ardis and Chairman Smith)..

Mr. Boyd and Mrs. Calhoun informed the Board that they had taken time off from work to attend the hearing. Chairman Smith announced that the Board would withdraw the motion to reschedule the hearing and continue to wait for the applicants to show up.

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Page 201, May 8, 1979, Scheduled case for

11:00 - ABNER LOUIS NOTKINS, appl. under Sect. 18-401 of the Ord. to allow A.M. construction of a second story addition to an existing dwelling which is 31 ft. from the front lot line (40 ft. min. front setback required by Sect. 3-107), located 1179 Crest Lane, 31-2(1)17, Dranesville Dist., 0.8858 acres, R-1, V-74-79.

Ms. Susan Notkins, an architect in McLean, represented the applicant. She stated that they wanted to construct a second story addition to their house. As a resident of 1179 Crest Lane, she stated that she supported the application.. She informed the Board that she was appearing as agent for her husband. The existing house is 10 ft. below the road. The house has a flat roof. It was built in 1940 prior to the Zoning Ordinance. Access to the property is by a private road. The lot is substandard in width. The house sits too close to the property line. The addition will also be too close to the property line. Ms. Notkins stated that she designed a roof line overhang but it would only be constructed over the front door. It would sit back further from the front property line than the rest of the house because of the property line configuration. The property has a lot of retaining walls. There is a 100% drop off into a ravine. There is a creek running through the back portion of the property. Ms. Notkins stated that they could not build anything in this portion of the property. The existing house is very small. When they purchased the property, they talked to the Zoning Office and were informed that the addition could be built because it was grandfathered. She stated that she has owned the property since 1973. In response to questions from the Board, Ms. Notkins stated that she does not practice her profession at this location.

For clarification to the Board, Mr. Covington stated that any addition to a non-conforming building must have a variance. The previous Zoning Administrator had determined that if the addition did not go any closer than the existing structure, a variance would not be necessary.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

Page 201, May 8, 1979 Board of Zoning Appeals
ABNER LOUIS NOTKINS

R E S O L U T I O N

In Application No. V-74-79 by ABNER LOUIS NOTKINS under Section 18-401 of the Zoning Ordinance to permit construction of a second story addition to an existing dwelling which is 31 ft. from the front lot line on property located at 1179 Crest Lane, tax map reference 31-2(1)17, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

R E S O L U T I O N

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 8, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 0.8858 acres.
4. That the applicant's property has exceptional topographic problems and has an unusual condition in the location of the existing building on the subject property.

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

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

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

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

Mr. Barnes seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 202, May 8, 1979, Scheduled case for

11:20 - KENT GARDENS RECREATION CLUB, INC., appl. under Sect. 3-303 of the A.M. Ord. to amend existing special permit to permit addition of lights to existing two tennis courts, located 1906 Westmoreland Street, 40-2((1))35A, 43A, 44A, Dranesville Dist., 4.7542 acres, R-3, S-66-79.

Mr. Robert Deso of 2002 McFalls Street in McLean represented Kent Gardens. He stated that he was a member of the club. The club was established in 1956. The majority of the members live within walking distance of the club. The club is composed of a clubhouse, poolhouse, pool and two tennis courts. It is located on 4.7 acres, part of which is wooded. The membership of the club desires to apply for a special permit in order to construct lights on the tennis courts and to extend the hours of the courts in the evening. The lights will be mounted on six 30 ft. poles and controlled by a coin meter. There would be an automatic override to turn off the lights at 10 o'clock. The tokens for the meters would be available to club members only. The tennis courts are fenced and locked when not in use. In response to questions from the Board regarding the lights, Mr. Deso stated that the lights would be 1500 watt porch lights with 90% of the lights directed towards the courts. Top and side visors would be mounted if necessary to control glare. He stated that the club did not wish to create any problems for the neighbors. Mr. Deso stated that immediately adjacent to the club's property was the McLean Little League field. The lights on the league field light up all of McLean.

The following persons spoke in favor of the application. Mr. William Harris of 1727 Melborne Drive in McLean stated that he was a member of the club and a user of the tennis courts. He informed the Board that the lights would be very beneficial as most of the tennis members work. The lights would enable them to use the courts an extra 2 or 3 hours in the evening. He stated that he did not believe the lights would create any problem for the neighbors.

The next speaker in support of the application was Ernestine DeLaRosa of 1900 Barbee Drive. She stated that she has been a member of the club for eight years. She stated that she supported the request for lights as it would enable the tennis players to play in the evening.

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Chairman Smith inquired as to what time was the earliest hour in the morning that the courts would be in use. Ms. DelaRosa stated that the courts are used as early as 5 or 6. The players have a key. She stated that the additional courts would allow more members to enjoy the sport.

There was not anyone to speak in opposition to the application.

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-66-79 by KENT GARDENS RECREATION CLUB, INC. under Section 3-303 of the Fairfax County Zoning Ordinance to permit addition of lights to two existing tennis courts on property located at 1906 Westmoreland Street, tax map reference 40-2((1))35A, 43A, & 44A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and,

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on May 8, 1979; and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-3.
3. That the area of the lot is 4.5917 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether nor not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The hours of operation shall be until 10:00 P.M. such that all lights shall be off by 10:00 P.M.
8. The effects of all lighting shall be confined to the site.
9. All other requirements of Permit S-193-70 shall remain in effect.

Mr. Barnes seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 204, May 8, 1979, Scheduled case for

11:40 - WILLS AND VAN METRE, INC., appl. under Sect. 3-2003 of the Ord. to
A.M. amend S-229-79 to permit increase in max. no. of children at
existing day care center from 36 to 61, located 2722 Arlington
Drive, 93-3(1)5, Mt. Vernon Dist., 2.88005 acres, R-20, S-68-79.

Mr. Joseph Howe, an attorney with the firm of Boothe, Pritchard & Dudley in Fairfax, represented the applicant. He stated that this request was to amend an existing special permit granted to operate a day care center in an apartment complex. The day care center has been in operation since 1976. The center cares for children ages 6 to 8 before school and in the afternoon after school. The center would like to increase the number of children by adding additional space. There would not be any traffic problem as the center primarily serves the tenants of the apartment complex. Most of the children walk to the area. There is a long waiting list of people interested in this service.

In response to questions from the Board, Mr. Howe stated that the day care center was part of the apartment complex. The hours of operation are 7 a.m. to 6 p.m., five days a week. The center operates during the school year and also during the summer months. With respect to parking, Mr. Howe stated only a few spaces are provided along the access road.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 204, May 8, 1979

Board of Zoning Appeals

WILLS AND VAN METRE, INC.

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-68-79 by WILLS AND VAN METRE, INC. under Section 3-203 of the Fairfax County Zoning Ordinance to permit increase in maximum number of children at existing day care center from 36 to 61 on property located at 2722 Arlington Drive, tax map reference 93-3(1)5, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on May 8, 1979; and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-20.
3. That the area of the lot is 2.88005 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.

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R E S O L U T I O N

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

6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.

7. The maximum number of children shall be 61.

8. The hours of operation shall be 7:00 A.M. to 6:00 P.M., five days a week.

Mr. DiGiulian seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 205, May 8, 1979, Scheduled case for

11:45 - THE POTOMAC SCHOOL, appl. under Sect. 3-103 of the Ord. to amend existing special permit for private school of general education to permit addition of a wading pool to existing facilities, located 1301 Potomac School Road, 31-1((1))5 & 12A, Dranesville Dist., 70.327286 acres, R-1, S-82-79.

Mr. Gerald Miles, the Headmaster of the school, stated that they wished to build a small wading pool near their existing pool. It would be used for five year old children during the day camp program and by pool members during the summer months. The hours would be 9 A.M. to 9 P.M.

In response to questions from the Board, Mr. Miles stated that Potomac School has been in operation since 1904. There would not be any increase in traffic. He stated that they would only be serving the public that was already coming to the day care center in the summer program. He indicated that the use may increase by 30 children at most. He stated that there has not been any complaints from the neighbors regarding the school. Mr. Miles stated that he could not see any problems with the granting of this request.

There was no one else to speak in favor of the application and no one to speak in opposition.

Page 205, May 8, 1979
THE POTOMAC SCHOOL

R E S O L U T I O N

Ms. Ardis made the following motion:

WHEREAS, Application No. S-82-79 by THE POTOMAC SCHOOL under Section 3-103 of the Fairfax County Zoning Ordinance to permit amendment to existing special permit for private school of general education to permit addition of a wading pool to existing facilities on property located at 1301 Potomac School Road, tax map reference 31-1((1))5, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on May 8, 1979; and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-1.
3. That the area of the lot is 70.327286 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

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

R E S O L U T I O N

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

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

4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.

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

6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director or Environmental Management.

7. This special permit is subject to all provisions of S-212-76 not altered by this resolution.

Mr. Barnes seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 206, May 8, 1979, After Agenda Items

SUSANNE R. DEWOLF, V-50-79: The Board was in receipt of revised plats for a variance granted on April 17th, in part, to allow subdivision into two lots. The Board had requested that the new plats show two lots rather than the three lots originally requested and that the division of the property be as even as possible. After examining the plats submitted for approval, Mr. Yaremchuk moved that the Board approve the revised plats. Mr. DiGiulian seconded the motion. The motion passed by a vote of 4 to 1 (Mr. Smith).

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Page 206, May 8, 1979, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of Minutes for November 14, 1978. Mr. Barnes moved that the Board approve the Minutes of November 14, 1978. Ms. Ardis seconded the motion. The motion passed by a vote of 5 to 0.

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Page 206, May 8, 1979, After Agenda Items

Chesterbrook Swimming Club, S-54-79: The Board was in receipt of a letter from Mrs. Sofia M. Wilson regarding the Chesterbrook Swimming Club's application to allow lighting for tennis courts and to extend night hours for tennis. This letter had been forwarded to the Zoning Enforcement Division for a report. The Board was now in receipt of a report from Jack Maize of the Zoning Enforcement Division. After review of the report, the Board directed that a copy of the report be sent to Mrs. Wilson and that she be informed that it is the feeling of the Board that the Chesterbrook Swimming Club is in compliance with their special permit. The Board directed the Clerk to advise Mrs. Wilson that if she had any further complaints regarding the conditions of the special permit, to contact the Zoning Enforcement Division.

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Page 206, May 8, 1979, After Agenda Items

BOARD POLICY: The Board discussed the matter of deferred cases. It was the consensus of the Board that if an applicant fails to show for a hearing, that the application be deferred. If the applicant fails to show an interest in the seconded scheduled hearing and does not demonstrate a valid reason for the lack of interest, that the Board would take action to dismiss the application for lack of interest. It was moved and seconded by the Board that this policy be followed in all future cases before the Board.

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Page 207, May 8, 1979, Continuance of deferred case of

10:40 - ROAD AGGREGATES, INC., appl. under Sect. 18-401 of the Ord. to allow
A.M. subdivision into 4 lots with proposed lots 2 and 3 having width of
15 ft. (80 ft. min. lot width required by Sect. 3-306), located at
4412 Upland Drive, Clermont Subd., 82-1((4))31B, Lee Dist.,
2.8432 acres, R-3, V-70-79.

Mr. Kenneth White, an engineer in Alexandria, apologized to the Board for the delay in the hearing. He informed the Board that the land has enough lot area to be subdivided into eight lots but because of poor soil, they had decided to subdivide into four lots, two lots being the steepest lots. Mr. White stated that 50% of the property is unsuitable as far as soil and the property has steep slopes. The applicants propose to construct four houses on the property. In response to questions from the Board regarding the topographic conditions, Mr. White stated that the steep slopes would prevent them from putting in a public street as the grade would be too great. In addition, there is a land use problem because of the poor soil. He stated that it would be impossible to get a sanitary sewer to the back of the property.

Chairman Smith inquired if the engineer was familiar with the recommendations of the Planning Commission regarding the granting of the variance. Mr. White stated that he had no objection to complying with the three recommendations and indicated that they would work with the neighbors.

There was no one else to speak in favor of the application. Mrs. Calhoun and Mr. Boyd, after reviewing the three conditions recommended by the Planning Commission, stated that they did not have any objection to the variance request. Their only objection had been the water problem.

Page 207, May 8, 1979,
ROAD AGGREGATES, INC.

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-70-79 by ROAD AGGREGATES, INC. under Section 18-401 of the Zoning Ordinance to permit subdivision into 4 lots with proposed lots 2 & 3 having width of 15 ft. (80 ft. minimum lot width required by Sect. 3-306) on property located at 4412 Upland Drive, tax map reference 82-1((4))31B, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 8, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 2.8432 acres.
4. That the applicant's property is exceptionally irregular in shape and has exceptional topographic problems.

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

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

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

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.
3. That a common driveway be utilized to serve lots 1, 2 & 3.
4. That a plan for providing 100% water detention on-site be developed to insure that existing runoff problems are corrected.

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5. That the plan be coordinated with the owners of lots 29A1, 29A2, 29B, 28A, 35, 35A, 34A, 34, 33B, 32A.

Mr. Barnes seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

// There being no further business, the Board adjourned at 12:25 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

APPROVED _____
DATE _____

Submitted to the BZA on _____.
Submitted to the other departments,
Board of Supervisors, and Planning
Commission on _____.

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday Night, May 15, 1979. The following Board Members were present: Daniel Smith, Chairman; George Barnes; John Yaremchuk and Barbara Ardis. Mr. DiGiulian was absent.

The Chairman called the meeting to order at 8:10 P.M. and Mr. Barnes led the meeting in prayer.

The Chairman called the scheduled 8 o'clock case:

8:00 P.M. - COMMONWEALTH SWIM CLUB, INC., appl. under Sect. 3-203 of the Ord. to amend existing special permit to permit reduction of required number of parking spaces and addition of 2 tennis courts to existing community recreation facilities, located 9818 Commonwealth Blvd., Kings Park West Subd., 69-3((5))B, Annandale Dist., 5.48539 acres, R-2, S-75-79.

As the required notices were not in order, this matter was deferred until June 5, 1979 at 12:30 P.M.

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Page 209, May 15, 1979, After Agenda-Items

S-247-73 Metropolitan Christian Church: The Board was in receipt of a letter from Pastor Bennie Harris asking for a change in one of the conditions set forth in the resolution. The Board had required construction to be of white brick. The church preferred to use reddish-brown bricks instead.

After discussion of the condition, Chairman Smith moved that the reference to the color "white" in the resolution be deleted. Mr. Barnes seconded the motion. The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

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Page 209, May 15, 1979, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of Minutes of November 21, 1978. Mr. Barnes moved that the Board approve the Minutes of November 21, 1978 as corrected. Ms. Ardis seconded the motion. The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

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Page 209, May 15, 1979, After Agenda Items

National Audio Visual Association, Inc.: The Board had a hearing on the National Audio Visual Association, Inc. application on May 8, 1979. The plats had been inadvertently overlooked for signature after approval of the application. The plats were submitted to the Chairman for signature.

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Page 209, May 15, 1979, After Agenda Items

Wills and Van Metre: The Board had a hearing on the Wills and Van Metre application on May 8, 1979. The plats had not been signed after approval. Chairman Smith signed the plats as previously approved by the Board.

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Page 209, May 15, 1979, Scheduled case for

8:20 P.M. - THE ARTERY ORGANIZATION, INC./TWINBROOK COMMUNITY ASSOCIATION, appl. under Sect. 3-303 of the Ord. to permit community swimming pool, located Boyett Court, Twinbrook Section 6 Subd., 69-3((9))F, Annandale Dist., 67,450 sq. ft., R-3, S-76-79.

As the required notices were not in order, this matter was deferred until June 12, 1979 at 11:50 A.M.

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Page 210, May 15, 1979, After Agenda Items

William F. Robertson, V-252-77: The Board was in receipt of a request from Mr. Charles E. Runyon to allow a further extension on the variance granted to Mr. William F. Robertson on October 18, 1977. One extension had already been granted for a period of 180 days. Mr. Runyon was seeking an additional extension for a period of 60 days. Chairman Smith stated that the request should have been made prior to the April 18, 1979 expiration date.

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Mr. Barnes moved that the Board grant an extension of 60 days in V-252-77. Ms. Ardis seconded the motion. The motion passed by a vote of 3 to 1 (Mr. Smith).

Chairman Smith expressed concern regarding granting additional extensions of time. He stated that if the delay was caused by the County that there should be some provision so the applicant would not have to come back to the Board. In addition, any request for an extension should be made prior to the expiration date. He indicated that the applicant should make some provision for seeking extensions prior to the expiration date.

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Page 210, May 15, 1979, Scheduled case for

8:40 P.M. - SIDEBURN RUN RECREATION ASSOCIATION, appl. under Sect. 3-103 of the Ord. to amend special permit for a community swimming pool to permit addition to existing building and a roof covering existing deck area, located 10601 Zion Road, Bonnie Brea Subd., 68-3(1)16, Annandale Dist., 3.00 acres, R-1, S-77-79.

As the required notices were not in order, this matter was deferred until June 12, 1979 at 12:00 P.M.

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Page 210, May 15, 1979, Scheduled case for

8:45 P.M. - VINSON E. ALLEN & JOHN F. McMAHON, JR., appl. under Sect. 18-401 of the Ord. to allow construction of office building to 27 ft. street line (40 ft. min. front yard required by Sect. 4-307), located 7540 Little River Turnpike, Russell Wood Subd., 71-1((2))22, 23 & 24, Mason Dist., 28,007 sq. ft., C-3, V-81-79.

Mr. Charles Runyon, an engineer in Falls Church, represented the applicants. The required notices were in order. Mr. Runyon stated that the property was owned by Mr. Vinson E. Allen and his sister, Mrs. Clark.

Chairman Smith informed Mr. Runyon that the Planning Commission had recommended that the Board not take action in this case until certain things are done. Chairman Smith asked Ms. Kelsey to comment on the Planning Commission request.

Ms. Kelsey informed the Board that the variance application had been pulled by Ms. Fasteau of the Planning Commission as she was concerned that the application might not provide for adequate parking on the site. Ms. Kelsey pointed out to the Planning Commission that the parking requirements would have to be met or the applicants would have to cut down on the building size accordingly. She informed the Board that the Planning Commission had requested that new plats be provided showing where the parking would be and providing for the transitional screening requirements. She stated that Ms. Fasteau would like the opportunity to review these revised plats before the Board takes action on the variance.

Mr. Runyon explained to the Board members that he was not allowed to speak at the Planning Commission meeting. As it was not a public hearing, only the Planning Commission and the staff discussed the variance application. Mr. Runyon stated that had he stayed for the entire meeting, he might have been allowed some input. Mr. Runyon informed the Board that he has talked to the citizens in the area and explained the plan to them as best he could. Mr. McMahon was present to answer questions that the Board might have. Mr. Runyon stated that the plans for the building had been changed to a town-house motif as it had a more pleasing effect and would blend in better with the residential community.

Mr. Yaremchuk inquired if these plans were made available to the Planning Commission. Ms. Kelsey stated that they were. However, the Planning Commission wanted to see the plans after the parking spaces were indicated on the plats. Only 38 parking spaces were shown in accordance with the old Ordinance. The new Ordinance would require 40 parking spaces. The Commission wanted to see where the additional parking would be placed. Mr. Yaremchuk inquired as to

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how the Planning Commission could make a recommendation to the Board if they did not hold a public hearing but only a briefing. Mr. Runyon stated that was a good question. He showed the Board where the two additional parking spaces could be provided on the plan. Chairman Smith inquired if they could meet the open space requirement and still meet the parking requirement. Mr. Runyon stated that they could reduce some of the green area and still have the necessary amount needed. Mr. Yaremchuk stated that if he was not able to meet the requirements, site plan would not approve the plat. Mr. Runyon stated that he would be glad to work with the Planning Commission. He asked that the Board grant the variance in order to construct the building. The Greater Annandale Recreation Association had asked that the design of the building be changed to the townhouse motif. He stated that the Board could grant the variance with the provision that the plans be resubmitted back to the Board. Mr. Runyon stated that he could not provide the plans until the Planning Commission finishes their review.

Mr. Yaremchuk stated that he would like to honor the Planning Commission's request but could not understand how the Commission could schedule something for their agenda and not hear both sides. Mr. Yaremchuk stated that the variance would be meaningless until the applicant met all of the requirements. He stated that he does not take deferrals lightly.

Chairman Smith stated that as long as the variance being requested was not any greater than the one originally granted and the building design is better and the applicant can meet all of the requirements of the existing Ordinance, he did not see any problem with granting it.

There was no one to speak in favor of the application and no one to speak in opposition.

R E S O L U T I O N

In Application No. V-81-79 by VINSON E. ALLEN & JOHN F. McMAHON, JR. under Section 18-401 of the Zoning Ordinance to allow construction of office building to 27 ft. of street line (40 ft. minimum front yard required by Sect. 4-307) on property located at 7540 Little River Turnpike, tax map reference 71-1((2)) 22, 23 & 24, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 15, 1979; and

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

1. That the owner of the subject property is the applicant.
2. The present zoning is C-3.
3. The area of the lot is 28,007 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including shallow.

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

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

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

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

R E S O L U T I O N

3. This variance is subject to the final plats of the Site Plan being submitted to the Board of Zoning Appeals and to the Mason District representative on the Planning Commission for review.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

// There being no further business, the Board adjourned at 9:05 P.M.

By *Sandra L. Hicks*
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

APPROVED: _____
Date _____

Submitted to the BZA on _____
Submitted to the other departments,
Board of Supervisors and Planning
Commission on _____

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, May 22, 1979. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes and Barbara Ardis. Mr. John Yaremchuk was absent.

The Chairman opened the meeting at 10:10 A.M. led with a prayer by Mr. Barnes.

The Chairman called the scheduled 10:00 case:

10:00 - OX HILL BAPTIST CHURCH, appl. under Sect. 3-103 of the Ord. to permit addition of building and parking to existing church, located 4101 Elmwood St., Rockland Village Subd., 34-4((6))46, 47, 48, 71 & 72, Springfield Dist., 3.3996 acres, R-1, S-55-79. (Deferred from April 17, 1979 for Notices).

TO BE HEARD IN CONJUNCTION WITH

10:00 - OX HILL BAPTIST CHURCH, appl. under Sect. 18-401 of the Ord. to allow addition to church such that Floor Area Ratio will be 0.18 (maximum F.A.R. of 0.15 required by Sect. 3-107), located 4101 Elmwood St., Rockland Village Subd., 34-4((6))46, 47, 48, 71 & 72, Springfield Dist., 3.3996 acres, R-1, V-56-79. (Deferred from April 17, 1979 for Notices).

The required notices were in order. Mr. Jack Rinker, an engineer in Fairfax, and Mr. Walter Farrah, the minister, represented the church. Mr. Farrah resides at 14416 Turin Lane in Centreville. Mr. Farrah stated the request was for permission to construct an addition to the church and to increase the land area as shown on the plats. The property is used for both a church and a school. The hours of operation are 9:30 to 12:00 and 5:00 to 8:00. On Wednesdays, the hours are from 7:30 to 9:30. The estimated number of people using the church are 300 including three staff members. The traffic impact would be a maximum of 200 cars on Sundays and Wednesdays. The church serves the Centreville/Chantilly area. The structure will enlarge the existing church. The parking lot is not anticipated to be lighted. Screening as required by the Department of Environmental Management would be provided. However, the church requested that the landscaping requirement be eliminated.

Chairman Smith inquired as to justification for the variance for the floor area ratio. Mr. Farrah stated that the second variance was for the floor area ratio of 0.15 to 0.18. This would allow for the Sunday school addition. The original building was constructed in 1970 with the intent of increasing the size as the membership of the congregation grew. In 1972, the Zoning Ordinance started included churches as a special permit use in residential zones. As a result, for the church to have to comply with the existing Ordinance requirements would be a hardship. The church is already located in the community. The attendance is increasing and the membership has increased. The church requested that the Board give favorable consideration to the granting of a variance.

Mr. Jack Rinker presented the Board with letters from the adjacent property owners who were in support of the requested applications. Chairman Smith informed Mr. Farrah and Mr. Rinker that their request for elimination of the landscaping requirement would have to be addressed to the Director of Environmental Management.

Mr. Covington informed the Board that there was a gentleman in the audience who wanted to address the question of screening. Mr. Rinker stated that they had been in contact with Mr. Cunningham. The church proposed to construct a parking lot very close to the existing cedar trees. In order to preserve these trees, the church proposes to move the parking lot over 5 - 10 ft. All existing screening will be maintained.

There was no one else to speak in favor of the applications. Mr. Larry L. Cunningham of 15911 Westmore Street spoke in opposition. He stated that he wanted to make sure that no changes are made to the screening with regard to what he has worked out with the church. He wanted to make sure that the plats note the screening changes that Mr. Rinker has agreed to. There was no one else to speak in opposition.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-55-79 by OX HILL BAPTIST CHURCH under Section 3-103 of the Fairfax County Zoning Ordinance to permit addition of building and parking to existing church on property located at 4101 Elmwood Street, tax map reference 34-4((6))46, 47, 48, 71 & 72, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on May 22, 1979; and deferred from April 17, 1979 for Notices; and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-1.
3. That the area of the lot is 3.3996 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of the Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this special permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The hours of operation shall be hours of normal church activities.
8. The number of parking spaces shall be 129.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Yaremchuk being absent).

R E S O L U T I O N

In Application No. V-56-79 by OX HILL BAPTIST CHURCH under Section 18-401 of the Zoning Ordinance to permit addition to church such that floor area ratio (F.A.R.) will be 0.18 (maximum F.A.R. of 0.15 required by Sect. 3-107) on property located at 4101 Elmwood Street, tax map reference 34-4((6))46, 47, 48, 71 & 72, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board adopt the following resolution:

R E S O L U T I O N

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

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 3.3996 acres.
4. That the applicant's property has an unusual condition in that the use was established under a prior Zoning Ordinance which would allow the proposed coverage.

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

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

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

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

Ms. Ardis seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Yaremchuk being absent).

Page 215, May 22, 1979, Scheduled case for Board

10:30 - LEWIS S. LAURIA, JR., appl. under Sect. 18-401 of the Ord. to allow conversion of single carport into double garage such that the enclosed structure would be 7.6 ft. from a side lot line and total side yards would be 20.7 ft. (8 ft. min. and 24 ft. total minimum side yard required by Sect. 3-207), located 8703 Lynn Susan Court, Orange Hunt Estates Subd., 89-1((5))25, Springfield Dist., 12,665 sq. ft., R-2(c), V-78-79.

Mr. Lew Lauria of 8703 Lynn Susan Court stated that he wished to expand a single carport into a double garage. It would be 25 ft. in length. It would be 7.6 ft. from the side lot line. The total minimum side yards would be 20.7 ft. A variance is necessary both to the minimum side yard and the total overall side yards. In response to questions from the Board as to the justification for the variance, Mr. Lauria stated that he wished to have a double garage rather than a single carport.

There was no one to speak in favor of the application and no one to speak in opposition of the application.

Page 215, May 22, 1979 Board of Zoning Appeals
LEWIS S. LAURIA, JR.

R E S O L U T I O N

In Application No. V-78-79 by LEWIS S. LAURIA, JR. under Section 18-401 of the Zoning Ordinance to permit conversion of a single carport into a double car-garage such that the enclosed structure would be 7.6 ft. from side lot line and total side yards would be 20.7 ft. (8 ft. minimum and 24 ft. total minimum side yards required by Sect. 3-207) on property located at 8703 Lynn Susan Court, tax map reference 89-1((5))25, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

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WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 22, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-2(c).
3. The area of the lot is 12,665 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, i.e., pie-shaped and has an unusual condition in the location of the existing buildings on the subject property.

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

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

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

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

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Yaremchuk being absent).

Page 216, May 22, 1979, After Agenda Item

Paul & Adene Rose, V-298-78: The Board was in receipt of a revised plat of the Rosevale Subdivision. The boundary lines had been readjusted because of the location of septic fields. It was the consensus of the Board that the boundary lines were substantially the same as the plat originally approved.

Mr. DiGiulian moved that the Board approve the revised plats as submitted. Mr. Barnes seconded the motion. The motion passed by a vote of 4 to 0 (Mr. Yaremchuk being absent).

//

Page 216, May 22, 1979, After Agenda Item.

BOARD POLICY: The Board discussed the problems the zoning staff was encountering when applicants leave a hearing and immediately apply for building permits. The zoning staff is not aware of actions taken by the Board nor is the folder available to determine what was requested. In order to expedite the same day process, it was the consensus of the Board to have the Chairman stamp and sign an extra copy of the approved plat to be presented to the applicants so they could then apply for the building permits. The zoning staff would then have the approved copy and could determine the setbacks set by the Board.

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Page 216, May 22, 1979, Scheduled case for

10:40 - DEAN W. KIESS, appl. under Sect. 18-401 of the Ord. to allow construction of a garage addition to an existing dwelling to A.M. 3-307), located 1810 Cool Spring Drive, 102-3((14))10, Mt. Vernon Dist., Collingwood Springs Subd., 10,935 sq. ft., R-3, V-79-79.

Mr. Dean Kiess of 1810 Cool Spring Drive stated that he desired to build a garage. However, the existing house is situated such that there is insufficient room in which to construct the garage without a variance. To build a smaller size garage would mean that the car doors could not be opened as the chimney juts out 22" into the space. Mr. Kiess stated that he was requesting a 2 ft. variance in order to build the garage. In response to questions from

Page 217, May 22, 1979
DEAN W. KIESS
(continued)

the Board, Mr. Kiess stated that he has owned the property for 19 months. The size of the garage would be 14.6 x 24. Mr. Covington informed the Board that the applicant could have built the garage without the variance prior to the amendment to the Ordinance.

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There was no one to speak in favor of the application and no one to speak in opposition.

Page 217, May 22, 1979
DEAN W. KIESS

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-79-79 by DEAN W. KIESS under Section 18-401 of the Zoning Ordinance to allow construction of a garage addition to existing dwelling to 10 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307) on property located at 1810 Cool Spring Drive, tax map reference 102-3((14))10, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 22, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 10,935 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

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

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

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

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

Ms. Ardis seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Yaremchuk being absent).

Page 217, May 22, 1979, Scheduled case for

10:50 - LEWIS B. ROTHGEB, appl. under Sect. 18-401 of the Ord. to allow A.M. construction of a dwelling to 10 ft. from a side lot line (20 ft. minimum side yard required by Sect. 3-107), located 2324 Sandburg St., Dunn Loring Subd., 39-4((1))117A, Providence Dist., 20,256 sq. ft., R-1, V-80-79.

Mr. Lewis Rothgeb of 8000 Elm Place in Dunn Loring stated that he was requesting a variance in order to construct a dwelling with a two car garage. The structure would be 10 ft. from the side lot line rather than the required 20 ft. Mr. Rothgeb informed the Board that he had the support of his neighbors for this request. In response to questions from the Board, Mr. Rothgeb stated that he has owned the adjoining parcel for 13 years. There is a house on this parcel.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

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R E S O L U T I O N

In Application No. V-80-79 by LEWIS B. ROTHGEB under Section 18-401 of the Zoning Ordinance to allow construction of a dwelling to 10 ft. of a side lot line (20 ft. minimum side yard required by Sect. 3-107) on property located at 2324 Sandbury Street, tax map reference 39-4((1))117A, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 22, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 20,256 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, i.e. narrow.

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

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

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

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

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Yaremchuk being absent).

Page 218, May 22, 1979, Scheduled case for
& EDUCO, INC. (Amended at time of hearing)

11:00 - EDC JOINT VENTURE, /appl. under Sect. 3-103 of the Ord. to amend
A.M. existing SUP for school of general education to permit use of existing building for classroom, building addition to kitchen and increase in maximum number of children from 220 to 240, located 9525 Leesburg Pike, 19-1((1))19, Dranesville Dist., 5.00 acres, R-1, S-84-79.

Mr. Thomas Lawson, an attorney in Fairfax, represented the applicant. He stated that they were requesting permission from the Board to use an existing building for classroom space and to build an addition to the kitchen. In addition, the school wished to increase the maximum number of children from 220 to 240. The building is presently used for storage. The school plans to convert that building into classroom space. There is a total of 46 parking spaces available. Normally, only 17 spaces are occupied.

Chairman Smith questioned whether the ownership had changed with respect to the special permit. Mr. Lawson stated that there was a change of ownership. There had been a question as to whether the permit could be transferred. The Board had previously ruled that it could be done. It was changed to EDC Joint Venture and Educo. Mr. Lawson explained that one is a partnership and the other is the operating entity. Mr. Covington stated that the last permit was granted to Educo and EDC Joint Venture in 1976. Chairman Smith inquired of Mr. Lawson as to whether they had any objection to adding Educo as a coapplicant to this request. Mr. Lawson agreed to do so.

There was no one to speak in favor of the application and no one to speak in opposition.

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Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-84-79 by EDC JOINT VENTURE & EDUCO, INC. under Section 3-103 of the Fairfax County Zoning Ordinance to permit amendment to existing special permit for school of general education to permit use of existing building for classroom, building addition to kitchen and increase in maximum number of children from 220 to 240, on property located at 9525 Leesburg Pike, tax map reference 19-1((1))19, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on May 22, 1979; and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-1.
3. That the area of the lot is 5 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section §-006 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The maximum number of students shall be 240.
8. The hours of operation shall be 7 A.M. to 6 P.M., Monday through Friday.
9. The number of parking spaces shall be 46.
10. All other requirements of Special Permit S-250-69 shall remain in effect.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Yaremchuk being absent).

Page 219, May 22, 1979, Scheduled case for

11:20 - DOUGLAS J. DRAPER, appl. under Sect. 4-503 of the Ord. to permit
A.M. veterinary clinic, located 1203 Downey Drive, 12-4((1))56, Dranesville Dist., 40,388 sq. ft., C-5, S-85-79.

Mr. Vanderpool represented the applicant. He informed the Board of two corrections to the applicant's statements. The hours would be 7 A.M. to 7 P.M. Monday through Friday. Hours for Saturday would be 8:30 A.M. to 12:30 P.M. Saturday afternoons and Sunday afternoons would be for emergency cases only. The second change was the question on traffic. The use would be appointment only. The building proposed for the clinic is currently being used for a drive in bank. The building will be soundproof and odorproof. Only the

interior of the building would have to be changed for this proposed use. The only exterior change would be to remove the drive-in windows. Mr. Vanderpool stated that the bank is still operating there at this location. They will close later. The property has been on the market for some time. The bank will relocate.

There was no one to speak in favor of the application and no one to speak in opposition.

Ms. Ardis questioned the type of animals to be treated. The applicant's statement had indicated that small animals would be treated. She inquired if farm animals would be treated. Mr. Vanderpool stated that he believed it was not Dr. Draper's intent to treat farm animals but he did not believe there was any limitations on the type of animals in the Code. There were no further questions from the Board.

R E S O L U T I O N

Ms. Ardis made the following motion:

WHEREAS, Application No. S-85-79 by DOUGLAS J. DRAPER under Section 4-503 of the Fairfax County Zoning Ordinance to permit veterinary clinic on property located at 1203 Downey Drive, tax map reference 12-4((1))56, County of Fairfax Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on May 22, 1979; and

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

1. That the owner of the subject property is Citizens National Bank of Herndon and that the applicant is the contract purchaser.
2. That the present zoning is C-5.
3. That the area of the lot is 40,388 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in C Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental management.

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7. The hours of operation shall be 7 A.M. to 7 P.M., Monday through Friday and 8:30 A.M. to 12:30 P.M. on Saturday with Saturday afternoon and Sundays for emergency appointments only.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Yaremchuk being absent).

Page 221, May 22, 1979, After Agenda Items

S-276-78 St. Bernadette's Church: The Board was in receipt of a request from Mr. Morse of William H. Gordan Associates requesting that condition no. 8 of the special permit granted to St. Bernadette's Church be amended reducing the parking from 382 down to 331. It was the consensus of the Board that a revised plat would have to be submitted showing the parking layout before any action could be taken.

// There being no further business, the Board adjourned at 11:40 A.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

APPROVED: _____
Date _____

Submitted to the BZA on _____
Submitted to the other departments,
Board of Supervisors and Planning
Commission on _____.

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The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, June 5, 1979. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes; John Yaremchuk and Barbara Ardis.

The Chairman called the meeting to order at 10:40 A.M. Mr. Barnes led the prayer.

The Chairman called the scheduled 10:00 case:

10:00 - TIFFANY TALENT, INC. T/A MR. SMITH'S OF GEORGETOWN, appl. under A.M. Sect. 18-301 of the Ord. to appeal Zoning Administrator's decision that existing lighting on the exterior front of a restaurant constitutes a prohibited sign under Sect. 12-104, located 8369 Leesburg Pike, 29-3((1))36D, Centreville Dist., 9,214 sq. ft., C-7, A-86-79.

As the required notices were not in order, this matter was deferred until July 10, 1979 at 12:00 P.M.

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Page 222, June 5, 1979, Scheduled case for

10:30 - DAN & LAHONDA J. MORGAN, appl. under Sect. 18-401 of the Ord. to allow resubdivision into 3 lots, each of which would have a width of 6.05 ft. (150 ft. min. lot width required by Sect. 3-106), located 3107 Fox Mill Road, 36-4((1))pt. 18 & pt. 23, Centreville Dist., 3.81 acres, R-1, V-88-79.

The required notices were in order. Mr. Orlo Paciulli of 307 Maple Avenue in Vienna represented the applicants. He stated that the request was for a variance for three lots with less frontage than required by the Code. The request meets all of the requirements for the granting of a variance. The property is exceptionally irregular and in part, narrow. The topography is steep and unusual and the property is bisected by a floodplain. These conditions do not apply to other property in the area. Because of this, it would result in a hardship on the applicant if the Ordinance had to be met. These conditions have not resulted from any act of the applicant subsequent to the effective date of the Ordinance. This property was created in its present shape many years ago.

Chairman Smith inquired as to how long the applicants have owned the property. Mr. Paciulli stated that they have owned the property for at least 15 years. He stated that the granting of this variance would not have an adverse effect on the neighborhood or the Ordinance. This variance would be in harmony with the purpose and intent of the Zoning Ordinance, the Comprehensive Plan and the Public Facilities Manual. The division of the entire property would result in land use of seven lots on some 16.4 acres. It would be a use of one dwelling unit per 2.3 acres.

Chairman Smith inquired as to what would happen to the remainder of the property. Chairman Smith stated that he assumed the Morgans owned the entire 16 acres. Mr. Paciulli stated that lots 6 & 7 would be divided into two five-acre lots. He showed the Board the area of land that was the subject of the variance. The other lots were being treated by the Code provisions for the rearrangement of property lines because they are legal lots. Chairman Smith inquired if a variance would be necessary for the two five acre lots. Mr. Paciulli stated that they met the Code requirements.

There was no one to speak in favor of the application. Before testimony was given in opposition to the application, Mr. DiGiulian inquired of Ms. Kelsey as to the comments in the staff report. Ms. Kelsey informed the Board that the plat Mr. Paciulli had presented to the Board at the start of the hearing was the same as the one she had based the staff report on. She stated that she wanted to make the Board aware that this was part of a larger parcel that the applicant was proposing to divide into separate lots also. The pipestem that would give access to the three lots would also be serving as access to the two lots to the rear of the three lots under consideration of the Board. Ms. Kelsey stated that the length of the pipestem to the two back lots would be 1400 ft. Section 2-406 of the Zoning Ordinance as amended January 16th pertaining to pipestem lots would cause the granting of the variance to be in direct conflict with the adopted Ordinance and the Public Facilities Manual Sect. 1-2.1a.2 with respect to the length of pipestems. This section states

that a length of pipestem portion of the lot may not exceed a distance of 750 ft. where required lot size is 40,000 sq. ft. or over. Ms. Kelsey informed the Board that these lots are over 40,000 sq. ft. The Comprehensive Plan calls for one dwelling unit on two to five acres. The three lots are less than two acres in size.

Chairman Smith inquired if there was a provision for a variance to the 750 ft. requirement. Ms. Kelsey stated that was a provision of the Public Facilities Manual and it can be waived by the County Executive through the Department of Design Review. The BZA cannot grant a variance to this provision.

In response to questions from the Board, Ms. Kelsey stated that the only lots in this application subject to a variance were lots 1, 2 & 3. Mr. Yaremchuk inquired as to the matter of the pipestem as to what it really means. Ms. Kelsey stated that the entire length of the pipestem as to where it serves as access to the two additional lots that were not before the Board was over 1400 ft. Mr. Yaremchuk inquired as to the three lots; whether they complied with the Public Facilities Manual. Ms. Kelsey replied that it was in excess of 750 ft. She indicated that Mr. Paciulli might be able to scale it off to give the Board the exact figure.

Ms. Ardis questioned whether the 750 ft. was the correct scale for the pipestem. She asked Ms. Kelsey whether 550 ft. would be correct since the required lot size determines it rather than the actual lot size. Ms. Kelsey stated that all of the lots are in excess of the 40,000 sq. ft. The minimum lot size for the R-1 zoning is 36,000 sq. ft. Again, Ms. Kelsey stated that the applicants exceeded that requirement.

Ms. Ardis stated that the Public Facilities Manual refers to the required lot size being 40,000 sq. ft. or over; not the actual lot size. She inquired as to whether it could be even more restrictive. Ms. Kelsey stated that she was going by the minimum for an R-1 district.

Mr. Yaremchuk inquired if the Board has the legal right to approve this variance if it doesn't comply with the County Ordinance. Ms. Kelsey stated that she wanted to make the Board aware of the preliminary plat that had been submitted to Subdivision Control in order to give the whole picture. She stated that if the Board granted the variance, he would still need additional waivers. She stated that the Board has the right to grant the variance. Mr. Yaremchuk inquired as to what else the applicant would be required to do if the Board chose to grant the variance. Ms. Kelsey stated that the applicant would still have to have a waiver from the County Executive for the length of the pipestem. Mr. Yaremchuk stated that he could not understand why the County Executive could waive that requirement and not the Board. Chairman Smith stated that a waiver from the Public Facilities Manual would have to be waived by the County Executive.

For clarification, Mr. Yaremchuk stated that the only reason the applicant was before the Board was that he had to start somewhere to get the BZA to waive the width requirement. The County Executive cannot act on the length of the pipestem unless the BZA acts first. Ms. Kelsey stated that was correct.

The following person spoke in opposition to the application. Mr. James Rees of 8150 Leesburg Pike in Vienna represented the Gilmore Estates Homeowners Association which represents all of the homeowners to the north of the subject property. Mr. Rees stated that this application appeared to be an attempt to gain cluster zoning without going through the procedures for cluster approval. The applicant is asking for a pipestem on three lots. A comment was made by the Board that the only thing before them was the three lots; however, Mr. Rees stated what was really before them was the seven lots because the only access to the lots was by virtue of the pipestem. Mr. Rees stated that was contrary to the Ordinance governing pipestem lots. Section 2-406 allows pipestem lots where necessary to achieve more creative planning and to preserve the natural property features. He stated that the only creative planning was to pack as many lots into this acreage as possible into property that is not designed for this type of density. In addition, he stated that the Gilmore Estates area are located immediately adjacent to the property line. The reason for this is the perc building problems in the area and the best perc land is immediately adjacent to the property line. Mr. Rees stated that this would require the removal of foliage in this area. The area is heavily wooded and in order to construct the septic fields it would be necessary to remove all of the trees on the crest of the hill. This would adversely effect the surrounding area. It would not preserve the natural property of heavy forestry.

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Mr. Rees stated that the septic fields are located on a steep slope. This would cause some serious health problems that would have to be resolved before the BZA could approve the variance. In addition, Mr. Rees stated pipestem lots were allowed for lots of five or less. This request for a pipestem was to serve seven lots which exceeds the number allowed by the Ordinance. The Ordinance will allow the pipestem only under the provisions of the Public Facilities Manual. The Public Facilities Manual will not allow this type of pipestem; therefore, the Board cannot grant the variance under the Ordinance.

Chairman Smith disagreed with Mr. Rees. He stated that the only question before the Board is the variance itself to the three lots. The waiver was something to be considered by the proper authorities. There is a provision to waive it. Even if the variance were granted, it would not be possible to develop the property in the method being discussed if the waiver was denied.

Mr. Rees stated that the Board is still bound to look to the Ordinance in granting the variance. The Ordinance very clearly states that the variance cannot be granted if not in accordance with the provisions of the Public Facilities Manual. In addition, the variance can only be granted on condition of one of the following: And, only one of the following applies in this case according to Mr. Rees. That is if the subdivision is approved for cluster development in accordance with Sect. 2-408; then it can be permitted in R-E through R-4 districts under the determination of the Director in accordance with the adopted Comprehensive Plan and the established character of the area; and the topography and physical characteristics are such that cluster development will produce more efficient and practicable development and will promote preservation of steep slopes, stream valleys or desirable vegetation. Mr. Rees stated that from the standpoint of being in accordance with the adopted Comprehensive Plan, the staff report points out that this variance is not in accordance with the Comprehensive Plan. The Comprehensive Plan calls for one dwelling unit for two to five acres. This is a request for slightly more than one acre on each of the three lots. This does not preserve the desirable vegetation. It would have to be taken out in order to provide for the location of the septic fields.

Mr. Rees stated that one other serious problem existed. That was that the homeowners in the Gilmore Estates have to look forward to that, according to the Virginia Department of Highways, there is only a 300 ft. minimum visibility requirement for a pipestem where it goes onto to a main thoroughfare. The speed limit on Fox Mill Drive is 35 m.p.h. The required visibility for a 35 m.p.h. speed zone is 350 ft. According to their measurements, the best visibility to the crest of the hill is 280 ft. This will create a very serious safety hazard in allowing the pipestem to go out onto the main throughfare.

In addition, Mr. Rees stated that it appeared that the length of the pipestem lot, even only the three lots, far exceeds the 750 ft. It is 570 ft. only to the edge of the lot 1 and then the pipestem goes on to lots 2 and 3. This appears to exceed the length allowed under the Public Facilities Manual. In summary, Mr. Rees asked that the variance be denied.

The next speaker in opposition to the variance was James Eckert of 11446 Vale Spring Drive in Oakton. He stated that he owned a 2.6 acre lot which takes up a large portion of a stream bed which is downhill from the back two lots proposed in this subdivision. He stated that he was in opposition to this as it was unwise to consider only the front three lots when obviously the remainder of land would go out through the same pipestem. He stated that he has concerns with regard to runoff and drainage after the trees are removed from the other lots. Mr. Eckert stated that he understood that only the first three lots were being considered but he asked the Board to control the remaining four lots.

Chairman Smith stated that the Board could only consider the application for the three lots. The additional land involved which was owned by the applicant should also be considered. The only consideration before the Board at this time was whether the Board wanted to grant a variance to allow a reduction in the required lot frontage. The question on the length of the pipestem is one that should be taken under consideration in this decision, whether the Board wants to grant a variance that exceeds the allowable length under the Public Facilities Plan. The applicant is correct in that you have to start somewhere.

During rebuttal, Mr. Paciulli stated that as far as the length of the pipestem was concerned, the pipestem as measured in the normal practice is just under 900 ft. long; 750 ft. is just the recommended length. He stated that in designing subdivisions, he routinely does this. He understood that he has to

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obtain a waiver from the Department of Environmental Management to permit the pipestem. The preliminary plans for this subdivision have been in review through the Department of Environmental Management since March, 1978. Mr. Paciulli stated that he has not received any response from them. He maintained that the tract as a whole is what is important to the Comprehensive Plan. He stated that they do comply with the Comprehensive Plan. The major constraint is the actual Zoning Ordinance which is for one acre lots and the fact that this property if fully developed under a cluster; the property would permit sixteen lots. That is not a practical situation and they do not desire to do it that way.

The question raised as to the percolation test, all perc tests have been approved by the F.C. Health Department in the locations shown on the plan. If there is a problem with site distance onto Fox Mill Road, he stated that they would have to cure that. VDH will require the applicant to comply with their regulations and Mr. Paciulli stated that they would comply with the regulations of VDH when obtaining a permit for the entrance.

Mr. Paciulli stated that from an aesthetic point of view and from a practical point of view, the erosion, the trees and everything else, that this was the best possible land use for this particular parcel of ground. It would do less damage and be more appealing and provide the owner and the neighbors with the least objectionable solution.

Chairman Smith announced the closing of the hearing and asked the pleasure of the Board. Mr. Yaremchuk stated that he had to agree that the Board has to somehow get involved with lots 4 and 5. Under the Ordinance, whether they permit five lots, this subdivision was for seven lots. Mr. Yaremchuk moved that the Board defer this matter until the Board can get a report from Mr. Chilton, Deputy Director of Design Review, on how they are going to dispose of the extra land. If the division is not permitted, then the Board would not really have seven lots, it would only have five lots to deal with. Again, Mr. Yaremchuk stated that this should be deferred for a report from Mr. Chilton on how he intends to dispose of lots 4 and 5 and 6 and 7. Mr. DiGiulian seconded the motion.

This matter was rescheduled for June 19th at 11:20 A.M. for a detailed report from Mr. Chilton on lots 4, 5, 6 & 7.

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Page 225, June 5, 1979, Scheduled case for

10:40 - RICHARD A. & MARY E. TARKIR, appl. under Sect. 18-401 of the Ord. A.M. to allow construction of garage addition to existing dwelling 4 ft. from side lot line (15 ft. min. side yard required by Sect. 3-207) on property located 2428 Rivera Drive, Town and Country Gardens, Subd., 38-3((20))62, Centreville Dist., 20,001 sq. ft., R-2, V-90-79.

Mr. Richard Tarkir of 2428 Rivera Drive stated that he was requesting a variance in order to construct a garage to house two vehicles. The garage would be attached to the existing house. The neighbor next door has an enclosed carport. There is 32 1/2 ft. between the two structures. Mr. Tarkir stated that both his neighbor's property and his property were wider at the roadway. He stated that he could build a detached garage but it would not be attractive. He stated that the only solution was an attached garage. It would enhance the property. Several variances have been granted in this area. He stated that two homes were placed in error at the time of construction. He stated that he has no objection to any of the previous variances. None of the neighbors have any objections. Mr. Tarkir presented the Board with a letter from his next door neighbor who could not be present at the hearing as he was in Europe. In addition, he presented a petition from the neighbors who would have to view the garage. Mr. Tarkir informed the Board that he has had a vehicle stolen twice. He indicated that he needs the garage to protect his property and his interests.

There was no one to speak in favor of the application and no one to speak in opposition to the variance.

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In Application NO. V-90-79 by RICHARD A. & MARY E. TARKIR under Section 18-401 of the Zoning Ordinance to permit construction of garage addition to existing dwelling 4 ft. from side lot line (15 ft. minimum side yard required by Section 3-207) on property located at 2428 Rivera Drive, tax map reference 38-3((20)) 62, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 5, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 20,001 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

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

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

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

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

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 226, June 5, 1979, Scheduled case for

11:00 - SPRINGFIELD ACADEMY, appl. under Sect. 3-303 of the Ord. to permit A.M. continued operation of a private school of general education, located 5236 Backlick Road, Leewood Subd., 71-4((3))11, Annandale Dist., 4.7823 acres, R-3, S-87-79.

As the required notices were not in order, the Board deferred the application until July 10, 1979 at 12:15 P.M.

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Page 226, June 5, 1979, Scheduled case for

11:20 - DRS. THOMAS S. ROEHR & MICHAEL C. BASSETT T/A CHANTILLY VETERINARY A.M. CLINIC, appl. under Sect. 4-603 of the Ord. to permit veterinary clinic, located 13637 Lee Jackson Highway, 44-2((1))9C, Springfield Dist., 8.265 acres, C-6, S-89-79.

Dr. Thomas Roehr of 3406 Annandale Road in Falls Church appeared before the Board requesting a special permit to operate a veterinary clinic in Chantilly Mall. He stated that this use would be in 1800 sq. ft. and that they were sub-leasing from the Arlington Fairfax Savings and Loan Association. Dr. Roehr stated that they would not board or groom or retail pet supplies in this facility. Animals would only be kept overnight in emergency situations where the animal cannot be moved. The building will be soundproof and odorproof. There is a facility already located in this shopping center for the grooming of pets. Dr. Roehr stated that it was their intent to operate the clinic during normal business hours. This clinic would be a satellite clinic from their present clinic, the Blue Cross Animal Clinic. This satellite clinic

would serve the Chantilly area for vaccinations and emergencies that may arise. The closest clinic is in Pender about 2.4 miles away from this proposed location. Dr. Roehr informed the Board that another application was pending for a site which he proposed to buy. If the Board granted the special permit for this particular location, it was their intent to shift the larger portion of their business to this location..

In response to questions from the Board, Dr. Roehr stated that the building to be leased was 1800 sq. ft., fronting on the mall. The location of the present hospital was in Merrifield next to Manhattan Auto. Chairman Smith inquired as to boarding of animals. Dr. Roehr stated that there was a boarding facility already in existence further out on Rt. 50 for anyone interested in that service.

There was no one else to speak in favor of the application. The following persons spoke in opposition to the application. Mr. James McKenna of 4814 Walney Road, operated the Kennel Shop two doors down from the proposed clinic. He informed the Board that he was at the hearing to ask that retail sales be excluded if they allowed the use. Chairman Smith informed Mr. McKenna that the Board could not condition it without a specific reason. For reasons of competitiveness, the Board would not condition the use. Chairman Smith stated that retail sales was normal for shopping malls. He suggested that Mr. McKenna work with the management of the center to try to enforce that provision.

The next speaker in opposition was Mr. James Morris, Jr, operator of the Compass Dry Cleaners. He stated ~~that he was secretary~~ of the shopping mall. He asked the Board to deny the request. He informed the Board that he was not against the request but because the entrance to the mall meant anyone using the facility would have to go right past his establishment and down three stores. Mr. Morris stated that he was concerned about the sanitation of the shopping mall. He indicated that pets become nervous when going to the vet and would leave droppings and wet on the mall. Mr. Morris stated that the mall has an old wooden stump which is the only area for the dogs to relieve themselves. This area was right in front of his establishment. He stated that the windows to his cleaners have to remain open at all times. This would allow odor into his establishment if the animals are allowed to relieve themselves. Mr. Morris stated that this would be a very unsanitary condition. He informed the Board that if they granted the permit, that it should be a part of the condition that the applicant be responsible for maintenance of this area. Mr. Morris stated that there are two restaurants in the mall. One of these is located right opposite from the proposed clinic. Mr. Barnes told Mr. Morris that the use would be inside the building and that if he had any problems with odor or sanitation to call the Health Department. He stated that he did not feel there would be any problem with the animals.

A resident of 13704 Lynncroft Drive spoke in opposition to the request. He stated that he opposed the use for sanitary reasons. He informed the Board that he has lived at this address for five years. He indicated that the shopping center management has not done anything about the sanitary conditions. He stated that the only grassy area near the shopping center was located next to the A & P grocery store. There are a lot of children living in this area who frequent the shopping center. He stated that the people do not need to relieve their animals in this grassy area or the parking lot area. The present condition of the mall is unsanitary. He stated that he has complained to the management of A & P and to Dart Drug. There is a lot of trash behind the shopping center next to the residential properties. He stated that they were now in the process of eliminating the rats. Again, he stated that he opposed the veterinary clinic as it would prove to be a health hazard. The Board advised him to contact the Health Department regarding the sanitation conditions. He stated that they did three years ago and all the management did was plant trees along the fence area. The fence is now torn down. People use it as access to the shopping center. He stated that he has complained for five years and nothing has been done. He stated that it would not be right to allow the clinic and then complain if problems exist. Mr. Barnes stated that he would probably have the same problems no matter what use went in the center.

The next speaker in opposition was Gary Nester of 4101 Galesbury Avenue. He presented the Board with pictures of the conditions at the shopping center. He questioned the Board as to the other uses in the shopping center. Mr. Nester was informed that the other uses were allowed by right in that commercial zone. This particular request required a special permit. Mr. Nester stated that the Dart Drug is open 24 hours, seven days a week. Chairman Smith stated that the clinic would probably operate 9 A.M. to 7 P.M. Mr. Nester stated that

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the clinic would be performing surgery on animals. The Board informed him they had no control over that. Chairman Smith advised him that the trash associated with the surgery would not be mixed in with the normal trash of the center. He indicated that there is a special handling required for such trash. Mr. Nester stated that the normal procedure for the shopping center was to let it accumulate. Mr. Nester stated that the square footage involved for the clinic was fairly small and he was concerned as to where the animals would wait. Mr. Barnes stated that the animals would be inside the building. Mr. Covington stated that no more than four small animals could be housed overnight. Mr. Barnes stated that most clinics treat the animals and then release them to their owners. Chairman Smith stated that the use would be tightly controlled. Again, Mr. Nester stated that the area was quite small and he could not see how it could accommodate the treatment room, the waiting room, bathroom, office space and an area for housing of four animals overnight. He was concerned about the noise factor. Chairman Smith stated that the facility would be noise-free and odor-free. Mr. Nester stated that if the animals are sick and out of their heads they would bolt from the cars and would be running all over the area. He stated that he did not want this situation to exist. He indicated that there is no way that the doctors could supervise this situation. Chairman Smith informed him that he was speculating and advised that these things normally do not happen.

Mr. Morris questioned the Board as to where the trash associated with surgery would be stored. Chairman Smith stated that it would have to be stored in the building itself until it is removed. Chairman Smith stated that these were Health Department requirements and the Board does not have any jurisdiction over them.

The next speaker in opposition was Sharon Barley. She stated that there is a lot of trash behind the shopping center already. She stated that there is a hole in the fence behind her property. If the animals get loose, they would come through that fence or go over the fence.

During rebuttal, Dr. Roehr stated that he was in agreement with Mr. Morris regarding the entranceway to the facility. He stated that the clinic would have a back door but that the management of the shopping center would not allow him to use it for his main entrance. He stated that he would stay on top of all the problems to be the best of his ability to keep the animals from disturbing the people in the area. As far as the trash situation, he stated that it is health department requirement to keep all of the waste material from surgery in a freezer. There is a grooming facility in the shopping center already and there has not been any problem with the animals. He stated that he has no intent to board animals, retail merchandise, or groom animals in his facility. There would be no overnight boarding except in the case of emergency surgery.

Chairman Smith inquired as to how long this facility would be used since there was another application for a veterinary clinic being requested by the same applicants. Dr. Roehr stated that his lease was for two years. He stated that there were several other stores in the same center but they wanted a minimum lease of five years. With respect to the other clinic, Dr. Roehr stated that it would be a facility that they would own so they would be able to have ~~lauger~~ machines and more staff. He stated that they could render a better service to the area.

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-89-79 by DRS. THOMAS S. ROEHR & MICHAEL C. BASSETT T/A CHANTILLY VETERINARY CLINIC under Section 4-603 of the Fairfax County Zoning Ordinance to permit veterinary clinic on property located at 13637 Lee Jackson Highway, tax map reference 44-2((1))9C, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on June 5, 1979; and

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

- 1. That the applicant is the lessee.
- 2. That the present zoning is C-6.
- 3. That the area of the lot is 8.265 acres.
- 4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in C Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
- 2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
- 3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
- 4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
- 5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
- 6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
- 7. The hours of operation shall be 9 A.M. to 7 P.M. daily.
- 8. This permit is granted for a period of three (3) years with the Zoning Administrator empowered to grant two (2) one year extensions.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 229, June 5, 1979, Scheduled case for

11:40 - DRS. THOMAS S. ROEHR & MICHAEL C. BASSETT, appl. under Section 4-503 of the Ord. to permit veterinary clinic, located 2703 Centreville Rd., 25-1(1)23, Centreville Dist., 23,175 sq. ft., C-5, S-91-79.

The required notices were in order. Dr. Thomas Roehr of 3406 Annandale Road in Falls Church stated that he and Dr. Bassett were applying for a special permit to operate a veterinary clinic in an existing farmhouse on Centreville Road. They would also be constructing an addition approximate to the square footage of the existing building. In response to questions from the Board, Dr. Roehr stated that they had contract to purchase the land which was in the file. Chairman Smith inquired as to when the operation would begin for this facility. Dr. Roehr stated that they had one problem which was that the property is not suitable for perc and it is not served by public sewer system. There is a subdivision being planned behind this property. They are in agreement to allow a sewer easement which should be in sometime in the summer. However, the developer is not through bonding yet. Chairman Smith stated that he would object to the special permit being granted contingent upon sewer going in. Dr. Roehr stated that he was totally at the mercy of the developer. He indicated that the use permit would be good for a one year period and if construction has not begun, he could request a six month extension. Chairman Smith stated that he felt the doctors were a little premature with this

Page 230, June 5, 1979
DRS. THOMAS S. ROEHR & MICHAEL C. BASSETT
(continued)

application. Dr. Roehr stated that his timing could have been a little better but he is tied into the purchase of this property. The property is 23,135 sq. ft. or a little over 1/2 acres.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 230, June 5, 1979 Board of Zoning Appeals
DRS. THOMAS S. ROEHR & MICHAEL C. BASSETT
R E S O L U T I O N

Ms. Ardis made the following motion:

WHEREAS, Application No. S-91-79 by DRS. THOMAS S. ROEHR & MICHAEL C. BASSETT under Section 4-503 of the Fairfax County Zoning Ordinance to permit veterinary clinic on property located at 2703 Centreville Road, tax map reference 25-1((1))23, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on June 5, 1979; and

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

1. That the applicant is the contract purchaser.
2. That the present zoning is C-5.
3. That the area of the lot is 23,174 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in C Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The hours of operation shall be 7 A.M. to 7 P.M. daily.

Mr. Barnes seconded the motion.

The motion passed by a vote of 5 to 0.

Page 231, June 5, 1979, Scheduled case for

12:00 - READING & MATH TUTORING CENTER, appl. under Sect. 18-401 of the Ord. to allow a building-mounted sign at an entrance in a shopping center for an individual enterprise lacking frontage from a street, located 7950 Ft. Hunt Road, Hollin Hall Subd., 102-2((2))(1)1, C & B Mt. Vernon Dist., 105,987 sq. ft., C-5, V-67-79. (Deferred from May 8, 1979 for Notices).

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After reading the case into the record and hearing no response from the audience and having no appearance from the applicants, Ms. Ardis moved that the Board dismiss this application for lack of interest without prejudice. Mr. Barnes seconded the motion. The motion passed unanimously by a vote of 5 to 0.

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Page 231, June 5, 1979, Scheduled case for

12:15 - MICHAEL P. TRADER, appl. under Sect. 18-401 of the Ord. to allow construction of attached garage & family quarters 33'7" from front property line (40 ft. minimum front yard required by Sect. 3-107) located 701 Ellsworth Avenue, Green Acres Subd., 7-4((5))69, Dranesville Dist., 29,080 sq. ft., R-1, V-73-79. (Deferred from May 8, 1979 for Notices).

The required notices were in order. Mr. Michael P. Trader of the above address stated that his family has grown larger and he needed to expand his house. The existing house does not have a garage. When he applied for a building permit, he was informed that he could not build because of the gas lines. The house was located at the minimum setback originally. In order to construct the garage, a variance would be necessary because of the angle of the gas lines running through the property. Mr. Trader stated that this was an unusual condition. There is no other place on the property to construct the garage. The remainder of the property is heavily wooded.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 231, June 5, 1979
MICHAEL P. TRADER

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-73-79 by MICHAEL P. TRADER under Section 18-401 of the Zoning Ordinance to permit construction of attached garage and family quarters 33.7 ft. from front property line (40 ft. minimum front yard required by Sect. 3-107) on property located at 701 Ellsworth Avenue, tax map reference 7-4((5))69, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 5, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 29,080 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

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

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

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

R E S O L U T I O N

1. This approval is granted for the location and the specific structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith) with 1 abstention (Ms. Ardis).

Page 232, June 5, 1979, Scheduled case for

12:30 P.M. - COMMONWEALTH SWIM CLUB, INC., appl. under Sect. 3-202 of the Ord. to amend existing permit to permit addition of 2 lighted tennis courts, reduction of required parking to 80 spaces & change in hours of operation to 6:00 A.M. to 10:00 P.M., located 9818 Commonwealth Blvd., Kings Park West Subd., 69-3((5))B, Annandale Dist., 5.48539 acres, R-2, S-75-79. (Deferred from May 15, 1979 for Notices).

The required notices were in order. Mr. Ken Sanders, an attorney in Fairfax, represented the applicant. For background of the case, Mr. Sanders stated that the club has been in existence for many years. The provisions were that there be a minimum of 117 parking spaces and that membership be limited to 350 families and that the facilities not interfere with any surrounding property. The tennis courts proposed are to be lighted. They were contemplated in 1969 but not constructed at that time. The club would like permission to construct the courts at this time. They are limited in space and would like permission to reduce the parking spaces required in order to locate the proposed courts on this area. The club would provide 80 spaces. The Zoning Ordinance requires 35 parking spaces for the tennis courts and pool. The parking shown on the plat would be double that amount. Mr. Sanders presented the Board with letters from adjacent property owners who did not object to this proposal. Mr. Sanders stated that the parking is rarely used because most of the members walk to the facility.

In response to questions from the Board, Mr. Sanders stated the maximum use of the parking during swimming meets is about 45 spaces. Mr. Sanders stated that there are some basketball courts on the property at this time which would be removed. With regard to the lights for the tennis courts, the plats show 30 ft. lights surrounding the courts. There are neighbors who object to the lights. Mr. Sanders stated that the club would be willing to lower the lights. He indicated that they preferred fluorescent lights 15 ft. in height. That is the minimal type of lighting that could best accommodate the club. Chairman Smith inquired if the club had any brochures on the type of lights so that it could be incorporated into the resolution. Ms. Jan Phillips stated that she had been to Mantua where these type of lights were used. Also, Starlight Fairways and at Old Keene Mill. The lights are available but the club has not been able to locate an installer in the phone book.

For the record, letters of support were given to the Board from Kings Park West, a neighbor Mr. Dunby, Mr. Merrineck and Mr. Boyd. In addition, the Maywood Terrace homeowners association endorsed the application. There was also a petition signed by members of the club who were in favor of the application. There was no one else to speak in favor of the application.

The Board recessed from 12:50 P.M. to 1:15 P.M. When the Board reconvened, Chairman Smith announced that Ms. Ardis would not participate in the voting of the application of Commonwealth Swim Club as she was a member of the club. In addition, Ms. Ardis had a court case at 1:00 P.M. and would not be able to hear the balance of the testimony.

Chairman Smith called for testimony in opposition to the application. Mr. Mann, owner of lot 82, stated that he has lived on the property since June of 1968 when it was built. He indicated that he was probably the only resident who intended to stay for any long while. Lot 81 is for sale, lot 83 is on the market. Lots 84 and 85 are rental properties. Mr. Mann stated that in 1961 when the Commonwealth Club was first established, there was an intent to build tennis courts but the location for them was not the same as that being proposed now. He stated that he was opposed to any tennis courts being constructed right against the property line under his bedroom window because of the noise and the lights. He stated that the reason the parking lot is not

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being used to its full capacity was that the people do not park where they should. There are four basketball hoops on the parking lot. They are removable so as not to impact on the tennis courts. Mr. Mann stated that he was a long-term resident. He could not afford an attorney to fight this application. He stated that many people do not oppose this application since they do not live next door. He stated there would be noise from people walking back and forth from the courts. He stated that he did not look forward to being awakened at 6 A.M. and going to bed after 10 P.M. In response to questions from the Board, Mr. Mann stated that his house was 20 yards from the rear property line of the club.

The next speaker in opposition was John Kaul of 5009 Pylters Mill Court in Maywood Terrace. He stated that there was no authorized meeting of the people from Maywood Terrace. An unofficial canvass of the area revealed no support of the lights or the extension of hours for the tennis courts. Mr. Kaul stated that he believed that the lights would shine over into the community of Maywood. During the fall and winter there is not much screening. In addition, the courts would attract vandalism. He stated that he has difficulty with the way the club polices the noise of the pool. He suggested that the Board defer the extension of the hours and the lighting of the courts until the community finds out how the tennis courts work out.

The next speaker in opposition was Robert Tennyson of 5104 Walport Lane. He owned lot 50 in Maywood Terrace. He stated that his property was located at the entrance to the club which was 25 ft. from the back door of his house. The tennis courts would be 120 to 125 ft. from his property. He stated that he has to pay costs in terms of noise. He stated that he believed that the club was already in violation of its permit because of the noise which is not contained on the property. He stated that he was not aware of the noise problem as he moved into the house during the winter months. The current hours of the club are 9 A.M. to 9 P.M. and they often have social events lasting until 11:00 P.M. When the band starts up, it wakes up his children. He stated that he has called the club to complain but all he got was smart answers. Another problem was the security of the club. Teenagers show off in the parking lot and peel rubber.

The next speaker in opposition was John Peterson, owner of lot 51, 5102 Walport Lane. Mr. Peterson stated that when he moved into his house, he was well aware of the noise problems and other problems associated with the club. However, this would only be three months out of the year. Mr. Peterson stated that he could tolerate the disturbances for three months. Mr. Peterson gave the Board a plat showing the lots that surround the club and the location of the driveway into the club. He stated that the club wants them to suffer inconvenience for the construction of tennis courts. This would mean an increase in noise and would decrease the quality of the neighborhood. There are not any plans to include Maywood Terrace as members into the club nor is Maywood asking for membership. Maywood is being asked to assume all of the hardships. Mr. Peterson stated that Fairfax County already has recreational facilities in the area. He indicated that the club does not have room on the property for the tennis courts. If parking is used for the courts, it would mean further disadvantages for the community.

The next speaker was Mr. Shell who stated that he attempted to meet with the club to talk about the problems. He stated that he is concerned about the remaining land and what the club would do with it. With regard to the increase in hours, now the residents are being asked to go from a three month operation to a nine month operation and are being asked to tolerate noise from 6 A.M. to 10 P.M. The courts would be illuminated. He stated that he was concerned about the policing of the area as well as the security of the area. He stated that the club has no employees who are responsible for the chaining of the courts.

During rebuttal, Mr. Sanders stated that there is a low level of use of the parking lots. Most of the people walk to the club. The chain across the lot is for security. The club is prepared to control the use of the tennis courts. The members of the club want the right to play tennis in the evening hours. The entrance to the club is before you get to Walport Lane. It is a cul-de-sac. The entrance has evergreen trees. He stated that the club would be willing to construct a stockade fence along Mr. Tennyson's property if it would be desirable. As far as people living on Commonwealth Blvd., that area is heavily wooded. He stated that he did not believe that the tennis courts would be visible from Commonwealth Blvd. He stated that the citizens have a fear of additional noise. Mr. Sanders stated that when he plays tennis, it

is very quiet and dignified. There is never more than four people on the courts at a time. He stated that the courts serve a good purpose and that recreation is needed in Fairfax County. Mr. Sanders stated that the club was willing to construct 12 ft. high lights which would not be observable to the surrounding community. Because of the topography, construction of the courts is not possible elsewhere on the property.

Mr. DiGiulian questioned the plat showing a 6 ft. stockade fence along Mr. Tennyson's property. He asked if the fence was there. Mr. Phillips from the club stated that the fence is there behind the foliage. It is located to the rear of Mr. Tennyson's property. A fire burned out a section of the fence. With respect to the chain, Mr. DiGiulian asked if the chain was in use at the present time. Mr. Phillips stated that the club chains the entrance to the pool to keep people from speeding through the parking lot and have also constructed speed bumps. When the tennis courts are constructed, the chain would be moved back in. Mr. Phillips stated that the club would have to arrange for someone to be there to close the gate at night. The club has always closed the gate for their own concerns over the security.

Chairman Smith stated that when the original permit was granted, no request was made for lights. Mr. Sanders informed the Board that the original resolution stated that all lighting shall be contained to the facility. Chairman Smith stated that these tennis courts sit between two developments. Mr. Sanders replied that it backs up to the common ground of Maywood Terrace. Mr. DiGiulian stated that the courts are within 100 ft. of Mr. Tennyson's lot. Chairman Smith stated that it appeared to be the consensus of the speakers to allow the tennis courts without the lights. Mr. Barnes stated that he would go along with the request for lights if the club kept the lights contained on the courts. He stated that the lights should not disturb the neighbors. Mr. Phillips stated that the club is willing to put in that kind of light.

Page 234, June 5, 1979
COMMONWEALTH SWIM CLUB, INC.

Board of Zoning Appeals

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-75-79 by COMMONWEALTH SWIM CLUB, INC. under Section 3-202 of the Fairfax County Zoning Ordinance to amend existing permit to add two tennis courts with lights; to reduce the parking from 117 to 80 spaces; and to change hours of operation to 6 A.M. to 10 P.M., on property located at 9818 Commonwealth Boulevard, tax map reference 69-3((5))B, County of Fairfax, Virginia has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on June 5, 1979; and

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

1. That the owner of the subject property is Commonwealth Swim Club, Inc.
2. That the present zoning is R-2.
3. That the area of the lot is 5.48539 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this

R E S O L U T I O N

Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.

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

6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.

7. The hours of operation shall be 7 A.M. to 10 P.M. for the tennis courts only.

8. The number of parking spaces shall be 80.

9. The tennis court lights shall be a maximum of 12 ft. in height and the effects of all lighting shall be confined to the site.

10. A security gate or fence shall be provided as indicated on the plat.

11. All other requirements of the original use permit shall remain in effect.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Ms. Ardis being absent).

Page 235, June 5, 1979, After Agenda Items

Mr. & Mrs. John W. Wilson, III: The Board was in receipt of a letter from the Housing and Community Development Authority requesting an out-of-turn hearing on the variance application of Mr. & Mrs. John W. Wilson, III. The Board moved that the variance be scheduled for June 26, 1979 at 8:45 P.M.

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Page 235, June 5, 1979, After Agenda Items

Ashley C. Speir, Jr.: The Board was in receipt of a letter requesting an out-of-turn hearing for the variance of Ashley C. Speir, Jr. It was the consensus of the Board to grant the request and the variance was scheduled for July 10, 1979 at 12:30 P.M.

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Page 235, June 5, 1979, After Agenda Items

Messiah Evangelical Lutheran Church: The Board was in receipt of a request for a reduction in the number of parking spaces. Mr. Barnes moved that the parking be amended to 14 spaces. Mr. Yaremchuk seconded the motion. The motion passed by a vote of 4 to 0 (Ms. Ardis being absent).

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Page 235, June 5, 1979, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of the BZA Minutes for November 28, 1978. Mr. Barnes moved, Mr. DiGiulian seconded and it was unanimously carried to approve the minutes as corrected.

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Page 235, June 5, 1979, After Agenda Items

Pinecrest Swim & Tennis Club, Inc: The Board was in receipt of a request from the Pinecrest Swim & Tennis Club, Inc. for an out-of-turn hearing. It was the consensus of the Board to grant the request and the hearing was scheduled for June 26, 1979 at 9:00 P.M.

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Page 236, June 5, 1979, After Agenda Items

St. Bernadette's Church: The Board was in receipt of a letter from W & N Associates requesting a reduction in parking spaces for St. Bernadette's Church. Mr. DiGiulian moved that the parking be amended to comply with the minimum parking spaces required by the Ordinance. Mr. Barnes seconded the motion and it passed by a vote of 4 to 0 (Ms. Ardis being absent).

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Page 236, June 5, 1979, After Agenda Items

Immanuel Baptist Church: The Board was in receipt of a request for a six month extension on the special permit granted to Immanuel Baptist Church. Mr. Barnes moved that the church be granted a six month extension. Mr. DiGiulian seconded the motion and it passed by a vote of 4 to 0 (Ms. Ardis being absent).

// There being no further business, the Board adjourned at 2:35 P.M.

By Sandra E. Hicks
Sandra E. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

APPROVED: _____
Date

Submitted to the BZA on _____.
Submitted to the other departments,
Planning Commission and Board of
Supervisors on _____.

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, June 12, 1979. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes; John Yaremchuk and Barbara Ardis.

The Chairman called the meeting to order at 10:15 A.M. Mr. Barnes led the meeting with a prayer.

The Chairman called the scheduled 10 o'clock case:

10:00 - JOHN ARANT & ANN McNEIL COE SAVIDGE & WILLIAM LEE SAVIDGE, appl. A.M. under Sect. 18-401 of the Ord. to allow subdivision into 4 lots with proposed lots 2 and 3 having widths of 12 ft. and proposed lot 4 having area of 63,797 sq. ft. (200 ft. min. lot width and 75,000 sq. ft. minimum lot area required by Sect. 3-E06), located 9620 Arnon Chapel Road, Orchard Hill Subd., 8-1((1))39A, Dranesville Dist., 8.0744 acres, RE, V-60-79. (Deferred from 5/1/79 for proper application).

Mr. John Arant of 9620 Arnon Chapel Road informed the Board that originally the application was for two pipestem lots and one substandard lot. At this time, they are asking permission to have one pipestem drive and only one substandard lot. At the last meeting, both the Egan Hills Association and the citizens expressed concern over the plans. They have now modified these plans and believe that it would meet with everyone's approval. Chairman Smith inquired if the applicant was now proposing a substandard lot area. Mr. Arant stated that they were only requesting one substandard lot as was originally in the application. The subdivision would be for three lots. Most of the land is taken up by the gas line easement through the property. Because of the gas line easement and the drainage easement, it is a hardship on the applicant to divide the land into lots that people can live with. It was the decision of the applicant to put all of the problems of the property on the one proposed lot. Chairman Smith inquired if there was some way to eliminate the substandard lot area. Mr. Arant stated that was not possible if they proposed to be able to provide the required building area for the other lots. He stated that the building area for a home on the larger lot would be completely eliminated due to the drainage area. Mr. Arant stated that they meet the 100 ft. setback from the existing well. The drain fields are 100 ft. from any proposed well and any existing well in the surrounding community.

There was no one to speak in favor of the application and no one to speak in opposition. A letter of opposition was read into the record.

Page 237, June 12, 1979 Board of Zoning Appeals
JOHN ARANT & ANN McNEIL COE SAVIDGE &
WILLIAM LEE SAVIDGE

R E S O L U T I O N

In Application No. V-60-79 by JOHN ARANT & ANN McNEIL COE SAVIDGE & WILLIAM LEE SAVIDGE under Section 18-401 of the Zoning Ordinance to permit subdivision into four lots with proposed lots 2 & 3 having widths of 12 ft. and proposed lot 4 having area of 63,797 sq. ft. (200 ft. minimum lot width and 75,000 sq. ft. minimum lot area required by Sect. 3-E06)* on property located at 9620 Arnon Chapel Road, tax map reference 8-1((1))39A, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 12, 1979 and deferred from May 1, 1979 for proper application; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 8.0744 acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow and has drainage and pipeline easements which make normal development difficult.

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

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

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED IN PART *(to allow subdivision into three lots with proposed lot 2 having width of 15 ft. and proposed lot 1 having area of 63,750 sq. ft.) with the following limitations:

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Barnes seconded the motion.

The motion passed by a vote of 5 to 0

Page 238, June 12, 1979, Scheduled case for

10:10 - VALENTINE HEALTH CLUB, appl. under Sect. 18-301 of the Ord. to appeal the decision of the Zoning Administrator declining to approve a Non-Residential Use Permit until a Special Permit is approved for Health Club, located 8501 Lee Highway, 49-3((1))49, Providence Dist., 2,610 sq. ft., C-3, A-95-79.

Mr. Frederick Ford, Esquire of 117 North Fairfax Street in Alexandria represented the Valentine Health Club. The Zoning Administrator was represented by Mary Drickey of the County Attorney's Office. For further information regarding this appeal, please refer to the verbatim transcript located in the file.

Page 238, June 12, 1979
VALENTINE HEALTH CLUB

R E S O L U T I O N

Ms. Ardis made the following motion:

THAT based on the existing non-residential use permit certificate issued and the fact that it does not specify either location within the building or specific square footage and based on the further fact that the certificate should speak for itself, I move that the appeal be granted from the decision of the Zoning Administrator.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 238, June 12, 1979, Scheduled case for

10:40 - WILLIAM S. SPEIGHT, appl. under Sect. 18-401 of the Ord. to allow construction of an attached garage 15 ft. from side lot line (20 ft. minimum side yard required by Sect. 3-107), located 5811 Fitzhugh Street, Homewood-Section III Subd., 78-2((3))29, Springfield Dist., 22,500 sq. ft., R-1, V-92-79.

Mr. William Speight gave the required justification for his application to the Board. He stated that prior to applying for a building permit, he contacted the County on the amount of footage required to build on this lot. At that time, he was advised that he would build the house with the attached garage 15 ft. from the side lot line. He proceeded to have the engineer draw up the proposed plans necessary for the building permit. However, on March 19th, the Board of Supervisors amended the Zoning Ordinance and changed the 15 ft. setback to a 20 ft. setback. All of this took place after the plans were drawn. Chairman Smith questioned Mr. Covington regarding substandard lots. Mr. Covington stated that provision in the Code had been removed. Mr. Speight stated that when the plans were drawn, it was specifically taken into consideration for a particular kind of structure. It was checked out several times with the County and each time, they were advised that they could build it.

There was no one to speak in favor of the application and no one to speak in opposition.

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R E S O L U T I O N

In Application No. V-92-79 by WILLIAM S. SPEIGHT Under Section 18-401 of the Zoning Ordinance to permit construction of an attached garage 15 ft. from side lot line (20 ft. minimum side yard required by Sect. 3-107) on property located at 5811 Fitzhugh Street, tax map reference 78-2((3))29, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 12, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 22,500 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow and is substandard.

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

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

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

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

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

10:50 - MARGUERITE WOLF OLIVER, appl. under Sect. 18-401 of the Ord. to allow subdivision into two lots, one of which would have a width of 30.77 ft. (200 ft. min. lot width required by Sect. 3-E06), located 600 Walker Road, Forestville Subd., 7-4((1))30, Dranesville Dist., 5.461 acres, R-E, V-93-79.

Ms. Marguerite Wolf Oliver of 600 Walker Road informed the Board that her contractor Mr. Butler was present to answer any questions. She stated that due to the shape of the property, it was difficult to divide the property into two lots and meet the lot width requirements. She stated that she was asking the Board to allow her to have a driveway to the back two acres. Chairman Smith inquired if she owned the property and if she had a contract to sell the land. Ms. Oliver replied she did own the property and does have a contract to sell the land. Chairman Smith inquired as to the hardship. Mr. Clinton A. Oliver informed the Board that they proposed to subdivide the property into building lots. The zoning is two acres. A variance would be necessary to the lot width requirements. He stated that if they got the variance, that they would come back for the perc tests at a later date. He stated that they need the variance in order to sell the two lots instead of one lot.

Page 240, June 12, 1979
MARGUERITE WOLF OLIVER
(continued)

In response to questions from the Board, Mr. Oliver stated that they have owned the property since 1941. Chairman Smith inquired as to how many other lots they owned. Mr. Oliver stated that this was the only lot. The zoning calls for two acres but there is a 1/2 acre next door. Mr. Oliver stated that if they do not get the variance, they could not subdivide the property and could not sell the property. Two lots are worth more money than one lot.

There was no one to speak in favor of the application and no one to speak in opposition. However, the Board was in receipt of four letters in opposition.

Page 240, June 12, 1979
MARGUERITE WOLF OLIVER

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-93-79 by MARGUERITE WOLF OLIVER under Section 18-401 of the Zoning Ordinance to permit subdivision into two lots, one with a width of 30.77 ft. (200 ft. minimum lot width required by Sect. 3-E06), on property located at 600 Walker Road, tax map reference 7-4((1))30, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 12, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 5.461 acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

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

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

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

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Ms. Ardis seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 240, June 12, 1979, Scheduled case for

11:00 - ARCHIE R. LEWIS, appl. under Sect. 18-401 of the Ord. to allow P.M. 6 ft. fence to remain in front yard (4 ft. maximum height provided by Sect. 10-105), located 4605 Columbia Road, Willow Run Subd., 71-2((10))2, Annandale Dist., 21,800 sq. ft., C-5 & R-2, V-96-79.

The required notices were in order. Mr. Archie Lewis of 4605 Columbia Road stated that he purchased the property in 1952 and lives there. In 1956, he put the property up for sale. There are real estate offices that have tried to sell it but could not. Since that time, Mr. Lewis stated that he had renovated the property for his retirement home. He stated that he put in a new bath, kitchen, etc. He upgraded the air conditioning. He stated that he has spent over \$27,000 renovating the property. Back in 1953, a service station was built adjacent to this property. He was informed that a fence would be built. He never got the requested fence. Mr. Lewis informed the

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Board that he was unaware of the 4 ft. restriction on fences. He stated that he gets a lot of trash from the service station so he constructed the fence. Now he still gets trash but not as much. The people at the station are keeping it much cleaner.

In addition to the trash, Mr. Lewis stated that he needs the fence because of the noise. It also gives him more privacy. He indicated that he could not cut the fence to 4 ft. and there was no way to take it down and put it back up out of the front yard. Mr. Lewis informed the Board that he retired from the County a month ago and intends to make this his permanent home. He stated that the fence has enhanced his property. He stated that if he had been aware of the 4 ft. law that he would have applied for the variance before. The fence was constructed by the Walker Fence Co.

Mr. Covington informed the Board that he had made a field inspection of the property. He indicated that the fence does not limit the site distance. The fence sits lower than the two gas stations. A 4 ft. fence would not give the privacy because of the elevation.

Chairman Smith inquired as to why the commercial properties were not required to screen the property. Mr. Covington stated that was before Site Plan Ordinance. Mr. Yaremchuk inquired as to why he did not check with the Zoning Office before constructing the fence. Mr. Lewis replied that he did not think it was necessary. He stated that the main reason for constructing the fence was because of the adjoining service station.

There was no one else to speak in support of the application and no one to speak in opposition.

R E S O L U T I O N

In Application No. V-96-79 by ARCHIE R. LEWIS under Section 18-401 of the Zoning Ordinance to permit 6 ft. fence to remain in front yard (4 ft. maximum height provided by Sect. 10-105) on property located at 4605 Columbia Road, tax map reference 71-2((10))2, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 12, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is C-5 and R-2.
3. The area of the lot is 21,800 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings to the adjacent properties.

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

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

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

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

R E S O L U T I O N

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

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Page 242, June 12, 1979, Scheduled case for

11:10 - ROBERT E. & DORIS K. GROVERT, appl. under Sect. 18-401 of the A.M. Ord. to allow construction of addition 22.2 ft. from rear lot line (25 ft. required by Sect. 3-EO7), located 845 Merriewood Lane, Troxell Manor Subd., 20-2((3))5, Dranesville Dist., 23,130 sq. ft., R-E, V-97-79.

Mr. Robert E. Grovert of 845 Merriewood Lane in McLean informed the Board that he purchased the property in 1972. At that time, it was halfway through construction. The house sits quite away back to the rear of the lot. It leaves very little room for clearance in the back yard or the side yard. He stated that his reason for the variance was that his wife has a serious lung and heart problem. They are trying to make a room without stairs and trying to enlarge the living area so that she will not have to move off of one floor. The living area is basically on the second floor. He stated that there was petition from the neighbors who are in favor of the application. They all live on the same street. There has been no opposition voiced to the variance application. Mr. Grovert stated that the addition would be built in the same style as the current house.

Chairman Smith questioned the storm drainage running through the property. Mr. Grovert stated that the storm drainage comes down through the property into a drain. There are no pipes or anything else associated with it. He showed the Board a plat of the property. Chairman Smith noted that a corner of the addition would be in the easement. Mr. Grovert stated that he had a hold harmless agreement with the County in the file.

There was no one to speak in opposition and no one to speak in support of the application.

Page 242, June 12, 1979

ROBERT E. & DORIS K. GROVERT

R E S O L U T I O N

In Application No. V-97-79 by ROBERT E. & DORIS K. GROVERT under Section 18-401 of the Zoning Ordinance to permit construction of addition 22.2 ft. from rear lot line (25 ft. minimum setback required by Sect. 3-EO7) on property located at 845 Merriewood Lane, tax map reference 20-2((3))5, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 12, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 23,130 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing building on the subject property.
5. That applicants have executed a "hold harmless" agreement in connection with this proposed addition.

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

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

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

R E S O L U T I O N

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1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 5 to 0.

Page 243, June 12, 1979, Scheduled case for

11:20 - IRA WOLF, appl. under Sect. 18-401 of the Ord. to allow conversion of a carport into a garage 7.2 ft. from side lot line with 15.6 ft. total side yards (minimum 8 ft. & total of 20 ft. required), located 5008 Powell Road, Maywood Terrace Subd., 69-3((7))26, Annandale Dist., 10,555 sq. ft., R-3(c), V-98-79.

Ms. Jeane Wolf of 5008 Powell Road in Fairfax stated that they wanted to build a carport in order to close it in. They found out that they would need a variance for the garage. Ms. Wolf stated that their lot is very unusual in that it is small and irregularly shaped. It is a pie-shaped lot. The front is highly sloped. The driveway is very high. She stated that they felt the garage would solve some of their problems. They have spoken to the neighbors. They do not have any objections. The required notices went out and no one has had any objections to the garage. The builder of this subdivision is at present constructing garages on the properties. In response to questions from the Board, Ms. Wolf stated that they have owned the property for three years. The subdivision has been constructed over the past seven years and is still being built.

There was no one to speak in support of the application and no one to speak in opposition. There were several letters in support of the application.

Page 243, June 12, 1979
IRA WOLF

R E S O L U T I O N

In Application No. V-98-79 by IRA WOLF under Section 18-401 of the Zoning Ordinance to permit conversion of carport into garage 7.2 ft. from side lot line with 15.6 ft. total side yards (minimum 8 ft. and total of 20 ft. required on property located at 5008 Powell Road, tax map reference 69-3((7))26, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 12, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3(C).
3. The area of the lot is 10,555 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including converging side lines.

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

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

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

R E S O L U T I O N

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1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 244, June 12, 1979, Scheduled case for

11:30 - GUIDO A. IANIERO, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to existing dwelling to 4.3 ft. from side lot line with total side yards of 48.1 ft. (side yards min. 8 ft. but a total min. of 24 ft. required by Sect. 3-207) located 7008 Spaniel Road, Orange Hunt Estates Subd., 88-4((27)) 134, Springfield Dist., 18,489 sq. ft., R-2(C), V-99-79.

The required notices were in order; however, the sign posting was in error as the property was never posted. For this reason, the Board granted a one week deferral to accommodate the sign posting. This matter was deferred until June 19, 1979 at 11:40 A.M.

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Page 244, June 12, 1979, Scheduled case for

11:40 - PET MEMORIAL GARDENS, INC., appl. under Sect. 3-103 of the Ord. to permit cemetery for animal interment, located Colvin Run Road, 18-2((1))10, Dranesville Dist., 8.77 acres, R-1, S-94-79.

The required notices were in order; however, the sign posting was in error in that the property was never posted. For this reason, the Board granted a one week deferral to accommodate the sign posting. This matter was deferred until June 19, 1979 at 11:30 A.M.

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Page 244, June 12, 1979, Scheduled case for

11:50 - THE ARTERY ORGANIZATION, INC./TWINBROOK COMMUNITY ASSOCIATION, appl. under Sect. 3-303 of the Ord. to permit community swimming pool, located Boyett Court, Twinbrook Section 6 Subd., 69-3((9))F, Annandale Dist., 67,450 sq. ft., R-3, S-76-79. (Deferred from May 15, 1979 for notices).

Mr. Russell Rosenberger, an attorney in Fairfax, represented the applicant. He stated that Twinbrook is a mixed community of townhouses and single family homes. There are 242 townhouses and 24 single family homes. The swimming pool was proffered at the time of rezoning on parcel F. It has always been planned for this area since the time of rezoning. The bathhouse is going to be 20 ft. x 55 ft. The building will be brick exterior facade. It will contain a changing room for men and women; an office and a pumproom. This recreational facility can be compared to Comstock in the City of Fairfax. The pool is for community use only. It will not accommodate swim meets. One concern that has already been raised is in regard to the parking situation. Only five parking spaces have been provided. They are primarily for employee use. It is the intention of the club that this will be a walking facility as all the homes are within walking distance. The overall walk is about 630 ft. There are a few units in Sect. I of Twinbrook which are in excess of the 1,000 ft. limitations or policy that the Board has set. However, they are not that far outside of the 1,000 ft. that they could not walk it. There are internal streets and walkways. In order to accommodate additional parking, it would mean a considerable amount of site work which would impact on the lot. Mr. Rosenberger stated that they have attempted to keep the amount of grading to a minimum on the site. The land is mostly wooded and the community would like to keep it that way.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-76-79 by THE ARTERY ORGANIZATION, INC./TWINBROOK COMMUNITY ASSOCIATION under Section 3-303 of the Fairfax County Zoning Ordinance to permit community swimming pool on property located at Boyett Court, tax map reference 69-3(9)F, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on June 12, 1979 and deferred from May 15, 1979 for Notices; and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-3.
3. That the area of the lot is 67,450 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The hours of operation shall be 9 A.M. to 9 P.M., 7 days a week.
8. The number of parking spaces shall be 5.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

Page 245, June 12, 1979, Scheduled case for

12:00 - SIDEBURN RUN RECREATION ASSOCIATION, appl. under Sect. 3-103 of the P.M. Ord. to amend special permit for a community swimming pool to permit addition to existing building and a roof covering existing deck area, located 10601 Zion Road, Bonnie Brae Subd., 68-3(1)16, Annandale Dist., 3.00 acres, R-1, S-77-79. (Deferred from May 15, 1979 for Notices).

As the required notices were not in order, the Board deferred the application until July 17, 1979 at 12:00 P.M.

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Holy Transfiguration Melkite Greek Catholic Church: The Board was in receipt of a letter from the Holy Transfiguration Melkite Greek Catholic Church requesting an out-of-turn hearing on their application. It was the consensus of the Board to grant the request and the hearing was scheduled for July 17, 1979 at 12:10 P.M.

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S-306-78 Meadowbrook Associates: The Board was advised that on January 23, 1979, the application of Meadowbrook Associates had been deferred at the request of the applicant in order to work out some administrative problems. The Clerk advised the Board that several telephone calls had been made to the attorney to determine the status of the application and none were returned. The Board advised that a letter be sent to the attorney by certified mail, return receipt requested, that unless the status can be determined, the Board would take action to dismiss the application for lack of interest.

// There being no further business, the Board adjourned at 12:20 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

APPROVED: _____
Date

Submitted to the BZA on _____
Submitted to the other departments,
Board of Supervisors and Planning
Commission on _____

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The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, June 19, 1979. All Board Members were Present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes; John Yaremchuk and Barbara Ardis (arriving at 11:15 A.M.).

The Chairman called the meeting to order at 10:10 A.M. and Mr. Barne led the prayer.

The Chairman called the scheduled 10 o'clock case:

10:00 - PETER & WILHELMINA A. KLAASSEN, appl. under Sect. 3-203 of the A.M. Ord. to permit day care center for max. of 67 children, ages 2 - 5, located 9655 Blake Lane, Willow Point Subd., 48-3((19))2, Providence Dist., 24,329 sq. ft., R-2, S-71-79. (Deferred from May 1, 1979 for detailed staff report and a hearing before the Planning Commission).

Mr. and Mrs. Klaassen were represented by Mr. William Donnelly, an attorney in Fairfax. For further details regarding this hearing, please refer to the verbatim transcript located in the file in the Zoning Office.

Page 247, June 19, 1979 Board of Zoning Appeals PETER & WILHELMINA A. KLAASSEN

R E S O L U T I O N

In Application No. S-71-79 by PETER & WILHELMINA A. KLAASSEN under Section 3-202 of the Fairfax County Zoning Ordinance to permit Day Care Center for maximum of 67 children, ages 2 to 5, on property located at 9655 Blake Lane, tax map reference 48-3((19))2, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on June 19, 1979; and

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

1. That the owner of the subject property is William B. and Sherry T. Clay.
2. That the applicant is the contract purchaser.
3. That the present zoning is R-2.
4. That the area of the lot is 24,329 sq. ft.
5. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.

R E S O L U T I O N

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- 5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
- 6. Landscaping and screening shall be required and must satisfy Sect. 13-109 and Sect. 13-110 of the Zoning Ordinance except as qualified below.
- 7. The maximum number of students shall be 51; 45 full-time and 6 half-day, ages 2 through 5.
- 8. The hours of operation shall be 7 A.M. to 6 P.M., five days a week.
- 9. The number of parking spaces shall be 14.
- 10. The applicant shall comply with conditions 7, 9, 10 and 12 on page 4 and 5 of the staff recommendations. These are:
 - (7) That Barrier F, as the applicant proposes, be required along the rear property line and along the side property line to the front yard; and that the fence be augmented by a row of evergreen along the rear property line at a location to be determined by the Director at the time of site plan review. That a barrier along the side lot line in the front yard be required to the satisfaction of the Director at the time of site plan review, in accordance with Article 13.
 - (9) That the applicant dedicate 45 ft. from the centerline of Blake Lane for future road widening.
 - (10) That a deceleration lane (right-turn lane) be provided to meet VDH & T standards to minimize the traffic congestion on Blake Lane.
 - (12) That the use of the building be limited to daytime school uses.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Ms. Ardis being absent).

Page 248, June 19, 1979, Scheduled case for

10:00 - PETER & WILHELMINA A. KLAASSEN, appl. under Sect. 18-401 of the Ord. A.M. to allow parking areas and driveways at day care center with other than a dustless surface (dustless surface required by Sect. 11-102), located 9655 Blake Lane, Willow Point Subd., 48-3((19))2, Providence Dist., 24,329 sq. ft., R-2, V-72-79.

Mr. and Mrs. Klaassen were represented by Mr. William Donnelly, an attorney in Fairfax. Further details regarding this hearing can be obtained by referring to the verbatim transcript located in this file.

R E S O L U T I O N

In Application No. V-72-79 by PETER & WILHELMINA A. KLAASSEN under Section 18-401 of the Zoning Ordinance to allow parking areas and driveways at day care center with other than a dustless surface on property located at 9655 Blake Lane, tax map reference 48-3((19))2, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

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

- 1. That the owner of the property is the contract purchaser.
- 2. The present zoning is R-2.
- 3. The area of the lot is 24,329 sq. ft.
- 4. That the applicant's property has an unusual condition in the location of the existing building on the subject property.

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

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

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

R E S O L U T I O N

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

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2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Ms. Ardis being absent).

Page 249, June 19, 1979, Scheduled case for

10:20 - FRANK WALTER, appl. under Sect. 18-401 of the Ord. to allow enclosure of carport to a garage to 7.8 ft. from side lot line with total side yard of 17.9 ft. (side yard minimum of 8 ft. but a total minimum of 20 ft. required by Sect. 3-307), located 4324 Stream Bed Way, Stoneybrooke Subd., 92-1((10))8017, Lee Dist., 8,475 sq. ft., R-3(C), V-100-79.

Mr. Frank Walter of the above address informed the Board that he wanted to build a garage to store tools, lawnmowers, etc. He stated that he did not have a basement in his home. There is not any storage in the house. In addition, there is a Vepco easement going through his property which would prevent building in other locations on the property. This is an existing carport which he proposed to enclose 7.8 ft. from the side lot line. It is already existing that close to the lot line. Mr. Walter stated that there are houses on both sides of his property. The property is zoned R-3(c). In response to questions from the Board, Mr. Walter stated that he has owned the property for two years.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 249, June 19, 1979
FRANK WALTER

R E S O L U T I O N

In Application No. V-100-79 by FRANK WALTER under Section 18-401 of the Zoning Ordinance to permit enclosure of carport to garage to 7.8 ft. from the side lot line with total side yard of 17.9 ft. (side yard minimum of 8 ft. with a total minimum of 20 ft. required by Sect. 3-307) on property located at 4324 Stream Bed Way, tax map reference 92-1((10))8017, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 19, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3(c).
3. The area of the lot is 8,475 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

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

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

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

R E S O L U T I O N

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Ms. Ardis being absent).

Page 250, June 19, 1979, Scheduled case for

10:30 - RICHARD & BRENDA LESLIE, appl. under Sect. 18-401 of the Ord. to A.M. allow construction of screened porch over existing patio to 17.6 ft. from rear lot line (25 ft. min. rear yard required by Sect. 3-307), located 2107 Rampart Dri., Riverside Subd., 102-3((20))42, Mt. Vernon Dist., 10,501 sq. ft., R-3, V-101-79.

Mr. Richard Leslie of the above address stated that he needed a setback from the rear lot line to allow use of the existing patio by constructing a screened porch over it. The house was constructed three years ago. At that time, plans were made to build a screened porch and they were under the impression that it would not violate any setback requirements. He stated that their intent was established when they built the patio and had it reinforced for the screened porch. Mr. Leslie stated that his neighbors do not object to this addition. It does not represent a nuisance or a hardship to them.

There was no one to speak in favor of the application and no one to speak in opposition.

R E S O L U T I O N

In Application No. V-101-79 by RICHARD & BRENDA LESLIE under Section 18-401 of the Zoning Ordinance to permit construction of screened porch over existing patio to 17.6 ft. from rear lot line (25 ft. minimum rear yard required by Sect. 3-307) on property located at 2107 Rampart Drive, tax map reference 102-3((20))42, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 19, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 10,501 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including shallow.

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

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

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

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

R E S O L U T I O N

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2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Ms. Ardis being absent).

Page 251, June 19, 1979, Scheduled case for

10:40 - ROSS N. MORGAN, JR., appl. under Sect. 18-401 of the Ord. to allow carport to be enclosed into workshop 7 ft. from side lot (10 ft. required), located 6906 Columbia Dr., Bucknell Manor Subd., 93-1((23))(9)4, Mt. Vernon Dist., 7,320 sq. ft., R-4, V-102-79.

The required notices were in order. Mr. Ross N. Morgan, Jr. stated that he needed a variance in order to enclose his carport to 7 ft. from the side lot line. The hardship is the size of the lot. The zoning is R-4. This is a substandard lot. The width of the lot is only 61 ft. Mr. Morgan stated that he talked with all of his neighbors and they support his application. In response to questions from the Board, Mr. Morgan stated that he has owned the property for two years.

There was no one to speak in support of the application and no one to speak in opposition.

Page 251, June 19, 1979
ROSS N. MORGAN, JR.

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-102-79 by ROSS N. MORGAN, JR. under Section 18-401 of the Zoning Ordinance to permit carport to be enclosed into workshop 7 ft. from side lot line (10 ft. required) on property located at 6906 Columbia Drive, tax map reference 93-1((23))(9)4, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 19, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-4.
3. The area of the lot is 7,320 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow and has an unusual condition in the location of the existing building on the subject property.

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

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

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

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

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Ms. Ardis being absent).

Page 252, June 19, 1979, Scheduled case for

10:50 - EMIL J. JR. & JOSEPHINE A. KUMER, appl. under Sect. 18-401 of the Ord. to allow construction of open carport 4 ft. x 9 ft. from side property line, Sect. 3-207, paragraph 2A9s)b requires 8 ft. with total min. of 24 ft., needs 1.6 ft. variance to total min. and .1 to side yard, located 6903 Ontario Street, Springfield Village Subd., 89-2((7))117, Springfield Dist., 12,235 sq. ft., R-2(c), V-103-79.

Chairman Smith stated that Ms. Ardis had arrived from court and would remain for the remainder of the meeting. He asked the applicant to present the case. Mr. Emil Kumer of the above address stated that he wished to construct an open carport. Due to the terrain, it has to be located on the left side of the house. In response to questions from the Board, Mr. Kumer stated that the closest point to the property line would be 4.9 ft. He indicated that he had owned the property for 1 1/2 years.

There was no one to speak in favor of the application and no one to speak in opposition.

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EMIL J. JR. & JOSEPHINE A. KUMER
R E S O L U T I O N

In Application No. V-103-79 by EMIL J. JR. & JOSEPHINE A. KUMER under Section 18-401 of the Zoning Ordinance to permit construction of open carport to 4.9 ft. from side property line (Sect. 3-207, Par. 2A(2)b, requires 8 ft. with total minimum of 24 ft.) on property located at 6903 Ontario Street, tax map reference 89-2((7))117, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 19, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-2(c).
3. The area of the lot is 12,235 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including diverging lot lines and has exceptional topographic problems.

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

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

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

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

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 253, June 19, 1979, Scheduled case for

11:00 - CHRYSLER INDUSTRIAL CORPORATION, appl. under Sect. 18-401 of the A.M. Ord. to allow construction of building in I-4 portion of site such that there will be a floor area ratio of 1.0 (max. floor area ratio of 0.70 required by Sect. 5-407), located 2726 Merrilee Drive, 49-1((16))5, 6 & 7, Providence Dist., 45,131 sq. ft., I-4 & I-5, V-104-79.

The required notices were not in order. The Board was in receipt of a letter from the applicant requesting deferral. The Board granted the deferral until July 10, 1979 at 12:45 P.M.

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Page 253, June 19, 1979, Scheduled case for

11:10 - COLOR-AD, INC., appl. under Sect. 12-305 of the Ord. to allow A.M. a wall sign to be erected at the entrance of an arcade, located 9566A, 9566 & 9568 Old Keene Mill Road, 88-1((1))14 & 14A, Springfield Dist., 2,700 sq. ft., C-6, V-105-79.

Mr. Joel Smith of 4991 Fairview Avenue in Maryland, an officer in the Burkettown Plaza, Inc., a company developing the shopping center in Burke, appeared before the Board to request a variance for Color-Ad, Inc. This shopping center is a strip center and not a mall. Each store in the center has its name overtop the storefront. Because of the close proximity of a building to three of the small stores, the sign which was assigned to them is not visible from the parking lot. The agent for the sign company has devised a system to let the people in the parking lot know of the existing stores. There is a walkway to these stores. The sign will be located at the entrance with the names of the three stores. It will not be a flashing sign. The sign will be 6' x 8' singleface.

Mr. Knowlton informed the Board that the proposed sign is in keeping with the Zoning Ordinance.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

Page 253, June 19, 1979
COLOR-AD, INC.

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-105-79 by COLOR-AD, INC. under Section 18-401 of the Zoning Ordinance to permit wall sign at entrance of an arcade on property located at 9566A, 9566 and 9568 Old Keene Mill Road, tax map reference 88-1((1))14 and 14A, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 19, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is C-6.
3. The area of the lot is 2,700 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property such that buildings are situated so as not to have frontage visible from a street.

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

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

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

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1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Yaremchuk seconded the motion.

The motion passed unanimously.

Page 254, June 19, 1979, Scheduled case for

11:20 - DAN & LAHONDA J. MORGAN, appl. under Sect. 18-401 of the Ord. to allow resubdivision into 3 lots, each of which would have a width of 6.05 ft. (150 ft. min. lot width required by Sect. 3-106), located 3107 Fox Mill Road, 36-4((1))pt. 18 & pt. 23, Centreville Dist., 3.81 acres, R-1, V-88-79. (Deferred from June 5, 1979 for report from Mr. Chilton on development of lots 4, 5, 6 & 7.)

Ms. Kelsey informed the Board that Mr. Chilton, Deputy Director of Design Review, had prepared a memorandum to the BZA regarding the development of Brian's Hill Estates. The report read as follows:

"Lots 4, 5 6 and 7 would normally not be a matter of concern in review of the request before the Board of Zoning Appeals. These lots all are considered to be exempt from the Subdivision Control Ordinance because they were created under the 1947 edition of the Ordinance. Lots 4 and 5 were permitted as free divisions (not under subdivision control) under the 1947 ordinance. Lots 6 and 7 are five acres or greater and are not now under subdivision control.

However, lots 4 and 5 are to be adjusted according to a blanket waiver approved by the County Executive in 1975. The waiver permits boundary adjustments--without falling under subdivision control--of lots which were established properly under the 1947 ordinance. Staff would limit the length of driveway to that existing prior to adjustment of the boundaries. That is, the driveway to Lots 4 and 5 should not exceed 940 ft. The current zoning ordinance, Sect. 11-302, limits private streets to a length of 600 ft.; however, since these lots originally had a driveway length of 940 ft., it is staff's position that the adjusted lots could have a similar length driveway.

As shown on the proposed plat, these driveways would be 1430 ft. long. To bring this into the neighborhood of 940 ft., we believe a public street should be constructed to a length of approximately 500 ± ft. This street could be a 20 ft. wide ditch section in a 40 ft. wide dedicated right of way.

The Board of Zoning Appeals, however, since the driveway length is a zoning provision, may permit a longer length if it feels to do so would not be excessive."

Ms. Kelsey stated that if the Board approved the variance, it would only be for the lot width requirements for lots 1, 2 & 3. The pipestem exceeds the limits of the public facilities manual.

R E S O L U T I O N

In Application No. V-88-79 by DAN AND LAHONDA J. MORGAN under Section 18-401 of the Zoning Ordinance to permit resubdivision into three lots, each of which would have a width of 6.05 ft. (150 ft. minimum lot width required by Sect. 3-106) on property located at 3107 Fox Mill Road, tax map reference 36-4((1))pt. 18 and pt. 23, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

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WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 5, 1979 and deferred until June 19, 1979 for decision; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 3.81 acres.
4. That the applicant's property is exceptionally irregular in shape and has exceptional topographic problems, i.e., floodplain.

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

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

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

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.
3. Further, by approval of this resolution, the BZA makes no finding regarding the question of pipestem length, and leaves that matter to the Director of Environmental Management.

Mr. DiGiulian seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 255, June 19, 1979, Scheduled case for

11:30 - PET MEMORIAL GARDENS, INC., appl. under Sect. 3-103 of the Ord. to A.M. permit cemetery for animal interment, located Colvin Run Road, 18-2((1))10, Dranesville Dist., 8.77 acres, R-1, S-94-79. (Deferred from June 12, 1979 for Posting).

Mr. Jim Morrison of 10127 Colvin Run Road in Great Falls represented Pet Memorial Gardens, Inc. He presented three additional pieces of testimony to the Board: The documents pertained to the soil tests and to the location and the use of the property. One document was from a soil scientist and the other document was from a real estate agent. Mr. Morrison informed the Board that pet cemeteries have existed for some time. He stated that he proposed a pet memorial garden which was much more than a cemetery. The proposed building will blend in with the landscaping, flowers and the greens. From Colvin Run Road, only the gate would be visible. Pet Memorial Gardens would be for all ages and anyone could come to view the area. Mr. Morrison stated that this request would blend in with the historical district. In addition, it would provide open space for Colvin Run Road. It would be a park like atmosphere in the historic district.

Mr. Yaremchuk commented that the Board did not have any comments from Preliminary Engineering. He inquired if any part of this land was in the floodplain. Mr. Morrison showed the Board that area that could be considered to be in the floodplain. It was the southwest corner next to Rt. 7. Mr. Morrison stated this area would be kept in vegetation.

Mr. Yaremchuk inquired of Mr. Knowlton if this proposal comes under site plan review and was informed that it does. Chairman Smith stated that the applicant would have to meet the 50 ft. setback for burial purposes as that was a state requirement. Chairman Smith inquired as to what was planned in the way of improvements. Mr. Morrison stated that this area would be heavily treed. There would be a driveway entrance off of Colvin Run Road. The VDH&T would like a deceleration lane. Chairman Smith inquired as to what was proposed as far as structures. Mr. Morrison stated that three buildings were proposed to be used for administration and future storage.

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 PET MEMORIAL GARDENS, INC.
 (continued)

The administration building would be one story with a walkout from the back side. It would be brick with a slate roof. It would have brown and tan bricks and the mortar would be colored. Mr. Morrison stated that it would be similar to the Post Office in McLean. Mr. Barnes inquired if it would be historical in nature and Mr. Morrison replied it would.

The second structure would be setting high. The roof would be slate. The same brick would be used. It would be an open air building. There would not be any heating in it. This structure would mainly be for the protection of visitors against the elements. It would be located on the grounds so as to have a panoramic view of the site.

Ms. Ardis inquired if the pets would have individual gravesites. Mr. Morrison stated that the graves would be flat with no gravestones. Only the extreme perimeters where the trees were located could have raised markers. The architectural review board asked that raised markers be limited to 42 inches. Sculptured structures can be put up. Three types are indicated on the plans being between 10 to 15 ft. in height. They would be a good design.

The third structure would be a columbarium. It would be located as a retaining wall or to make a natural retaining wall.

Mr. Morrison stated that there was very little grading to be done on the property. He stated that there would be a 12 ft. patio with benches for the visitors to rest. They would be placed throughout the area so the columbarium would look like it belonged.

Mr. Barnes stated that the Architectural Review Board would have to approve whatever was built on the property. Mr. Morrison stated that the ARB did approve the plans on April 19, 1979. Again, Mr. Morrison stated that the area would be covered with trees and would not be visible to anyone from Colvin Run Road. The hours of operation would be 8 A.M. until 6 P.M. or sundown and by appointment. Ms. Ardis inquired if the gates would lock. Mr. Morrison stated that the gates would be locked when they closed; however, the employees would still be on the premises. There would be a non-climbable fence and traffic would be prevented from driving through.

There was no one to speak in favor of the application. The following persons spoke in opposition. Mr. James Downey, an attorney from Reston, represented Dr. Lewis Ross who owned 10 acres directly across from the subject property. Dr. Ross has owned the property for 15 years. Mr. Downey stated that Dr. Ross opposed this application for basically four reasons: (1) it would violate the Comprehensive Plan; (2) it is inconsistent with the Colvin Run Historic District; (3) it's a waste of land; and (4) the property has not been adequately examined. The Comprehensive Plan calls for residential low density as a buffer. Although this is a parklike setting, the fact is that the immediate vicinity already has Pet-Otel up Colvin Run Road. These are the same owners as the present applicants. In addition, there is an animal hospital. Mr. Downey stated that this was an intensification of these uses in this area. He indicated that the area was Pet-City. This area is located on the fringe of Reston and Great Falls between major shopping centers. This is a prime real estate area. Mr. Downey stated that the Planning Commission has already considered the idea to reduce the available land for residential use and that they would like to see commercial uses elsewhere. With respect to the Architectural Review Board approval, Mr. Downey inquired as to what contribution the citizens had in this approval. He indicated that this proposed use would clash with the Colvin Run Mill. With respect to the entrance off of Colvin Run Road. The proposed entrance is directly in the middle of the Colvin Run Mill. People who might purchase land from Dr. Ross would be impacted by this. Mr. Downey suggested that if the Board approves the use that something be done to minimize problems. With regard to the access, he suggested that the Board examine the related uses in the vicinity. He stated that Preliminary Engineering needs to examine how people will come in and out of the site.

Chairman Smith inquired of Mr. Downey if he had any specific thoughts as to the entrance off of Colvin Run Road. Mr. Downey stated that the proposed entrance has brick walls on both sides extending along the property. If it were relocated further up Colvin Run Road, the applicant might only construct an entrance gate with one wall rather than the proposed fortress.

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The next speaker was Dr. Ross. In response to questions from the Board, he indicated that his property was vacant. He stated that he owned ten acres which was included in the historical site. He owns lot 24 on Colvin Run Road and Robindale. The proposed use was opposite his property and he would have to face a huge stone wall. One side of the wall would have Pet Memorial Gardens. Dr. Ross stated that this would lower the property values in the area. He stated that Colvin Run Road should have been redone several years ago but no one wanted it. This commercial use would cause the road to be heavily travelled and would increase the traffic on Colvin Run Road.

There was no one else to speak in opposition. During rebuttal, Mr. Morrison stated that he felt the proposed use was in compliance with the Comprehensive Plan. It would have park like setting. Mr. Morrison stated that only certain zoning districts would allow interment places. They are not allowed in commercially zoned districts and only allowed in certain residential districts. With respect to the gate, it would only be 4 ft. high at its highest point. It would blend in with the hill. The gate is set off of the road and recessed quite a ways in. Mr. Morrison stated that no one who lives in the area is opposed or has objected to the proposal. Chairman Smith stated that there was a letter of opposition in the file from Dr. Bailey. Mr. Morrison informed the Board that Dr. Bailey lives two miles down the road. In response to questions from the Board, Mr. Morrison stated that the gate was 20 ft. wide. Each section is 25 ft. wide and spans 70 ft. It is curved and fits into the hillside. When questioned as to the choice of location for the fence, Mr. Morrison stated that he needed 20 ft. for a two way driveway. The stone-wall and material were chosen to enhance the property and to blend with the materials.

With respect to Dr. Bailey's letter, Mr. Morrison reminded the Board that he had submitted a letter from soil scientist and that there would not be any adverse impact on the septic systems in the area.

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PET MEMORIAL GARDENS, INC.

R E S O L U T I O N

Ms. Ardis made the following motion:

WHEREAS, Application No. S-94-79 by PET MEMORIAL GARDENS, INC. under Section 3-103 of the Fairfax County Zoning Ordinance to permit cemetery for animal interment on property located at Colvin Run Road, tax map reference 18-2((1)) 10, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on June 19, 1979 and deferred from June 12, 1979 for posting; and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-1.
3. That the area of the lot is 8.77 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional

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uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.

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

6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.

7. The hours of operation shall be 8:00 A.M. to 6:00 P.M. daily or until sundown whichever occurs first.

8. The number of parking spaces shall be eight exclusive of employee parking which shall in addition be one per employee.

Mr. Barnes seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 258, June 19, 1979, Scheduled case for

11:40 - GUIDO A. IANIERO, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to existing dwelling to 4.3 ft. from side lot line with total side yards of 48.1 ft. (side yard minimum 8 ft. but a total minimum of 24 ft. required by Sect. 3-207), located 7008 Spaniel Road, Orange Hunt Estates Subd., 88-4((27))134, Springfield Dist., 18,489 sq. ft., R-2(C), V-99-79. (Deferred from June 12, 1979 for Posting).

The required posting has been completed. Mr. Guido Ianiero of 7008 Spaniel Road in Springfield stated that he wanted to put up a garage. He informed the Board that he has three children of driving age. They all have their own cars. Mr. Ianiero stated that there is no place to park the cars. He stated that they cannot park on the street. He indicated that he needed the variance because he has four and five cars and he needs a large garage to house them. Chairman Smith stated that he already has a carport. Mr. Ianiero stated that he wanted to convert the carport into a garage and expand it to 22 ft. At present, it is only a single carport. He stated that he cannot park in the street. Even with parking in the carport, he indicated that his car was damaged. He stated that he has a collector's automobile which he would like to preserve.

There was no one to speak in favor of the application and no one to speak in opposition.

R E S O L U T I O N

In Application No. V-99-79 by GUIDO A. IANIERO under Section 18-401 of the Zoning Ordinance to permit construction of a garage addition to existing dwelling on property located at 7008 Spaniel Road, tax map reference 88-4((27))134, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 19, 1979 and deferred from June 12, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-2(C).
3. The area of the lot is 18,489 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

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

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

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

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

Mr. Barnes seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 259, June 19, 1979, After Agenda Item

BIBLEWAY CHURCH OF FAIRFAX; The Board was in receipt of a request from the Bibleway Church of Fairfax for a revision of the plans approved by the Board on March 6, 1979. It was the intent of the church to change the vestibule. The church was asking the Board to approve this change as a minor engineering change.

Mr. DiGiulian moved that the Board allow the requested change as a minor engineering change. Mr. Barnes seconded the motion and the motion passed by a vote of 5 to 0.

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Page 259, June 19, 1979, After Agenda Items

Lutheran Church of the Redeemer: The Board was in receipt of a request for an out-of-town hearing on the special permit application of the Lutheran Church of the Redeemer. It was the consensus of the Board to grant the request and the Board scheduled the hearing for July 24, 1979 at 12:00 P.M.

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Page 259, June 19, 1979, After Agenda Items

JEAN S. COBLE: The Board was in receipt of a request from Mrs. Jean S. Coble for an out-of-town hearing on the variance application. It was the consensus of the Board to grant the request and the Board scheduled the hearing for July 17, 1979 at 12:20 P.M.

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Page 259, June 19, 1979, After Agenda Items

The Board was in receipt of a request from Mr. Charles Dillow for an out-of-town hearing for his variance application. It was the consensus of the Board to grant his request and the Board scheduled the hearing for July 17, 1979 at 12:30 P.M.

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Page 259, June 19, 1979, After Agenda Items

The Board was in receipt of a request from Mr. McDonald for an out-of-town hearing on his special permit application. It was the consensus of the Board to grant the request and the Board scheduled the hearing for July 24, 1979 at 12:15 P.M.

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// There being no further business, the Board adjourned at 1:05 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

APPROVED: _____
Date

Submitted to the BZA ON _____.
Submitted to the other departments,
Board of Supervisors and Planning
Commission on _____.

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The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday Night, June 26, 1979. The following Board Members were present: Daniel Smith, Chairman; George Barnes; John Yaremchuk and Barbara Ardis. Mr. DiGiulian was absent.

The Chairman called the meeting to order at 8:30 P.M. led with a prayer by Mr. Barnes.

The Chairman called the scheduled 8 o'clock case:

8:00 - LORTON VOLUNTEER FIRE DEPARTMENT, appl. under Sect. 18-401 of the Ord. to allow construction of addition to fire station to 35 ft. from front lot line (50° ABP and not less than 40 ft. front yard required by Sect. 3-107), located 7705 Armistead Rd., Pohick River Subd., 107-4((4))10, 11 & 12, Lee Dist., 70,532 sq. ft., R-1, V-83-79.

As the applicant was not present for the meeting, the Board deferred the case until later in the meeting. At the conclusion of the meeting, the applicant was still not present. It was the consensus of the Board to defer the application until July 10, 1979 at 1:00 P.M. The Clerk was advised to make the applicant aware of the new time and date and the fact that he must be present at the hearing.

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Page 261, June 26, 1979, After Agenda Items

Christian Fellowship Church: S-196-77: The Board was in receipt of a request from Mr. Wilson Kirby for approval from the Board to reduce the number of parking spaces granted with S-196-77 and to eliminate the screening and fencing requirements. The church wanted to reduce the parking to 145 spaces. However, the Board was advised by Mr. Knowlton that one parking space must be provided for every four seats in the sanctuary. The letter indicated a seating capacity of 725; therefore, the minimum required parking would be 182.

It was the consensus of the Board to allow the reduction in parking to 182 parking spaces. However, with respect to the elimination of the screening and fencing requirements, it was the opinion of the Board that a public hearing would have to be conducted in order to accomodate this request.

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Page 261, June 26, 1979, After Agenda Items

Commonwealth Swim Club: The Board was made aware of numerous complaints received in the Zoning Enforcement Branch after the Commonwealth Swim Club conducted an after hours party. The Board was aware that permission had been granted to hold this party and that the Noise Ordinance was waived until 11:00 P.M. for this event.

It was the consensus of the Board that in view of the numerous complaints received by the Zoning Enforcement Branch that no more after hours parties be authorized for Commonwealth Swim Club for the remainder of the season. The Clerk was informed to so notify the club. The vote in the above matter was 3 to 1 (Ms. Ardis).

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Page 261, June 26, 1979, Scheduled case for

8:10 - FIRST CHURCH OF GOD, appl. under Sect. 3-202 of the Ord. to permit an addition to an existing church for education and fellowship space, located 4100 Hunt Road, Hunts Village Subd., 58-4((1))19B & 19, Annandale Dist., 58,620 sq. ft., R-1, S-109-79.

As the above-captioned application was pulled by the Planning Commission to be heard on July 18, 1979 at 8:15 P.M., the Board of Zoning Appeals deferred its hearing until July 31, 1979 at 8:10 P.M.

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Page 262, June 26, 1979, Scheduled case for

8:20 P.M. - BURGUNDY FARM COUNTRY DAY SCHOOL, INC., appl. under Sect. 8-301 of the Ord. to permit private school for general education, located 3700 Burgundy Road, 82-2((1))5, 6 & 8, Lee Dist., 23.235 acres, R-4, S-111-79.

This application was advertised for a continuation of a private school for general education. However the applicant's statement indicated that a continuance of the special permit for the pool is also requested which was not advertised. The attorney for the applicant requested the BZA to defer the hearing until such time as the pool request could also be advertised for public hearing.

Accordingly, the Board deferred the above-captioned application until July 31, 1979 at 8:45 P.M. for readvertising.

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Page 262, June 26, 1979, Scheduled case for

8:40 P.M. - CHARLES R. KUNSTBECK & JOHN C. HITCHCOCK, appl. under Sect. 3-E03 of the Ord. to permit a home professional (Real Estate) office, located 9326 Leesburg Pike, Kenmore Subd., 19-4((2))1, Dranesville Dist., 46,234 sq. ft., R-E, S-112-79.

Mr. Charles R. Kuntsbeck of Vienna informed the Board that Mr. Hitchcock would live in the house. However, both Mr. Kuntsbeck and Mr. Hitchcock would be the owners of the property. They planned to have no more than two employees as allocated by the Ordinance. Both Mr. Kuntsbeck and Mr. Hitchcock are licensed real estate agents. Mr. Kuntsbeck stated that the area would not be affected in any way insofar as traffic because they intended to meet clients only occasionally in the home. Sometimes listings can be taken without clients coming to the home. Under the County Code requirements, a special permit is required from the Board of Zoning Appeals and Mr. Kuntsbeck asked the Board to approve the use.

In response to questions from the Board, Mr. Kuntsbeck stated that they were the contract purchasers of the property. He stated that both he and Mr. Hitchcock were real estate brokers. He indicated that he was purchasing the property from Peter Solis and his wife. In response to the number of employees, Mr. Kuntsbeck stated that at present there were just the two of them. There would be a total of four persons operating the office. He stated that the other two persons would be real estate agents. In response to whether they already had an office in the County, Mr. Kuntsbeck replied they operated out of Alexandria. However, the building has been sold and they have to move by the end of the month.

In response to why he was relocating way out in the country, Mr. Kuntsbeck stated that he wished to serve more than just one area and wanted to expand to Reston, Sterling Park, etc. In response to why he didn't relocate in a commercial area rather than a residential one, Mr. Kuntsbeck stated that this property was right on Rt. 7 and would be easy for the clients to locate.

Mr. Yaremchuk stated that he was concerned about this application since it was in a subdivision and was the front of the subdivision. In a way, this would be a commercial use and he was concerned with what might be done to the rest of the homes along Rt. 7. Mr. Kuntsbeck stated that there are homes right across the street and a new subdivision to the west. Mr. Yaremchuk inquired if the home was on city water or connected to a well. Mr. Kuntsbeck stated that at present there was well but that they planned to hook up to the city water as the lender was requiring them to.

Chairman Smith inquired as to why they could not locate the required parking in some area other than the front yard. Mr. Kuntsbeck stated that there was a service road and a dedication of 40 ft.

Mr. Yaremchuk inquired if this would come under Site Plan Control and whether the applicant would have to build the service road. There was no report from Preliminary Engineering. Mr. Yaremchuk reminded the Board that several meetings have passed where the Board has not been receiving any staff report. Chairman Smith noted that this was the second time Mr. Yaremchuk had brought the matter of staff reports to the Board's attention. He stated that it would be helpful to the Board to have the comments from Preliminary Engineering.

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With respect to the parking area, Mr. Hitchcock of 2322 Freetown Court in Reston, informed the Board that the parking was located in this area as it was shielded by a group of trees. There is only open space in the back of the house. He indicated that they did not plan to change the outside of the house in any way. Mr. Hitchcock informed the Board that he was a bachelor presently living in Reston. He indicated that he lives a low profile. He stated that he goes to the client's homes mostly and often times meets them at a location near the subject property. He indicated that he and Mr. Kuntsbeck want to keep a low profile. They do not wish to change the general character of the area. He stated that there would probably be even less traffic than is generated for a residence.

There was no one else to speak in favor of the application. The following persons spoke in opposition to the application. Mr. William Bower, an adjacent property owner on the north side, stated that the whole area was zoned R-1. He informed the Board that there are presently seven special permits in this area. He indicated that this is a nice residential area. He stated that the Board should stop this application before the whole character of the area was changed. Mr. Bower stated that there was a petition sent to the Board from the Kenmore Subdivision. Everyone in the area but two signed the petition in opposition to the request.

In response to questions from the Board, Mr. Bower stated that he owned a lot consisting of one acre. He stated that the contiguous property Mr. Haskins has 2 1/2 acres. Another consideration or concern of Mr. Bower was the parking lot. It was his understanding that the parking would accommodate four cars. He indicated that the property slopes down towards his property and that he would get the runoff with water and chemicals on his property. He stated that he has a well on his property and it would be contaminated by the runoff. He informed the Board that the service road had been eliminated a long time ago when the road was widened. He further indicated that the area did not need any more traffic. Lyons Street is a dual lane road without a median strip. There are four lanes of traffic to go through in order to cross Rt. 7. Mr. Bower stated that there was too much traffic for this road already. In response to whether there have been any accidents in this area, Mr. Bower stated there have been several. Mr. Bower informed the Board that the area would welcome Mr. Hitchcock as a neighbor but they do not want a business there. In addition, several trees would have to be cut down in order to get the parking lot in which he also objected to.

The next speaker in opposition was Joe Gorman of 1266 Lyons Street. He stated that he lived at the bottom of the hill from Mr. Bower. He informed the Board that this was a highly residential area. This location is two miles from Tysons Corner and one mile from Walker Road which are the nearest commercial zones. Mr. Gorman stated that he was concerned about the traffic. He stated that he has been complaining about the traffic for some time as you cannot get out onto Rt. 7. Any additional traffic would only compound the problem.

Mr. Knowlton informed the Board that a sign would be allowed under the Ordinance but a sign permit must be applied for first. In addition, the only sign allowed would have to be attached to the building and the Ordinance would not allow a free-standing sign at all.

During rebuttal, Mr. Hitchcock stated that he envisioned his lifestyle to be the same as it is now in selling. He indicated that he would like the flexibility of having a place on Rt. 7. The subdivision is located behind the property. There would not be any additional cars in the subdivision. With respect to Lyons Road, he stated that he did not have any control there. There is already a service road. He stated that he picked this location because it had good visibility. He stated that he does not plan a commercial business. A church which is allowed in this district would have even more cars than what it is proposed for this particular use. He stated that there would not be a lot of traffic congestion than what is presently there. He indicated that he is divorced and his daughter would be the only other person living there. He stated that they would go out to show houses rather than people coming to them.

Mr. Yaremchuk stated that if he wanted to blend in with the subdivision that he could not have good visibility. Chairman Smith stated that there were 34 signatures on the petition in opposition to this request.

Ms, Ardis made the following motion:

WHEREAS, Application No. S-112-79 by CHARLES R. KUNSTBECK AND JOHN C. HITCHCOCK, under Section 3-E03 of the Fairfax County Zoning Ordinance to permit home professional office (real estate) on property located at 9326 Leesburg Pike, tax map reference 19-4((2))1, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on June 26, 1979; and

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

1. That the owner of the subject property is Peter & Chrisostomi Solos and that the applicants are the contract purchasers.
2. That the present zoning is R-1.
3. That the area of the lot is 46,234 sq. ft.

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

THAT the applicant has not presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance; and

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

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 264, June 26, 1979, Scheduled case for

8:45 - JOHN W. WILSON, III, appl. under Sect. 18-401 of the Ord. to
 P.M. allow construction of an addition to an existing dwelling to
 11.4 ft. from side lot line (20 ft. min. side yard required
 by Sect. 3-107), located 10300 Zion Drive, 68-4((1))31,
 Annandale Dist., 1.0 acre, R-1, V-123-79.

The required notices were in order. Mr. Russell Seward of the Fairfax County Department of Housing represented Mr. and Mrs. Wilson. Mr. and Mrs. Wilson presently reside at 10300 Zion Drive. Mr. Seward stated that they proposed to build an addition off of the back of the house which would come to 11.4 ft. from the side lot line. The money to build the addition was received from HUD on behalf of Mr. Wilson. The house at present is under the Code and Mr. Seward stated they were going to improve it and bring it up to Code. Some of the deficiencies were that the number of bedrooms did not meet the Health Department requirements for the number of occupants. There were other minor deficiencies.

Mr. Seward informed the Board that a building permit was issued to start construction. However, construction ceased when it was discovered that the zoning requirements had changed. In response to questions from the Board, Mr. Wilson stated that he has owned the property for six years. Mr. Seward stated that the house is located in the Annandale District. The nearest house is 75 yards away. He urged the Board to grant the request.

Mr. Jim Goings of the Sideburn Civic Association appeared before the Board to speak in support of the application. He informed the Board that the civic association had heard this request at its meeting of June 2 and had voted unanimously to support the application.

There was no one else to speak in favor of the application and no one to speak in opposition.

Page 264, June 26, 1979
 JOHN W. WILSON, III

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-123-79 by JOHN W. WILSON, III, under Section 18-401 of the Zoning Ordinance to permit addition to existing dwelling to 11.4 ft. from side lot line (20 ft. minimum required by Sect. 3-107) on property located at 10300 Zion Drive, tax map reference 68-4((1))31, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

R E S O L U T I O N

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 26, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 1.00 acres.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

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

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

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

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

Ms. Ardis seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 265, June 26, 1979, Scheduled case for

9:00 - PINECREST SWIM AND TENNIS CLUB, INC., appl. under Sect. 3-203 of the P.M. Ord. to amend S-99-76 to permit extension of the operating hours for pool and tennis courts and to allow the use of a public address system, located 12515 Pinecrest Road, Fox Mill Estates Subd., 25-2((1))32, Centreville Dist., 4.26077 acres, R-2, S-133-79.

Mr. Joe DeWitt of 12609 Magna Carta Road represented the Pinecrest Swim and Tennis Club. He stated that this was three part request. The club wants to extend the hours of operation starting at 7 A.M. Monday through Friday for the pool and from 10:30 to 9:30 P.M. on weekends. This is an extension of four hours on the weekdays. This would be to allow the cleaning of the pool, swim meets and cleaning prior to swim meets. The club has approximately 60 youngsters on the swim team. The regulations require meets before 10:30 A.M. which is before the club's official operating hours. The second part of the request is to permit the tennis players access to the courts one hour earlier each day. The present operating times for the tennis courts are from 7 A.M. to 10 P.M. He stated that most of the people who would like to use the courts must leave their house at 7 A.M. in order to get to work. They would like the opportunity to play tennis earlier in the morning starting at 6 A.M. The third part of the request is to put up a public address system which would allow the pool managers to call out addresses and could also be used during the swim meets. In response to questions from the Board regarding the location of the public address system, Mr. DeWitt stated that two speakers would be attached to the bathhouse structure. Mr. Yaremchuk stated that if they put 3 or 4 speakers and turned them towards the pool it would be easier than just one or two on the bathhouse blasting away. Mr. DeWitt stated that they would comply with any instructions from the Board. Chairman Smith suggested that the club contact someone who is expert in the field of public address systems. He stated that if only one area of the pool is used for swim meets, the club would probably wish to be able to turn off the other speakers.

There was no one else to speak in favor of the application. The following persons spoke in opposition. Mr. Souders of 12547 Pinecrest stated that his property bordered on the western boundary of the club's property. He stated

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 PINECREST SWIM AND TENNIS CLUB, INC.
 (continued)

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 that his primary opposition to the operating hours of the tennis courts was because he has to work nights. He stated that he felt 6 A.M. was too early to begin playing tennis. With respect to the extension of the operating hours for the pool, he stated that he would like to afford the youngsters the opportunity to practice for their swim meets provided that the club used the extension of the hours for this purpose only. Chairman Smith stated the hours of 7:00 to 9:30 would be for cleaning and swim lessons, etc. There would not be any amplification of sound allowed at this time. Mr. Souders informed the Board that the club had a public address system until last year. It was used to amplify the local radio stations. He has been promised by the pool manager that this will not occur again. In response to questions from the Board, Mr. Souders stated that he lived on lot 566 which was a cluster subdivision. His working hours are from 2 to 10 each day. He stated that he was advised with the original site plan approval that all lighting had to be confined to the site. The inspectors required the club to construct a windscreen which helped with the problem with the lighting. However, the windscreen blew down and was not replaced until just recently. He inquired as to how to protect himself from this in the future. He was advised by the Board to contact the Zoning Administrator. Mr. Souders informed the Board that the inspector sent out by the County just happened to be a member of the Pinecrest Swim and Tennis Club. Chairman Smith inquired if the lights were on tall poles. Mr. Souders stated that the lights were on tall poles. There are three to four tennis courts. Chairman Smith stated that perhaps the lights are not properly shielded if the effects of the lights are going over onto adjoining residential properties.

The next speaker in opposition was Mr. Homer Wheaton of 12603 Pinecrest Road. He stated that the public address system should not be used for people outside of the pool. He informed the Board that a party held earlier had created a considerable amount of noise. He stated that the noise didn't stop until 11 o'clock.

There was no one else to speak in opposition. During rebuttal, Mr. DeWitt stated that the public address system had been seized and carried away by vigilantes. The club has had parties. They always received permission for these parties ahead of time. He stated that the public address system was used for swim meets. He stated that they can control the swim meets. The club has had two meets this year from 9 A.M. to 10:30 in the morning and have used the public address system. Chairman Smith stated that if the Board allowed the public address system, it could only be used for emergencies and for swim meets. No music would be allowed. He stated that the public address system should not interfere with the lifestyles of the surrounding homeowners. With respect to the lighting, Mr. DeWitt stated there are not any poles. The lights are strung. One problem is that there is a master switch outside of the tennis courts. Somehow, someone has figured out how to bypass the master switch. Chairman Smith stated that should be corrected before the inspectors go out again.

Page 266, June 26, 1979
 PINECREST SWIM AND TENNIS CLUB, INC.
 R E S O L U T I O N

Board of Zoning Appeals

Ms. Ardis made the following motion:

WHEREAS, Application No. S-133-79 by PINECREST SWIM AND TENNIS CLUB, INC. under Section 3-203 of the Fairfax County Zoning Ordinance to permit extension of the operating hours for pool and tennis courts and to allow the use of a public address system on property located at 12515 Pinecrest Road, tax map reference 25-2(1)32, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on June 26, 1979; and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-2.
3. That the area of the lot is 4.2608 acres.
4. That compliance with the Site Plan Ordinance is required.

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

R E S O L U T I O N

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THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance; and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the ~~buildings~~ and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The hours of operation shall be: POOL: 7:00 A.M. to 9:30 P.M., Monday through Friday; 10:30 A.M. to 9:30 P.M. on Saturdays, Sundays and Holidays; with the operating time from 7:00 A.M. to 9:00 A.M. to be for lessons, swim team, and cleaning only. TENNIS: 7:00 A.M. to 10:00 P.M., seven days a week (unchanged from original permit).
8. Public Address System shall be erected to the satisfaction of the Zoning Administrator but in no event shall it be used before 9:00 A.M. nor shall it be used for musical amplification.
9. This special permit is subject to all provisions of S-99-76 not altered by this resolution.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

//There being no further business, the Board adjourned at 9:55 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

APPROVED: _____
Date

Submitted to the BZA on _____
Submitted to the other departments,
Board of Supervisors and Planning
Commission on _____.

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, July 10, 1979. All Board Members were present: Daniel Smith, Chairman (arriving at 11:15 A.M.); John DiGiulian, Vice-Chairman; George Barnes; John Yaremchuk and Barbara Ardis.

As Chairman Smith was not present for the beginning of the meeting, Vice-Chairman DiGiulian chaired the meeting. The meeting began at 10:15 A.M. led with a prayer by Mr. Barnes.

The Acting Chairman called the scheduled 10 o'clock case:

10:00 - LT. COL. CARL J. GRABHER, appl. under Sect. 18-401 of the Ord. to allow construction of carport addition to residence to 5 ft. from side property line, (7 ft. min. side yard required by Sect. 3-307 and Sect. 2-412), located 3114 Plantation Parkway, Mosby Woods Subd., 47-4((7))(Q)34, Providence Dist., 15,145 sq. ft., R-3, V-106-79.

The required notices were in order. Col. Grabher stated that he needed a variance to the 7 ft. setback in order to build a carport 5 ft. from the side lot line. He stated that he needed a walkaround area for when the car was housed in the carport. He informed the Board that his neighbors do not object to his plans. This would be a single car carport.

Mr. Barnes stated that this request was for a 2 ft. variance. He stated that the property was very odd-shaped and he did not see have any problems with it.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 268, July 10, 1979 Board of Zoning Appeals
LT. COL. CARL J. GRABHER

R E S O L U T I O N

In Application No. V-106-79 by LT. COL. CARL J. GRABHER under Section 18-401 of the Zoning Ordinance to allow construction of carport addition to residence to 5 ft. from side property line (7 ft. minimum side yard required by Sect. 3-307 and Sect. 2-412) on property located at 3114 Plantation Parkway, tax map reference 47-4((7))34, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 10, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 15,145 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and has an unusual condition in the location of the existing buildings on the subject property.

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

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

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

R E S O L U T I O N

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Ms. Ardis seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Smith being absent).

Page 269, July 10, 1979, Scheduled case for

10:10 - CLIFFORD L. MORGAN, appl. under Sect. 18-401 of the Ord. to allow conversion of carport to an attached garage to 6.8 ft. from side lot line such that total side yard would be 17.1 ft. (minimum side yard 8 ft. but a total minimum of 20 ft. required by Sect. 3-307), located 5906 Quintana Ct., Burke Station Square Subd., 78-4((8))151, Springfield Dist., 13,311 sq. ft., R-3(C), V-107-79.

The required notices were in order. Mr. Clifford L. Morgan of the above address stated that he proposed to convert an existing carport into a garage with a 5 ft. extension in the rear. A variance would be necessary because of the unusual lot size. The house was situated at an angle to the side lot lines in order for the house to face the court. As a result, the house sits too close to the setback lines. The enclosure of the carport is a desirable feature for the neighbors. The only enlargement would be 5 ft. added to the rear. Mr. Barnes examined the plats and stated that this lot was an odd shaped property. Mr. Morgan stated that the lot is very irregular. If the builder had situated the house parallel to the lot lines, there would not be any problems.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 269, July 10, 1979
CLIFFORD L. MORGAN

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-107-79 by CLIFFORD L. MORGAN under Section 18-401 of the Zoning Ordinance to permit conversion of carport to an attached garage to 6.8 ft. from side lot line such that total side yards would be 17.1 ft. (minimum side yard 8 ft. but total minimum of 20 ft. required by Sect. 3-307) on property located at 5906 Quintana Court, tax map reference 78-4((8))151, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 10, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3(C).
3. The area of the lot is 13,311 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and has an unusual condition in the location of the existing buildings on the subject property.

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

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

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R E S O L U T I O N

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

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

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Smith being absent).

Page 270, July 10, 1979, Scheduled case for

10:20 - RICHARD T. & SUE D. WRIGHT, appl. under Sect. 18-401 of the Ord. to A.M. allow construction of an attached garage to 5 ft. from a side lot line (20 ft. min. side yard required by Sect. 3-107), located 4913 Brook Hills Drive, Brook Hills Estates Subd., 71-3((1))3A, Annandale Dist., 2.6426 acres, R-1, V-108-79.

The required notices were in order. Mr. Richard Hobson, an attorney, represented Mr. and Mrs. Wright. He stated that the request was for construction of an attached garage within the required side yard. The Zoning Ordinance requires a minimum of 20 ft. and the Wrights would like to construct a one story attached garage to 5 ft. from the side lot line. Mr. Hobson stated that the property is irregularly shaped and has a pond on it. The house was built very close to the lot line. There is a topographic problem in that the lot slopes steeply. Mr. Barnes stated that the lot has two acres but that it appeared to all be utilized. Mr. Hobson gave the Board a letter from all of the consenting neighbors of the Wrights to be placed in the record. The people who signed the letter were: Downey; Harris; Capone; Graff; Martin; Schaeffer and Stein. Mr. Hobson stated that there was not any other way to construct the garage. The other side of the house was the bedroom area. He showed the Board photographs of the location for the garage.

In Summary, Mr. Hobson stated that because of the unusual circumstances of the lot and the location of the pond, house, and the septic field, and the fact that the house was located so close to the lot line, that the Wrights would be deprived of the reasonable use of their property if the variance was denied. Mr. Hobson stated that the variance requested was of a minimal amount; only permitting the turning radius necessary in order to drive into the garage.

There was no one to speak in favor of the application and no one to speak in opposition.

R E S O L U T I O N

In Application No. V-108-79 by RICHARD T. & SUE D. WRIGHT under Section 18-401 of the Zoning Ordinance to allow construction of attached garage to 5 ft. from the side lot line (20 ft. minimum side yard required by Sect. 3-107) on property located at 4913 Brook Hills Drive, tax map reference 71-3((1))3A, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 10, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 2.6426 acres.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

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

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

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

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

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Smith being absent).

Page 271, July 10, 1979, Scheduled case for

10:30 - JOHN P. & JUDITH S. O'REILLY, appl. under Sect. 18-401 of the Ord. to allow construction of deck to 16 ft. from rear lot line (25 ft. minimum rear yard required by Sect. 3-307), located 8596 Coral Gables Lane, Carters Green Subd., 29-3((14))22, Centreville Dist., 9,984 sq. ft., R-3, V-119-79.

As the required notices were not in order, the Board deferred the application until August 7, 1979 at 11:30 A.M.

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Page 271, July 10, 1979, Scheduled case for

10:40 - RUSSELL E. OLIVER, appl. under Sect. 18-401 of the Ord. to allow subdivision into 3 lots such that proposed lot 1 (corner lot) would have a width of 175.45 ft. (min. 225 ft. required by Sect. 3-E07) and proposed lot 2 would have a width of 30 ft. (min. 200 ft. required by Sect. 3-E07), located 1126 Towlston Road, 19-2((1))70, Dranesville Dist., 6 acres, R-E, V-113-79.

The required notices were in order. Mr. Russell E. Oliver of 1103 Towlston Road in McLean informed the Board that the subject property has been in his family for 100 years. He stated that he has been working with Fairfax County for 1 1/2 years trying to subdivide this property. However, a variance is necessary before the subdivision can be approved. Mr. Oliver stated that he has notified the required ten property owners. He stated that he visited the people and they were aware of his plans. Mr. Oliver stated that his father was born and raised on this property. Mr. Barnes stated he remembered when there was a store on the property. Mr. Oliver stated that the store would be removed.

Mr. Michael Reddin of MAPS spoke in favor of the application. He informed the Board that he has been working with Preliminary Engineering. The proposed 30 ft. pipestem is an existing 30 ft. easement. The only change would be a right turn from the easement to serve the middle lot. He stated that he has been working with Steve Reynolds and Oscar Hendrickson of Preliminary Engineering for some time.

Mr. DiGiulian inquired if the existing easement was in use at present. Mr. Reddin replied that it was and that it serves property directly to the rear of Mr. Oliver's cousin.

Mr. Yaremchuk stated that he was concerned about the 30 ft. pipestem with the other access for lot 2. He inquired as to the width of the other access and was informed that it was 15 ft. wide. Mr. Yaremchuk stated that he was concerned about the turning radius for fire equipment.

There was no one else to speak in favor of the application. The following person spoke in opposition to the application. Mr. Walt Edwards represented his parents who lived next door. He informed the Board that his parents are in Germany at the present time. He stated that his parents were opposed to this request. They bought in this subdivision knowing that the Zoning Ordinance required 200 ft. frontage for single family dwellings. He stated that his parents wanted the property to remain as it is now. They are protesting any kind of a cutting up of the property. He indicated that his parents are concerned about apartments being built on the property.

Mr. Edwards was informed by the Board that the request was for two lots with one house on each lot. This rerequest is in compliance with the Master Plan. Apartments could not be built as this was zoned for single family detached dwellings.

There was no one else to speak in opposition.

R E S O L U T I O N

In Application No. V-113-79 by RUSSELL E. OLIVER under Section 18-401 of the Zoning Ordinance to allow subdivision into 3 lots such that proposed lot 1 (corner lot) would have a width of 175.45 ft. (minimum 225 ft. required by Sect. 3-E07) and proposed lot 2 would have a width of 30 ft. (minimum of 200 ft. required by Sect. 3-E07) on property located at 1126 Towlston Road, tax map reference 19-2((1))70, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 10, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 6 acres.
4. That the applicant's property is exceptionally irregular in shape.

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

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

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

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Smith being absent).

The Chairman called the scheduled 10:50 A.M. case. As the applicant was not present, the Board recessed until 11:00 A.M.

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Page 273, July 10, 1979, Scheduled case for

10:50 - MARTIN JARVIS, JR., appl. under Sect. 18-401 of the Ord. to allow resubdivision of 2 parcels into 3, of which proposed lot 1-B would have a width of 37.99 ft. (200 ft. min. lot width required by Sect. 3-E07), located Gunston Hall Road, Robmont Subd., 114-4((4))1 & 3, Mt. Vernon Dist., 14.6523 acres, R-E, V-115-79.

Mr. Ken White, an engineer, represented the applicant. The required notices were in order. Mr. White stated that Mr. Jarvis owns a 5.6 acre of land. He needs to create a building site access with a 37.99 ft. pipestem lot. Due to the irregular shape of the property, this pipestem drive is the only feasible way of dividing the property into the three lots.

Mr. DiGiulian questioned the amount of land under consideration. The plat showed 14+ acres and the applicant indicated it was 5.6 acres. Mr. White informed the Board that some of the land had been sold. Mr. White stated that there were only two perc sites. One is on lot 1 and the other is on lot 2A. There would only be two building sites. Mr. Jarvis will build a house on the 2.7 acre parcel and needs to create access to it. Ms. Ardis inquired if lot 1-A perced. Mr. White stated that there was one. Mr. DiGiulian stated that with only one perc site for lot 1-A, then this would only be for one site. He inquired if there was any other place to get a septic approval. Mr. White stated that there was not.

There was no one else to speak in favor of the application and no one to speak in opposition to the application.

Page 273, July 10, 1979
MARTIN JARVIS, JR.

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-115-79 by MARTIN JARVIS, Jr. under Section 18-401 of the Zoning Ordinance to allow resubdivision of 2 parcels into 3 lots of which proposed lot 1-B would have a width of 37.99 ft. (200 ft. min. lot width required by Sect. 3-E07), on property located at Gunston Hall Road, tax map reference 114-4((4))1 & 3, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 10, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 14.6523 acres.
4. That the applicant's property is exceptionally irregular in shape and has an unusual condition in limited septic availability on lot 1-A.

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

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

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

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Smith being absent).

Page 274, July 10, 1979, Scheduled case for

11:00 - GERTRUDE B. WALKER, appl. under Sect. 18-401 of the Ord. to allow an addition to an existing dwelling to 22.5 ft. of street line (30 ft. min. front yard required by Sect. 3-307), located 1404 Cedar Avenue, West McLean Subd., 30-2((7))(5)38 & 39 & 40, Dranesville Dist., 11,250 sq. ft., R-3, V-117-79.

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Mrs. Gertrude Walker of the above address informed the Board that she was seeking a variance for a 7 1/2 ft. road to build a permanent addition up to the existing wall of the house. This would be out to 22.5 ft. of the front lot line. The Zoning Ordinance requirements had changed since the house was originally built. The house was built sometime in the 1940s. At the present time, there is a 30 ft. setback requirement. Mr. DiGiulian stated that it appeared all the applicant was doing was filling out the space from the house to the existing carport.

In response to questions from the Board, Mrs. Walker stated that she has lived at this address since 1973. She stated that the addition would blend in with the present house. She plans to use asbestos shingle and wide siding. Mr. Barnes stated that these are very small lots. Mrs. Walker stated that this was a corner lot and that the house was too small. Mr. Yaremchuk stated that this was a substandard lot. Apparently, the three lots were combined in order to build on originally. Mr. Covington informed the Board that under the old Zoning Ordinance, the Zoning Administrator could allow additions to go to the existing structure without a variance. The present Zoning Ordinance does not allow this without a variance.

There was no one else to speak in favor of the application and no one to speak in opposition to the application.

Page 274, July 10, 1979
GERTRUDE B. WALKER

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-117-79 by GERTRUDE B. WALKER under Section 18-401 of the Zoning Ordinance to allow addition to an existing dwelling to 22.5 ft. of street line (30 ft. minimum front yard required by Sect. 3-307) on property located at 1404 Cedar Avenue, tax map reference 30-2((7))(5)38, 39 & 40, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 10, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 11,250 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including long and narrow.

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

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

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

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

R E S O L U T I O N

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Ms. Ardis seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Smith being absent).

Page 275, July 10, 1979.

Chairman Smith arrived at 11:15 A.M. and assumed the Chair.

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Page 275, July 10, 1979, Scheduled case for

11:10 - RONALD W. WHITE, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to existing dwelling to 20.7 ft. from front lot line (25 ft. min. front yard required by Sect. 3-207) located 2606 Armada Street, Fox Mill Estates, Subd., 25-2((6))670, Centreville Dist., 21,346 sq. ft., R-2(C), V-118-79.

Mr. Ronald White appeared before the Board and stated that he was requesting a variance to the setback in order to build a garage on the westerly side of the dwelling. He stated that his house does not sit squarely on the property. It sits at an angle. As a result, a corner of the addition would be 20.7 ft. from the front lot line. He stated that he would like a variance in order to place a double garage next to the house at the end of the existing driveway.

There was no one else to speak in favor of the application and no one to speak in opposition.

Page 275, July 10, 1979,
RONALD W. WHITE

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-118-79 by RONALD W. WHITE under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to existing dwelling to 20.7 ft. front lot line (25 ft. min. front yard required by Sect. 3-207) on property located at 2606 Armada Street, tax map reference 25-2((6))670, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 10, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-2(C).
3. The area of the lot is 21,346 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

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

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

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

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

R E S O L U T I O N

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith)

 Page 276, July 10, 1979, After Agenda Items

Meadowbrook Associates, S-306078: The Board was in receipt of a letter from Mr. Russell Rosenberger dated June 25, 1979, asking the Board for a further deferral of the application of Meadowbrook Associates. Mr. Barnes moved that a 45 day limit be set on the deferral. Mr. DiGiulian seconded the motion. The motion passed by a vote of 4 to 0 (Mr. Yaremchuk being absent).

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Page 276, July 10, 1979, After Agenda Items

The Clerk was requested to cancel the BZA meeting for September 4, 1979.

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Page 276, July 10, 1979,

The Board took a brief recess at 11:20 and reconvened at 11:45 A.M.

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Page 276, July 10, 1979, Scheduled case for

11:30 - JUDITH WEBSTER CLARKE, appl. under Sect. 3-303 of the Ord. to
 A.M. permit continued operation of school of general education, located
 3527 Gallows Road, Holmes Run Acres Subd., 60-1((1))25, Providence
 Dist., 2.8385 acres, R-3, S-114-79.

As the required notices were not in order, the Board deferred this application until August 7, 1979 at 11:40 A.M.

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Page 276, July 10, Scheduled case for

11:40 - FRANCES F. BLOOM, appl. under Sect. 3-203 of the Ord. to permit
 A.M. beauty shop, located 8612 Madley Court, Rolling Valley Subd.,
 89-1((6))325, Springfield Dist., 12,650 sq. ft., R-2, S-116-79.

Mrs. Frances Bloom of the above address informed the Board that her property was zoned R-2 and that the existing house was 12 years old. She stated that she is asking for a special permit in order to operate a home beauty shop. Mrs. Bloom stated she was licensed in the State of Virginia and would be the sole operator. She stated that she would be serving the general vicinity of her home on an appointment basis only. The hours would be 9 A.M. to 5 P.M. for four days a week and between 1 P.M. to 9 P.M. on the other day. She stated that she would serve five to eight patrons a day. The maximum vehicles per day would be eight. She stated that she estimated a significant number of people to be from the immediate community and so would be within walking distance. She stated that there would not be any exterior evidence that her home was used for this purpose. Mrs. Bloom informed the Board that she and her husband bought the house a year ago. She stated that she had asked the realtor to show them homes which could have a beauty shop. She stated that she choose a corner lot so as to have access.

In response to questions from the Board, Mrs. Bloom stated that she has been involved in state competitions. As such, she does not work an assembly line type of operation and prefers a small number of clients per day. She stated that her main reason for setting up the beauty shop was to keep in touch with her profession. She stated that she wants to be home with her children and wants to work in her home. She stated that she does not want to go into business on a large scale. Again, she stated that her hours would be 9 A.M. to 5 P.M. four days a week and from 1 P.M. to 9 P.M. on the other. She stated that she has two children, ages 10 and 15. She stated that she would not have any Saturday or Sunday appointments. She stated that she would abide by any conditions or limitations would care to place on this use in order to keep her hand in this occupation.

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Mr. Barnes inquired if she had a car. Mrs. Bloom replied that they owned two cars. She stated that if she had to, she would sell one of the cars if the permit depended on it. She informed the Board that when her children are grown, she would open a shop in a commercial area. Chairman Smith inquired as to where she was working at the present time. Mrs. Bloom stated that she was not working anywhere. The last place was in Nebraska. She informed the Board that she has lived here for a year. Chairman Smith inquired if she passed the state boards for the State of Virginia. Mrs. Bloom stated that she had passed state boards for the States of Pennsylvania, Maryland, Nebraska, and Virginia. She informed the Board that she had taught hairdressing in Nebraska.

There was no one else to speak in favor of the application. The following person spoke in opposition to the application. Mr. Charles Clements of 6907 Lamont Drive in Springfield. He informed the Board that he lived across the street. He stated that he was the main spokesperson for the Rolling Valley Subdivision. He stated that they opposed the application. He stated that the residents have lived here from 5 to 12 years. He presented the Board with a petition from the residents asking that the special permit be denied. Mr. Clements informed the Board that he has only lived here for one year. He stated that he bought in an established neighborhood and did not want any commercial enterprises across from his home. He stated that he would not even want this special permit granted for a one day a week operation and urged the Board to deny the request. He stated that this was not the right place for a business. He informed the Board that he has small children but his wife goes out to work part-time in order to be with the children. Mr. Barnes inquired as to what his objections were since there would only be a maximum of eight patrons per day. Mr. Clements stated that the children in the area would be going to school during the shop operating hours.

During rebuttal, Mrs. Bloom stated that the neighbors who abutt her property were in favor of the application. Mrs. Bloom stated that she did not want this to be neighborhood fight but urged the Board to grant the use with whatever conditions were fair. Chairman Smith stated that there did not appear to be a desire for this service based on the opposition presented in the petitions. He stated that it appeared that the applicant did not give much thought to this application in view of the fact that she had not lived here very long. Mrs. Bloom stated that the closest commercial beauty shop was two miles away. She stated that she had given this application a great deal of thought.

There was no one else to speak in opposition to the application.

R E S O L U T I O N

Ms. Ardis made the following motion:

WHEREAS, Application No. S-116-79 by FRANCES P. BLOOM under Section 3-203 of the Fairfax County Zoning Ordinance to permit beauty shop on property located at 8612 Madley Court, tax map reference 89-1((6))325, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public, and a public hearing by the Board of Zoning Appeals held on July 10, 1979; and

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

1. That the owner of the subject property is Gene C. & Frances P. Bloom.
2. That the present zoning is R-2.
3. That the area of the lot is 12,650 sq. ft.

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

THAT the applicant has not presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

R E S O L U T I O N

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 2 (Mr. DiGiulian and Mr. Barnes).

Page 278, July 10, 1979, Scheduled case for

12:00 - TIFFANY TALENT, INC. T/A MR. SMITH'S OF GEORGETOWN, appl. under P.M. Sect. 18-301 of the Ord. to appeal Zoning Administrator's decision that existing lighting on the exterior front of a restaurant constitutes a prohibited sign under Sect. 12-104, located 8369 Leesburg Pike, 29-3((1))36D, Centreville Dist., 9,214 sq. ft., C-7, A-86-79. (Deferred from June 5, 1979 for Notices).

The required notices were in order. Mr. James F. Haight, President of Tiffany Talent T/A Mr. Smith's of Georgetown appeared before the Board to present the appeal. Mary Drickey of the County Attorney's Office represented the Zoning Administrator.

For further details regarding this hearing, please refer to the verbatim transcript located in the file in the Clerk's Office.

Following testimony presented at the hearing, Mr. Yaremchuk moved that the Board of Zoning Appeals overrule the Zoning Administrator. Mr. Barnes seconded the motion. The basis for the motion was that the Zoning Ordinance does not define what constitutes a string of lights. It was the majority opinion of the Board that the existing lighting was attractive and was not related to lighting used in connection with used car lots. This motion passed by a vote of 3 to 2 (Mr. Smith and Ms. Ardis voting no).

Page 278, July 10, 1979, Scheduled case for

12:15 - SPRINGFIELD ACADEMY, appl. under Sect. 3-303 of the Ord. to permit P.M. continued operation of a private school of general education, located 5236 Backlick Road, Leewood Subd., 71-4((3))11, Annandale Dist., 4.7823 acres, R-2, S-87-79. (Deferred from June 5, 1979 for Notices).

Ms. Doris Dobbs of 3533 Marvin Street in Annandale represented Springfield Academy. She informed the Board that she was the administrator of the academy which is owned by Jack H. & Delores E. Merritt. The school has been in operation since 1960. She stated that they are asking for a renewal of the use permit that they have been under for the past six years. The operation would be the same. There are no changes proposed. She informed the Board that the school operates from 7 A.M. to 6 P.M., Monday through Friday. There is never more children there than allowed by the State and the resolution passed by the Board of Zoning Appeals. She stated that the school has 12 employees. They are not there all at one time but there is at least six employees at any one time. She informed the Board that the school is licensed by the State of Virginia as well as the County of Fairfax. The traffic is normal. There is a traffic light at the entrance to the school. There is plenty of parking for the school. She stated that there is no opposition to this school. Mrs. Dobbs stated that they have 42 students during the summer. There is 50 all day students, and about 25 to 30 part-time students. The special permit allows no more than 126 children at any one-time. Fairfax County allows 90 all day students. Ms. Ardis inquired if the 90 full time was included in 126 limitation and was informed it was.

There was no one else to speak in favor of the application and no one to speak in opposition.

Page 278, July 10, 1979
SPRINGFIELD ACADEMY

Board of Zoning Appeals

R E S O L U T I O N

Ms. Ardis made the following motion:

WHEREAS, Application No. S-87-79 by SPRINGFIELD ACADEMY under Section 3-303 of the Fairfax County Zoning Ordinance to permit continued operation of a private school of general education on property located at 5236 Backlick Road, tax map reference 71-4((3))11, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

R E S O L U T I O N

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WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on July 10, 1979; and

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

1. That the owner of the subject property is Jack H. & Delores Merritt.
2. That the present zoning is R-2.
3. That the area of the lot is 4.7823 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The number of students shall be 90 full time or 126 part time for four hours.
8. The hours of operation shall be 7 A.M. to 6 P.M., Monday through Friday.
9. This permit is granted for a period of three (3) years with the Zoning Administrator empowered to grant three (3) one year extensions.
10. This special permit is subject to all provisions of S-70-73 not altered by this resolution.

Mr. Barnes seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 279, July 10, 1979, Scheduled case for

12:30 P.M. - ASHLEY C. SPEIR, JR., appl. under Sect. 18-401 of the Zoning Ordinance to allow construction of carport addition to existing dwelling to 3.2 ft. from a side lot line (7 ft. min. side yard required by Sect. 3-307 and Sect. 2-412), located 7701 Arlen Street, Cedar Crest Subd., 70-2((5))93, Annandale Dist., 12,417 sq. ft., R-3, V-130-79.

Mr. Ashley C. Speir of 7701 Arlen Street in Annandale stated that he wished to build a carport attached to the house in order to eliminate the hazard of walking on ice and snow during inclement weather. He informed the Board that he has two artificial knees, an artificial shoulder and his feet have been operated on twice due to rheumatism. Chairman Smith stated that he could understand the health problem but inquired as to the hardship land use wise.

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Mr. Speir stated that the edge of the house is 15.2 ft. from the side property line. The carport addition would only be 8.2 ft. wide if he complies with the Zoning Ordinance requirements. He informed the Board that he owns a 1972 Montego and a 1973 Chevrolet Station wagon. The widths of the cars are 78" and 79.5". Due to the physical problems, Mr. Speir stated that he has to lunge out of cars which is extremely painful. In order to lunge out of an car, the door has to be fully opened. There is a possibility that he will be confined to a wheelchair in the near future. He stated that the wheelchair would require more room and should be equal to the width of the car door. Mr. Speir stated that was how he arrived at the figure necessary for the car-pool. He stated that he needed a variance to allow construction within 3.2 ft. of the property line.

There was no one else to speak in favor of the application and no one to speak in opposition.

R E S O L U T I O N

In Application No. V-130-79 by ASHLEY C. SPEIR, JR. under Section 18-401 of the Zoning Ordinance to permit construction of carport addition to existing dwelling to 3.2 ft. from a side lot line (7 ft. minimum side yard required by Sect. 3-307 and Sect. 2-412) on property located at 7701 Arlen Street, tax map reference 70-2((5))93, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 10, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 12,417 sq. ft.
4. That the applicant's property is exceptionally irregular in shape including narrow.

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

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

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

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

Mr. Yaremchuk seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

12:45 - CHRYSLER INDUSTRIAL CORPORATION, appl. under Sect. 18-401 of the A.M. Ord. to allow construction of building in I-4 portion of site such that there will be a floor area ratio of 1.0 (max. floor area ratio of 0.70 required by Sect. 5-407), located 2726 Merrilee Dr., 49-1((16))5, 6 & 7, Providence Dist., 45,131 sq. ft., I-4 & I-5, V-104-79.

At the request of the applicant, this matter was deferred until August 7, 1979
at 11:45 A.M.

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Page 281, July 10, 1979, Scheduled case for

1:00 - LORTON VOLUNTEER FIRE DEPARTMENT, appl. under Sect. 18-401 of the
P.M. Ord. to allow construction of addition to Fire Station to 35 ft. f
from front lot line (50⁰ ABP and not less than 40 ft. front yard
required by Sect. 3-107), located 7705 Armistead Rd., Pohick River
Subd., 107-4((4))10, 11 & 12, Lee Dist., 70,532 sq. ft., R-1,
V-83-79.
(Deferred from June 26, 1979 for lack of applicant)

Mr. Martin Jarvis appeared before the Board to represent the Lorton Volunteer
Fire Department. Mr. Jarvis stated that there are 12 to 15 men working out
of this building in extremely crowded conditions. He stated they wished to
expand the present building. Chairman Smith stated that this request was for
the general health and welfare of the community. Mr. Jarvis stated that the
present building is situated such that it is not a true rectangle. They plan
to square off the building. It is impossible to expand the building on the
other side of the building because of the ramps and runways for the building.
A variance is necessary in order to expand. Mr. Jarvis informed the Board
that the Board of Supervisors had approved the special exception on June 25,
1979 in connection with this request.

There was no one else to speak in favor of the application and no one to
speak in opposition.

Page 281, July 10, 1979

Board of Zoning Appeals

LORTON VOLUNTEER FIRE DEPARTMENT

R E S O L U T I O N

In Application No. V-83-79 by LORTON VOLUNTEER FIRE DEPARTMENT under Section
18-401 of the Zoning Ordinance to permit construction of addition to fire
station to 35 ft. from front lot line (50⁰ ABP and not less than 40 ft. front
yard required by Sect. 3-107) on property located at 7705 Armistead Road, tax
map reference 107-4((4))10, 11 & 12, County of Fairfax, Virginia, Ms. Ardis
moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by
the Board on July 10, 1979; and deferred from June 26, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 70,532 sq. ft.
4. That the applicant's property has an unusual condition in the location
of the existing buildings on the subject property as well as inability to use
the other side of the rear area because of existing equipment ramps, etc.

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

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

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

1. This approval is granted for the location and the specific structure
indicated in the plats included with this application only, and is not
transferable to other land or to other structures on the same land.

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2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 5 to 0.

Page 282, July 10, 1979, After Agenda Items

Ox Hill Baptist Church, S-55-79: The Board was in receipt of a letter from David W. Avjean of the J. E. Rinker & Associates requesting approval to relocate the proposed building in order to save existing cedar trees along the southerly property line of the site.

It was the consensus of the Board that this relocation was a minor engineering change and approval was granted.

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Page 282, July 10, 1979, After Agenda Items

Commonwealth Swim Club, Inc. S-75-79: The Board was in receipt of a letter from Commonwealth Swim Club regarding the action taken by the Board of Zoning Appeals on June 26, 1979 that no future after hours parties be authorized in view of the complaints received as a result of a party on June 23, 1979. The attorney for the swim club, Mr. Kendrick Sanders, requested the Board to allow the club an opportunity to present their views on this matter.

Mr. Claude Kennedy of the Zoning Enforcement Branch was present to outline to the Board details which preceded the action taken by the Board. He stated that he had spoken to Sgt. Perkins of the West Springfield Station who was the responding officer to the citizens complaints on June 23, 1979. Sgt. Perkins had requested the club to reduce the volume of the loudspeaker. There was no time mentioned in Sgt. Perkins as to when he made this request.

Chairman Smith stated that the original 1968 resolution granting the special permit stated that all noise be contained to the site. He stated that the Board curtailed the after hours parties for the balance of the summer. He indicated that Commonwealth Swim Club could come back next year and request pool parties.

Mr. Kendrick Sanders inquired if there was a system for having the noise level checked. Claude Kennedy stated that the permit granting the after hours party included a noise waiver until 11:00 P.M. Mr. Covington stated that this was a policy that was granted for the after hours swim parties. Ken Sanders stated that the Board acted on the policy in 1972 to cover all the swim clubs with this policy. Chairman Smith stated that policy was only for clubs granted after that date and did not cover the ones granted previously. Chairman Smith explained the reason for the Board cancelling further pool parties for the remainder of the year was because of the memorandum sent by the Zoning Enforcement Branch.

Mr. Sanders stated that the club thought they were operating in compliance with the approval of the Board and wants to operate within the confines of the permit. He stated that the club was willing to live with any restraints put upon them. However, the attendance at the party on June 23, 1979 was very low. Mr. Sanders inquired if other clubs had the noise level checked by the County during parties. Chairman Smith informed Mr. Sanders that the Board restricts noise from 9 A.M. to 9 P.M. and that a waiver could be granted until 11:00 P.M. for after hours parties.

Ms. Ardis stated that she was concerned about the citizens calls regarding parking on the site. She thought it might be of interest to the club to have someone who monitored the party on June 23rd, come in to talk to the Board.

Mr. Robert Tounessen of 5104 Walport Lane appeared to speak before the Board. He stated that his property was adjacent to the club. He welcomed anyone to come out to his property and observe for themselves what goes on during one of the after hours parties. He stated that there were tire marks all over the parking lot as well as a lot of other physical evidence. He stated that something needs to be done as this was the second time in a month he had appeared before the Board with regard to Commonwealth Swim Club. He informed the Board that he was the one who called the police on Sunday evening when the party

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was going on. He stated that the youngsters were making wheelies in the parking lot. He also indicated that he did not feel it was his position to have to police the club parking lot.

Another concern of Mr. Tounessen was that the County inspectors do not work at night and, therefore, could not witness the disturbances. He stated that the pool operators are irresponsible. He stated that he had gone to the club to correct these problems as it was the pool's responsibility to control these youngsters. Chairman Smith stated that he felt that the Zoning Administrator could ask the inspectors to check the parking lot situation as much as possible.

Mr. Wells from Commonwealth Swim Club stated that the pool was contracted out to a pool management company and they were the ones to manage the after hours party. In response to Mr. DiGiulian's question as to whether there was a manager present as well as the lifeguards, Mr. Wells stated that the lifeguards perform both functions. Mr. DiGiulian inquired as to the distance of the parking lot from the pool. In response, Mr. Wells stated that the parking lot was about 125 ft. away across a deep ravine and a creek and was a bit cut off from the pool.

Mr. Wells stated that the June 23, 1979 started the initial protests from the neighbors. There were allegations of parking off the site. He stated that the club has no authority to regulate the parking anywhere off the site. He stated that the club encourages its members to park on the site. When asked if the club members do park off the facility, Mr. Wells stated that they do. He was informed by Chairman Smith that they were in violation of the use permit then as parking off the site was prohibited by the Zoning Ordinance. Mr. Wells stated that he could not identify every car. Chairman Smith stated that the club was expected to make sure that their members park on the site. He stated that the members should be made aware that if they do not park on the site that the club would be in danger of losing their special permit. He stated that the club would have to formulate ways of complying with the special permit.

Mr. Wells informed the Board that he was in charge of the party on June 23rd and that he was not approached by the police. He stated that there were people in the pool and in the parking lot. He stated that the club cannot control the youngsters who allegedly threw beer bottles in the neighborhood. He stated that there is very little the club can do about that. As far as the reckless driving, again, the club cannot control that either. He stated that he had serious doubts that there was any reckless driving that night in the parking lot as there had been a snafu and the chain was placed across the parking lot at 9 o'clock.

In order to help correct the situation, Chairman Smith and the Board decided to hold a reevaluation hearing on September 25, 1979 at 8:00 P.M. It was the decision of the Board to allow the club to conduct four more after hours parties and that one of these parties would be monitored by the Zoning Inspector who would report back to the Board as to the results of the spot inspection. Ms. Ardis made the motion to allow the reevaluation hearing and the after hour parties. Mr. Barnes seconded the motion. The motion passed by a vote of 4 to 1 (Mr. Smith).

// There being no further business, the Board adjourned at 2:05 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

APPROVED: _____
Date

Submitted to the Board on _____
Submitted to the other departments,
Board of Supervisors and Planning
Commission on _____

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, July 17, 1979. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes, John Yaremchuk and Barbara Ardis.

The Chairman called the meeting to order at 10:15 A.M. Mr. Barnes led the prayer.

The Chairman called the scheduled 10 o'clock case:

10:00 - WILLIAM A. BOHN, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to existing dwelling 17.9 ft. from front property line (30 ft. minimum front yard required by Sect. 3-307), located 8136 Kidd Street, Mt. Vernon Valley Subd., 101-3((18))(6)16, Lee Dist., 13,066 sq. ft., R-3, V-110-79.

Mr. William A. Bohn of the above address informed the Board that ever since he moved into his house eight years ago, there has been a need for additional storage space as his family has grown. He stated that he needed space for a washer and dryer. There is no basement in the house and little space in the attic. This proposed addition for a garage will be 17.9 ft. from the property line. The house is situated on a corner lot. Because of the setback of a minimum of 12 ft. and a total overall side yard of 24 ft., the side yard is not adequate for this addition. There is a shed in the rear yard as well as an above ground pool. The location of the utilities underground make it impossible to build in that area. Mr. Bohn informed the Board that the only logical place for him to build the addition was where he proposed it. A variance is necessary since the area he decided to build on is considered a front setback area under the Zoning Ordinance rather than a side yard.

There was no one to speak in favor of the application and no one to speak in opposition. During questioning, Mr. Bohn stated that the proposed addition would not interfere with site distance in the intersection. He stated that the house sits far enough back that anyone could see driving down the street.

Page 284, July 17, 1979
WILLIAM A. BOHN

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-110-79 by WILLIAM A. BOHN under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to existing dwelling 17.9 ft. from front property line (30 ft. minimum front yard required by Sect. 3-307) on property located at 8136 Kidd Street, tax map reference 101-3((18))(6)16, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 17, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 13,066 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

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

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

R E S O L U T I O N

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

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1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 285, July 17, 1979, Scheduled case for

10:10 - WILLIAM E. WOODWARD, appl. under Sect. 18-401 of the Ord. to allow enclosure of an existing carport into garage to 9.3 ft. from side lot line (12 ft. min. side yard required by Sect. 3-307), located 4910 Bexley Lane, Ashford Subd., 69-4((9))20, Springfield Dist., 11,258 sq. ft., R-3, V-121-79.

Mr. Woodward informed the Board that his property was situated in the Annandale District rather than the Springfield District. The Clerk was requested to make that change in the record. Mr. Woodward informed the Board that the carport is existing and he wished to enclose it for storage and to make his house more compatible with the neighborhood. Most of the houses in this area have garages. In response to questions from the Board, Mr. Woodward stated that he has owned the property since September of 1968.

There was no one to speak in favor of the application and no one to speak in opposition.

R E S O L U T I O N

In Application No. V-121-79 by WILLIAM E. WOODWARD under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport into garage to 9.3 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307) on property located at 4910 Bexley Lane, tax map reference 69-4((9))20, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 17, 1979; and

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

- 1. That the owner of the property is the applicant.
- 2. The present zoning is R-3.
- 3. The area of the lot is 11,258 sq. ft.
- 4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

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

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

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

1. This approval is granted for the location and the specific structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

R E S O L U T I O N

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2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 286, July 17, 1979, Scheduled case for

10:20 - MR. RAJ MALLICK, appl. under Sect. 18-401 of the Ord. to allow construction of a 4 car garage addition to existing dwelling to 13 ft. from front lot line (30 ft. min. front yard req. by Sect. 3-407), located 6627 Skyline Court, Belle Haven Estates Subd., 93-1((25))(4)10, Mt. Vernon Dist., 16,636 sq. ft., R-4, V-122-79.

The required notices were in order. Mr. Gerald Rupert of Silver Spring, Md represented the applicant. Mr. Rupert stated that Mr. Mallick lived on the corner of Skyline Court and Belle View Blvd. The area is screened from Belle View Court with evergreens. This area is 4 ft. lower than Skyline Court. The evergreens are 14 ft. in height and provide good screening. Mr. Mallick would like to be able to construct a 4 car garage to protect his cars from the weather. Mr. Rupert stated that the past winters have been severe. In addition, Mr. Mallick would like to conceal his cars from the street.

Chairman Smith inquired as to the topographic problem necessitating a variance He stated everyone has a hardship as far as the weather. Mr. Rupert stated that the hardship was the corner lot situation. He has two front setbacks. He stated that he could build a 3 car garage in a l-shape and stay out of the setback area. However, Mr. Mallick doesn't want an l-shaped garage. In addition, he is trying to match the existing roofline of the house and follow it right across. This would blend in better with the existing house. The area is already paved and has been for several years. This would just allow a structure to be built on top of the paved area.

Chairman Smith questioned the proposed garage. Mr. Rupert stated that there was 24 ft. between the house and the proposed garage. In order to build the 3 car garage, they would have to go into that 24 ft. in order to accommodate the three cars. The third space would be sort of dead space and they would not be able to use it. Chairman Smith stated that the setback requirement was 30 ft. and not 25 ft. He informed the applicant he was seeking a 17 ft. variance. Mr. Covington stated that the Code was amended January 29, 1979 which changed the setback requirement from 25 ft. to 30 ft. The applicant was not aware of this change. Mr. Rupert stated that some of the rationale for the garage was that the area was already paved and holds the cars in that area. He stated that the spruce trees surround the area and screen if off from the streets. In response to questions from the Board, he stated that Mr. Mallick has owned the property for 5 to 6 years.

There was no one else to speak in favor of the application. The following persons spoke in opposition to the application. Mr. Randall C. Good of 6619 Skyline Ct. stated he was in opposition to the variance. He also stated that he represented a neighbor of 6620 Skyline Court who was also in opposition to the request for the garage. He stated that the garage would not be in keeping with the surrounding community of one car garages and that a four car garage was not necessary for a one family home. He presented the Board with a petition signed by nineteen residents of Skyline Court and Belle View Blvd. which represented 100% of Mr. Mallick's neighbors who were in opposition to this request. In addition, he presented a letter from the Mt. Vernon United Methodist Church stating that the trustees of the church were not prepared to approve the variance as the notice came too late to have a meeting on the subject. Therefore, they opposed the request. In conclusion, Mr. Good presented the Board with the covenants of the area.

During rebuttal, Mr. Rupert stated that they talked to everyone in the area and were surprised that everyone is opposed to this variance. Chairman Smith stated that this was an unusual request in that the Board has never had a four car garage requested, specifically on a 16,000 sq. ft. lot. He indicated that there was not enough land there for the garage. Mr. Rupert stated that Mr. Mallick owned four cars and has to park off the street. Chairman Smith stated that he owns five cars with an acre of land and does not have room for a four car garage. He stated that the ownership of more than one car was not a unique situation to Mr. Mallick and, therefore, not justification for the granting of a variance. Mr. Rupert stated that they could build a two car

Page 287, July 17, 1979
MR. RAJ MALLICK
(continued)

garage. The physical appearance from the street would appear to be a four car garage. Chairman Smith stated that this request was for the maximum amount of a variance. He stated that with this size lot it seemed excessive. He informed the applicant that the Board was charged with the responsibility of correcting hardship and to allow the owner to make reasonable use of his land. Chairman Smith stated that this request seemed unreasonable if they can construct a smaller garage without a variance.

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Page 287, July 17, 1979
MR. RAJ MALLICK

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-122-79 by RAJ MALLICK under Section 18-401 of the Zoning Ordinance to permit construction of a four car garage addition to the existing dwelling to 13 ft. from front property line (30 ft. minimum front yard required by Sect. 3-407) on property located at 6627 Skyline Court, tax map reference 93-1((25))(4)10, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 17, 1979; and

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-4.
3. The area of the lot is 16,636 sq. ft.

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

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

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

Mr. DiGiulian seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 287, July 17, 1979; Scheduled case for

10:30 - CLIFFORD W. SMITH, appl. under Sect. 18-401 of the Ord. to allow enclosure of existing porch to 10.5 ft. from side lot line (12 ft. min. side yard required by Sect. 3-307), located 6613 Beverly Ave., Grass Ridge Subd., 30-4((8))9, Dranesville Dist., 12,878 sq. ft., R-3, V-125-79.

Mr. Clifford Smith of the above address informed the Board that they were short of space. He stated that all of his family and his wife's family live in England. When they come to visit, they stay for long periods of time. He stated that if he were allowed to enclose the existing porch he would have an extra room in the house.

There was no one to speak in favor of the application and no one to speak in opposition. However, the Board was in receipt of a letter in opposition to the request from Mr. and Mrs. Alan J. Morrison who were out of town and unable to attend the hearing. The Board was also in receipt of a petition in favor of the application signed by 12 people.

Page 287, July 17, 1979
CLIFFORD W. SMITH

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-125-79 by CLIFFORD W. SMITH under Section 18-401 of the Zoning Ordinance to allow enclosure of existing porch to 10.5 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307) on property located at 6613 Beverly Avenue, tax map reference 30-4((8))(8)9, County of

R E S O L U T I O N

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Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 17, 1979; and

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

1. That the owner of the subject property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 12,878 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

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

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

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

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

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 with 1 abstention (Mr. Smith).

Page 288, July 17, 1979, Scheduled case for

10:40 - DR. VICTOR & BEATRICE B. LONGORIA, appl. under Sect. 18-401 of the A.M. Ord. to permit enclosure of screened porch 11 ft. from side lot line (20 ft. min. side yard required by Sect. 3-107), located 3108 Knoll Drive, Sleepy Hollow Subd., 51-3((7))30, Mason Dist., 28,409 sq. ft., R-1, V-126-79.

As the required notices were not in order, the Board deferred the application until August 2, 1979 at 12:15 A.M.

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Page 288, July 17, 1979, Recess

The Board recessed for ten minutes before taking up the next scheduled application.

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Page 288, July 17, 1979, Scheduled case for

10:50 - DOYLE E. & CONSTANCE C. WHATLEY, appl. under Sect. 18-401 of the A.M. Ord. to allow construction of a carport addition to existing dwelling to 10.6 ft. from side lot line (15 ft. min. setback required by Sect. 3-107 & Sect. 2-412), located 11506 Leehigh Drive, Kiels-Gardens Subd., 56-4((2))14, Springfield Dist., 0.5000 acres, V-127-79.

Mrs. Whatley appeared at the hearing and informed the Board that their lot was rectangularly shaped. She stated that it is more narrow than long. The house was located in the center of the property. Mrs. Whatley stated that they wished to construct a carport addition to the west of the existing house.

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Mrs. Whatley stated that her husband has limited use of his legs. The construction of a carport to the house would enable him to enter the house out of the weather.

In response to questions from the Board, Mrs. Whatley stated they have owned the property for 12 years. She stated they bought the property in 1967. Mr. Barnes stated that he was familiar with the property.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

In Application No. V-127-79 by DOYLE E. & CONSTANCE C. WHATLEY under Section 18-401 of the Zoning Ordinance to allow construction of a carport addition to existing dwelling to 10.6 ft. from side lot line (15 ft. minimum setback required by Sect. 3-107) and Sect. 2-412) on property located at 11506 Leehigh Drive, tax map reference 56-4((2))14, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 17, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 0.500 acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

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

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

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

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

Mr. Barnes seconded the motion.

The motion passed by a vote of 5 to 0.

11:00 - BENJAMIN B. KING & JOHN T. CONLAN, appl. under Sect. 18-401 of the A.M. Ord. to allow subdivision into 3 lots, with lots 1 & 2 having width of 10 ft. (200 ft. min. lot width required by Sect. 3-E06), located 10501 Lawyers Road, 27-4((1))35, Centreville Dist., 6.83 acres, R-E, V-129-79.

Mr. John T. Conlan of 403 Blair Road in Vienna informed the Board that he was the contract owner of the property. He stated that he intends to build his own home there. The only access to the back lot is through the use of a pipe-stem driveway. If the variance were not granted, then the home could not be built.

Chairman Smith inquired if Mr. King was present at the hearing and was informed he was not. However, Mr. King had submitted a letter authorizing Mr. Conlan to act as his agent. This letter was in the file. Mr. Conlan presented the Board with two other documents.

For justification of the variance request, Mr. Conlan stated that he does not live on the property at present. He indicated that with the price of land today, no one could purchase the entire parcel. Perhaps someone would want to move there if they could seel off'a portion of the land. Mr. Conlan informed the Board that this is a beautiful part of the County. If the land were subdivided into three lots, it would not go against the Zoning requirements for the zone. He stated that it was a good use of the land and that the land would still retain many of the attractive features of the area. There are many riding trails inthe area and Mr. Conlan stated that he was eager to preserve the trails and take advantage of them himself.

In response to questions from the Board, Mr. Conlan stated that there are not any houses on the land at present. The perc tests have been done on the property; however, the results have not been forwarded yet.

There was no one to speak in support of the application and no one to speak in opposition to the application.

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BENJAMIN B. KING & JOHN T. CONLAN

R E S O L U T I O N

In Application No. V-129-79 by BENJAMIN B. KING & JOHN T. CONLAN under Section 18-401 of the Zoning Ordinance to allow subdivision into 3 lots with lots 1 & 2 having width or 10 ft. (200 ft. minimum lot width required by Sect. 3-E06) on property located at 10501 Lawyers Road, tax map reference 27-4((1))35, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 17, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 6.8270 acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

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

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

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

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Ms. Ardis seconded the motion.

The motion passed by a vote of 5 to 0.

Page 291, July 17, 1979, Scheduled case for

11:30 - ST. STEPHEN'S UNITED METHODIST CHURCH, appl. under Sect. 3-103 of the Ord. to permit continuation of preschool/day care center for maximum of 100 children 6 mos. through 5 years daily, located 9203 Braddock Road, 69-4((1))19A, 19D, 19E, Annandale Dist., 7.184 acres, R-1, S-120-79.

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The required notices were in order. Mrs. Jean Gordon of 7605 Engle Place in Springfield represented the school. Mrs. Gordon informed the Board that the school operated five days a week, Monday through Friday from 8:30 to 3:30, for 100 children. The school has 10 staff members.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

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Board of Zoning Appeals

ST. STEPHEN'S UNITED METHODIST CHURCH
R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-120-79 by ST. STEPHEN'S UNITED METHODIST CHURCH under Section 3-103 of the Fairfax County Zoning Ordinance to permit continuation of preschool/day school center for maximum of 100 children, ages 6 months to 5 years, on a daily basis, on property located at 9203 Braddock Road, tax map reference 69-4((1))19A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on July 17, 1979; and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-1.
3. That the area of the lot is 7.184 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The number of students shall be 100.
8. The hours of operation shall be Monday through Friday, 8:30 A.M. to 3:30 P.M.

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- 9. The number of parking spaces shall be 167.
- 10. This permit is granted for a period of five (5) years with the Zoning Administrator empowered to grant three (3) one-year extensions.

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Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 292, July 17, 1979, Scheduled case for

11:40 - LORD OF LIFE LUTHERAN FELLOWSHIP, appl. under Sect. 3-103 of the Ord. to amend Special Permit S-203-75 to permit addition to existing church building and additional parking spaces, located 5114 Twinbrook Road, Kings Park West Subd., 69-3((1))17, Annandale Dist., 3.268 acres, R-1, S-124-79.

The required notices were in order. Mr. Ronald F. Christian of Fairfax represented the church. He stated that the church was operating under special permit S-203-75 and now wished to expand in order to have more office space, a workshop area and a fellowship area. In response to questions from the Board, Mr. Christian stated that they were providing an additional ten parking spaces as required by the Code. Mr. Charles Hall, the architect, was also present to answer any questions the Board had.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

Ms. Ardis made the following motion:

WHEREAS, Application No. S-124-79 by LORD OF LIFE LUTHERAN FELLOWSHIP under Section 3-103 of the Fairfax County Zoning Ordinance to amend Special Permit S-203-75 to permit addition to existing church building and ten (10) additional parking spaces on property located at 5114 Twinbrook Road, tax map reference 69-3((1))17, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on July 17, 1979; and

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

- 1. That the owner of the subject property is the applicant.
- 2. That the present zoning is R-1.
- 3. That the area of the lot is 3.268 acres.
- 4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board and is for the location indicated in the application and is not transferable to other land.
- 2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
- 3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

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4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.

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

6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.

7. This special permit is subject to all provisions of S-203-75 not amended by this resolution.

8. The hours of operation shall be normal church hours.

9. The number of parking spaces shall be 64.

Mr. Barnes seconded the motion.

The motion passed by a vote of 5 to 0.

Page 293, July 17, 1979, Scheduled case for

11:50 - METROPOLITAN CHRISTIAN CENTER, appl. under Sect. 3-303 of the Ord. A.M. to amend Special Permit S-247-73 for church and S-236-76 for school to permit additional land area with dwelling thereon for use as church office and additional leased land area designated as play area, located 5411 Franconia Road, 81-4((5))57 & 81-4((4))pt. of 3, Lee Dist., 2.93487 acres, R-3, S-128-79.

Rev. Bennie Harris, Pastor of the Metropolitan Christian Center, of 5504 Maplefield Place in Alexandria, appeared before the Board to request an amendment to the special permit. The required notices for the public hearing were not in order. The Board was in receipt of a memorandum from Philip G. Yates, Zoning Administrator, informing them that the Planning Commission would like the BZA to defer its hearing in order that they could hold a public hearing on Sept. 20th. In addition, the memorandum stated that the applicants were willing to withdraw their application and instead seek approval from the BZA for a revised plat showing fencing around the outside play area in the parking lot as required by the Health Department. However, it was the opinion of the Zoning Administrator that approval of the play area would require a public hearing. He indicated that instead of withdrawal of the present application that the Board allow the applicant to amend its present application and that it be readvertised for a public hearing at such future date to accommodate the Planning Commission's hearing proposed for September 20th.

Rev. Harris requested the Board to allow them to withdraw this application. He indicated that they would then fall back on the original granting for the operation of the church and the school and the play area would be in the church's parking lot which is not used during the week. He indicated that they would put up gates as required by the Health Department. He stated that they wished to withdraw the request for additional area to be used for the play area. The existing dwelling would be used for the Pastor to move into and live in as a residence rather than an office. Chairman Smith stated that this was not what the Zoning Administrator requested. Mr. John Liner informed the BZA that he was opposed to the zoning memorandum. He stated that the BZA had approved the property for a school and a play area already and he did not think it should be approved twice. He stated that he had brought the plan approved by the Health Department to the Board and it was approved a while back. He stated his recommendation was that they fall back to the original use granted on September 21, 1966. He stated that there was no opposition to their proposal at that time. He showed the Board a copy of the plan approved by the Health Department.

Chairman Smith stated that there seemed to be a question as to the number of children using the play area. Rev. Harris stated that they have complied with the Health Department as far as numbers. He stated that this application was for the house to be used as an extension of the office and to increase the play area. The land for the play area was being provided to the church at no charge. However, since there seemed to be opposition, Rev. Harris requested that the Board allow them to withdraw their application. He stated that they would use the house strictly as a residence. In addition, they would revert back to their original use permit and leave everything as is.

Page 294, July 17, 1979
 METROPOLITAN CHRISTIAN CENTER
 (continued)

Mr. Walter Cullen, owner of property across the street from the church, informed the Board that he was opposed to any further expansion of the play area. He stated that the house should be used as a residence. He did not approve of the house being used as an office or an expansion of the play area. He stated that it would be in the best interests of everyone involved if the application were withdrawn.

Mr. DiGiulian moved that the Board allow the application to be withdrawn. Mr. Yaremchuk seconded the motion. The motion passed unanimously by a vote of 5 to 0 to allow the application to be withdrawn without prejudice.

Chairman Smith stated that it was understood that the application was withdrawn and that the applicants would conform with the original granting pertaining to the use for a church and a school and meet the play area requirements as outlined by the Board as long as it was approved by the Zoning staff.

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Page 294, July 17, 1979, Scheduled case for

12:00 - SIDEBURN RUN RECREATION ASSOCIATION, appl. under Sect. 3-103 of P.M. the Ord. to amend special permit for a community swimming pool to permit addition to existing building and a roof covering existing deck area, located 10601 Zion Road, Bonnie Brae Subd., 68-3(1)16, Annandale Dist., 3.00 acres, R-1, S-77-79. (Deferred from June 12, 1979 at the request of the applicant for Notices)

The required notices were in order. Mr. Lawrence Clayton of 5357 Sideburn Road in Fairfax stated that the request was to allow construction of an addition to an existing building to house chemicals for the pool and to be used for additional storage space. It would also house an additional locker area for the lifeguard. It would cover an existing concrete deck area. The hours of the club are from 8 A.M. to 9 P.M. during the summer season. No change was being requested in the hours. There are 400 members. The club has ten employees. The pool is licensed and managed by a pool management company. It serves many communities in the area. The addition will enhance the existing building in all aspects.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

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Board of Zoning Appeals

SIDEBURN RUN RECREATION ASSOCIATION

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-77-79 by SIDEBURN RUN RECREATION ASSOCIATION under Section 3-103 of the Fairfax County Zoning Ordinance to permit community swimming pool to permit addition to existing building and a ~~roof covering~~ existing deck area on property located at 10601 Zion Road, tax map reference 68-3(1)16, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on July 17, 1979; and deferred from June 12, 1979 for Notices; and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-1.
3. That the area of the lot is 3.00 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

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1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The number of memberships shall be 400.
8. The hours of operation shall be 8:00 A.M. to 9:00 P.M., daily.
9. The number of parking spaces shall be 128.
10. Unless otherwise qualified herein, extended hours for parties or other activities of outdoor community swim clubs or recreation associations shall be governed by the following:
 - A. Limited to six (6) per season.
 - B. Limited to Friday, Saturday and pre-holiday evenings.
 - C. Shall not extend beyond 12:00 midnight.
 - D. Shall request at least 10 days in advance and receive prior written permission from the Zoning Administrator for each individual party.
 - E. Requests shall be approved for only one (1) such party at a time, and such requests will be approved only after the successful conclusion of a previous extended-hour party or for the first one at the beginning of a swim season.
 - F. Requests shall be approved only if there are no pending violations of the conditions of the Special Permit.
 - G. Any substantiated complaints shall be cause for denying any future requests for extended-hour parties for that season; or, should such complaints occur during the end of the swim season, then this penalty shall extend to the next calendar year.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 295, July 17, 1979, Scheduled case for

12:10 - HOLY TRANSFIGURATION MELKITE GREEK CATHOLIC CHURCH, appl. under P.M. Sect. 3-103 of the Ord. to permit construction and operation of a church, located 8501 Lewinsville Road, 29+1(1)21, Dranesville Dist., 10.47 acres, R-1, S-138-79.

There was a question on the notices. After discussion, the Board qualified the notices as being in order and proceeded with the hearing. Father Joseph Francavilla, of 609 Valley Drive, Vienna, represented the church. He stated that they wished to build a church to be operated mainly on Sundays. There would be a multi-purpose room which would be used during other days of the week. He estimated 200 to 300 parishoners.

There was no one to speak in favor of the application and no one to speak in opposition.

R E S O L U T I O N

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Ms. Ardis made the following motion:

WHEREAS, Application No. S-138-79 by HOLY TRANSFIGURATION MELKITE GREEK CATHOLIC CHURCH under Section 3-103 of the Fairfax County Zoning Ordinance to permit construction and operation of a church on property located at 8501 Lewinsville Road, tax map reference 29-1((1))21, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on July 17, 1979; and

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

1. That the owner of the subject property is the Catholic Church, the most Rev. T. Welsh of Arlington Diocese.
2. That the present zoning is R-1.
3. That the area of the lot is 10.4696 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The hours of operation shall be hours normally maintained for church and church-related functions.
8. The number of parking spaces shall be 75.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

Page 296, July 17, 1979, Scheduled case for

12:20 P.M. - CHARLES A. & JEAN S. COBLE, appl. under Sect. 18-401 of the Ord. to allow existing deck to remain 5.5 ft. from rear lot line (14 ft. min. rear yard required by Sect. 3-2007 & Sect. 2-412) located 4921 Herkimer St., Bristow Village Subd., 70-2((10))148, Annandale Dist., 1,980 sq. ft., R-20, V-154-79.

Ms. Jean Coble informed the Board that their back yard was a steep slope. She stated that she was under the assumption that the 6 ft. easement was located outside the picket fence area. In response to questions from the Board, Ms. Coble stated that they did not obtain a building permit. She informed the

Board that a builder had drawn up the plans for the deck. He did the footings and her husband built the rest of the deck in his leisure time. She stated that the subject of a building permit never came up. She stated that she is in the process of selling her home as they are leaving the area in three days.

In response to questions from the Board, Ms. Coble stated that the area outside of her fence was common property belonging to the homeowners association. She stated that she does have the building permit now.

Mr. Simmons the agent listing the property spoke in favor of the application. He stated that the deck is a great asset to the property because the yard is small and drops off steeply. The deck is a good asset. If the variance were denied, about half of the deck would have to be removed. The existence of a deck does not infringe on the neighbors or anyone else in the area. He stated that the deck is 15 ft. x 20 st. If the variance were denied, 9½ ft. would have to be removed.

There was no one else to speak in favor of the application and no one to speak in opposition.

Page 297, July 17, 1979
CHARLES A. & JEAN S. COBLE

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-154-79 by CHARLES A. & JEAN S. COBLE under Section 18-401 of the Zoning Ordinance to allow existing deck to remain 5.5 ft. from rear lot line (14 ft. minimum rear yard required by Sect. 3-2007 and Sect. 2-412) on property located at 4921 Herkimer Street, tax map reference 70-2((10))148, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolutions:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 17, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-20.
3. The area of the lot is 1,980 sq. ft.
4. That the applicant's property has exceptional topographic problems.

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

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

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

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

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

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Page 298, July 17, 1979, Scheduled case for

12:30 P.M. - CHARLES G. DILLOW, appl. under Sect. 18-401 of the Ord. to allow construction of an addition to an existing dwelling to 15 ft. from the rear lot line (25 ft. min. rear yard req. by Sect. 3-407) on property located 5509 Fiske Place, Bren Mar Park Subd., 81-1((4))(D)53, Mason Dist., 8,585 sq. ft., R-4, V-148-79.

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Mr. Charles G. Dillow informed the Board that his family has lived in Fairfax County for 13 years. He stated that he needed to expand his home as his mother was coming to live with him. He stated that he was constructing in this area as there was a steep hill on the other side of the house.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

Page 298, July 17, 1979 Board of Zoning Appeals
CHARLES G. DILLOW

R E S O L U T I O N

In Application No. V-148-79 by CHARLES G. DILLOW under Section 18-401 of the Zoning Ordinance to permit construction of an addition to existing dwelling 15 ft. from rear lot line (25 ft. required by Sect. 3-407) on property located at 5509 Fiske Place, tax map reference 81-1((4))(D)53, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 17, 1979; and

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

- 1. That the owner of the property is the applicant.
- 2. The present zoning is R-4.
- 3. That area of the lot is 8,585 sq. ft.
- 4. That the applicant's property has exceptional topographic problems.

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

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

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

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

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 298, July 17, 1979, After Agenda Items

Chairman Smith inquired of the Clerk if she had heard anything on whether the BZA would get a defense fund as requested in memorandum to Mr. Yates. The Clerk replied she had not received anything nor heard anything on the matter.

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Page 298, July 17, 1979, After Agenda Items

APPROVAL OF MINUTES: Ms. Ardis moved that the Board approve the BZA Minutes of December 5, 1978 as corrected. Mr. DiGiulian seconded the motion. The motion passed unanimously.

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After Hours Pool Party Conditions: The Board was in receipt of a memorandum from the Zoning Administrator outlining standard conditions for community recreation clubs regarding after hours pool parties. These standard conditions were for the Board's review and possible adoption.

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After review of the conditions outlined in the memorandum, Mr. DiGiulian moved that the Board adopt these conditions governing the operation of after hours pool parties for community swimming pools. Ms. Ardis seconded the motion. This motion passed by a vote of 5 to 0.

// There being no further business, the Board adjourned at 12:50 P.M.

By *Sandra L. Hicks*
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, Chairman

APPROVED: _____
Date

Submitted to the Board on _____
Submitted to the other departments,
Board of Supervisors and Planning
Commission on _____

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, July 24, 1979. The following Board Members were present: Daniel Smith, Chairman; George Barnes; John Yaremchuk and Barbara Ardis. Mr. DiGiulian was absent.

The Chairman opened the meeting at 10:10 A.M. and Mr. Barnes led the prayer.

The Chairman called the scheduled 10 o'clock case:

10:00 - JAMES D. & MIRIAM F. COFFMAN, appl. under Sect. 18-401 of the A.M. Ord. to allow subdivision into 3 lots such that proposed lots 59-B and 59-C would each have a width of 10 ft. (80 ft. min. lot width req. by Sect. 3-306) located 3821 Linda Lane, Pleasant Ridge Subd., 59-4((8))59, Mason Dist., 1.603 acres, R-3, V-131-79.

Mr. Coffman informed the Board that he would like to amend his application to allow a subdivision into 2 lots rather than the three lots as previously requested. He stated that he could submit a revised plat and have a hearing at a later date. The pipestem would change only slightly going from 10 ft. in width to 12 ft.

Chairman Smith inquired if anyone was interested in this application. Mr. Gastrock of 3721 Linda Lane informed the Board that his property does not abutt the subject property but he does have an interest in what happens in this neighborhood. He stated that he would like to reserve comments for the future hearing. Chairman Smith inquired if he objected to the subdivision into two lots. Mr. Gastrock stated that he was opposed to any subdivision of the lot and had written the Board a letter to that effect. Chairman Smith stated that his objections were noted for the three lot subdivision. However, the Board has to consider the reasonable use of the property. Chairman Smith inquired as to what the other lots in the area were size wise. Mr. Gastrock stated that they ranged from .9 acres to 1.6 acres. Mr. Gastrock stated that he did not have a problem with the density only with the proposed subdivision and others that might follow in the neighborhood.

Mr. Yaremchuk inquired of the applicant as to why he was amending the application at the hearing. Mr. Coffman stated that because of the feedback from the neighbors they decided to amend the application. Mr. Yaremchuk stated that this should have been worked out ahead of the hearing. Mr. Coffman stated that he had talked with the lawyers and they advised him not to discuss this with the neighbors ahead of time. He stated that subdividing the parcel was not a new idea in the area and that it would not set a precedent. Mr. Coffman stated that he lives right next door on lot 58B-1. He stated that he bought lot 59 from an old couple. It is almost 100% wooded.

Mr. Yaremchuk moved that the Board proceed with the hearing on the two lot request. Mr. Barnes seconded the motion. Chairman Smith stated that the Board would proceed with the hearing even though there was not a revised plan showing the two lot subdivision. Chairman Smith inquired as to what the applicant proposed for lot size for the two lots. Mr. Coffman stated they proposed to make the front lot .7 acres and the rear lot .9 acres.

Chairman Smith inquired if there was any objection to the application. Mr. Malcomb Morrow stated that he originally developed this subdivision and the street is named after his daughter. He stated that he laid out this subdivision 20 years ago. He informed the Board that he still lives there. He stated that he was opposed to this request as it would destroy his subdivision. He stated that this would be setting a precedent and possibly cause it to spread like an infection. He stated that it was bad public policy to go along with the wishes of an individual who finds a beautiful wooded location and then tries to capitalize upon it. He stated that even though he lives some distance away he would feel injured by this variance if it were granted. Chairman Smith inquired as to what the property was zoned when it was developed. Mr. Morrow stated that it was not zoned at that time. He stated that he platted the property in 1947. Chairman Smith asked what was the general zoning in the area when the original map was adopted. Mr. Morrow stated that he was not aware but thought it was 2 to 3 lots per acre. Mr. Yaremchuk inquired if he had lived there since 1947. Mr. Morrow stated that he built and lived in the house which is not the headquarters for the Park Authority. He lives nearby at the present time.

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The next speaker in opposition was Jenifer Santley of 3805 Linda Lane, lot 56. She stated they were one of the few houses within site distance of the Coffman's new house. She stated that she owned one acre of land. In response to questions from the Board, she stated that she would object to a subdivision of two lots because it would spoil the integrity of the neighborhood. She stated that most of the lots in area all benefit from each other's woods. She stated building a house in the middle of this area would spoil it. She stated that it should not be taken advantage of for profit or in disregard for the feelings of the neighbors.

The next speaker was Mr. Reiss of Royce Street, Lot 950 in the subdivision. He informed the Board that when he selected his home site, he was cognizant of the covenants of the area. They require 75 ft. of frontage to insure spaciousness. He stated that the applicants were in the same state as him having been made aware of the covenants at the time they purchased their home. He stated that if the variance were approved, it would double the density of the neighborhood. He stated that he was opposed as this was not a reasonable request.

The next speaker in opposition lived on Marshall Drive. He stated that this was not a reasonable use of the land. A house already exists on the property and the only reason another house was desirable was because of the profit motive of the applicant. He stated that he was opposed to the profit motive as it would destroy the neighborhood.

The next speaker was Mr. Layman of 3809 Linda Lane. He stated that Mr. Coffman's lot was long and narrow and only about 130 ft. wide. He stated that if the additional house were built, it would be in his back yard. He stated that he was opposed to any resubdivision in the Pleasant Ridge Estates area.

The next speaker was Margaret Duncan of 3901 Linda Lane. She stated that she bought the property 19 years ago. She stated that the area is getting a new crop of residents, much younger and with young children. She informed the Board she had raised four youngsters. She stated that there was problem with this street. She stated that it is on a hill and has a curve and deep gutters. She stated that they have problems with large trucks in the area. This street will not allow further development. She informed the Board that the only resubdivision was done back in 1965 or 1969 when the neighbors did not oppose it as the lady was a widow.

During rebuttal, Mr. Coffman stated that the lot is almost 100% wooded. He stated that he has lived there five years. He stated that he was concerned for the neighborhood. He indicated that they would preserve the trees. He stated that the proposed house would not be visible from Linda Lane and would only be visible through the trees during the winter months. He stated that when he was discussing with the staff about the possibility of changing the lot widths, he was informed that he would have to go through a readvertising of the application. He informed the Board that the people who supported his application had not attended the hearing.

Mr. Yaremchuk moved that the Board deny the application. This motion died for lack of a second.

Ms. Ardis offered the following substitute motion:

R E S O L U T I O N

In Application No. V-131-79 by JAMES D. & MIRIAM F. COFFMAN under Section 18-401 of the Zoning Ordinance*to allow subdivision into 3 lots such that proposed lots 59-B and 59-C would each have a width of 10 ft. (80 ft. min. lot width required by Sect. 3-306) on property located at 3821 Linda Lane, tax map reference 59-4((8))59, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 24, 1979; and

R E S O L U T I O N

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

- 1. That the owner of the property is the applicant.
- 2. The present zoning is R-3.
- 3. The area of the lot is 1.603 acres.
- 4. That the applicant's property is exceptionally irregular in shape, including narrow.

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

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

NOW, THEREFORE, BE IT RESOLVED that the subject application is*GRANTED IN PART *(to allow subdivision into 2 lots of .9 and .7 acres with the rear lot having a 12 ft. lot width) with the following limitations:

- 1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
- 2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.
- 3. This variance is subject to submission of revised plats in accordance with the above.

Mr. Barnes seconded the motion.

The motion*FAILED by a vote of 2 to 2 (Messrs. Smith & Yaremchuk)(Mr. DiGiuliano being absent.)

Page 302, July 24, 1979, Scheduled case for

10:10 A.M. WAYNE FOLEY, appl. under Sect. 18-401 of the Ord. to allow construction of an addition to an existing house to 5.7 ft. from side lot line (20 ft. min. side yard required by Sect. 3-E07) located 651 River Bend Road, Great Falls Heights Subd., 13-2((5))1A, Dranesville Dist., 2.000 acres, R-E, V-134-79.

Mr. Charles Runyon of 152 Hillwood Avenue in Falls Church represented the applicant. He stated that the existing house was situated in such a way that they are forced to put the addition on the other side of the house. The land slopes from right to left. In response to questions from the Board, Mr. Runyon stated that Mr. Foley does not own the outlot. Mr. Runyon showed the Board some photographs of the property which showed the topography of the land. In response to further questions from the Board, he stated that the Foleys have owned the property since 1972.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

R E S O L U T I O N

In Application No. V-134-79 by WAYNE FOLEY under Section 18-401 of the Zoning Ordinance to permit construction of an addition to an existing house to 5.7 ft. from side lot line (20 ft. min. side yard required by Sect. 3-E07) on property located at 651 River Bend Road, tax map reference 13-2((5))1A, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 24, 1979; and

R E S O L U T I O N

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

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 2.0 acres.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 303, July 24, 1979, Scheduled case for

10:20 - W. MORGAN, M.D., & LILIA S. DELANEY, appl. under Sect. 18-401 of the Ord. to allow 6 ft. chain link fence to remain in front yard (4 ft. max. fence height in front yard req. by Sect. 10-105), located 1224 Tudor Place, Marlan Heights Subd., 93-4((4))(2)7, Mt. Vernon Dist., 16,091 sq. ft., R-3, V-135-79.

Mrs. Delaney informed the Board that her attorney was not present at the moment but they wished to be heard. She inquired if the Board could pass over her case for awhile until her attorney appeared. The Board granted a ten minute deferral.

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Page 303, July 24, 1979, Scheduled case for

10:30 - THOMAS R. SCOTT, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to existing dwelling to 6 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107), located 4024 Old Hickory Road, Wakefield Forest Park Subd., 58-4((11))7, Annandale Dist., 23,147 sq. ft., R-1, V-137-79.

Mr. Thomas R. Scott of 4024 Old Hickory Road in Fairfax informed the Board that he wished to construct a garage attached to his house. The house does not have any storage area and does not have a basement. He informed the Board that he is using his van at the present time to store things. The house is a long rambler. The house sits 42.6 ft. from the property line. He indicated that the construction of the garage would not affect the surrounding property.

In response to questions from the Board, Mr. Scott stated that he could not build the garage elsewhere as he wishes a double garage back from the concrete patio in order to give him additional privacy.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

R E S O L U T I O N

In Application No. V-137-79 by THOMAS R. SCOTT under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to existing dwelling to 6 ft. from side lot line (20 ft. min. side yard required by Sect. 3-107) on property located at 4024 Old Hickory Road, tax map reference 58-4((11))7, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 24, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 23,147 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. DiGiulian being absent).

Page 304, July 24, 1979, Scheduled case for

10:40 - RONALD WHITLEY, appl. under Sect. 18-401 of the Ord. to allow
A.M. construction of garage addition to residence to 5.92 ft. from side lot line (15 ft. min. side yard required by Sect. 3-207), located 7423 Calamo Street, Springvale Dist., 90-1((2))151-B, Springfield Dist., 32,251 sq. ft., R-2, V-139-79.

Mr. Ronald Whitley of 7423 Calamo Street informed the Board that he has owned the property for five months. He stated that when he purchased the property, it was his intention to build a garage addition in order to expand the present garage. He informed the Board that he needs the space for his tools and wanted a three car garage. He stated that the closest structure to his residence was 100 yards away. In response to questions from the Board, Mr. Whitley stated that at the present time there is not enough room to park his car or his van.

There was no one to speak in favor of the application. The Board was in receipt of three letters in opposition to the request. They were from William Johnson, Thomas S. Gregg, and Mr. Miller. Mr. Whitley stated that Mr. Gregg was an abutting property owner and that Mr. Miller is an adjacent property owner to the rear.

During rebuttal, Mr. Scott stated that his neighbors were concerned that he might open up a commercial shop repairing motorcycles in his garage. He stated that this fear was because he owned one and liked to maintain it as a hobby. In addition, he stated that he repairs his own lawnmowers.

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R E S O L U T I O N

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In Application No. V-139-79 by RONALD WHITLEY under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to residence to 5.92 ft. from side lot line (15 ft. minimum side yard required by Sect. 3-207) on property located at 7422 Calamo Street, tax map reference 90-1((2))151B, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 24, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 32,251 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, land is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. DiGiulian being absent).

Page 305, July 24, 1979, Scheduled case for

10:50 RICHARD D. WAGNER & CHARLES F. WARNER, appl. under Sect. 18-401
A.M. of the Ord. to allow resubdivision of several parcels into 6 lots with proposed lot 3 having width of 12 ft. (100 ft. min. lot width req. by Sect. 3-206), located 1371 Kirby Road, Westmont Subd., 31-2((4))6 & 31-2((2))A, 9 & 10, Dranesville Dist., 9.13 acres, R-2, V-140-79.

The required notices were in order. Mr. Hal Simmons represented the applicants. He stated the subject variance had unusual conditions in that the land has exceptionally steep slopes, was irregularly shaped, and that 40% of the land was in a floodplain. The property is zoned R-2. He stated that they were requesting a variance for lot 3 to allow a 12 ft. width on this one acre lot. In response to questions from the Board, Mr. Simmons stated that Mr. Wagner has lived on the property for 38 years. Mr. Warner has owned the property since 1962 and will live in the existing house after the property has been developed. Only one variance is being requested. Mr. Simmons stated that the length of the proposed pipestem was about 300 to 400 ft. Chairman Smith inquired as to why it was necessary to develop the property in this manner that would require a driveway of this type. Mr. Simmons stated that they wished to use the existing driveway and did not wish to disturb any of the wooded land that is there at the present time. He stated that the present driveway is located 140 ft. south along Kirby Road and that it would be used to serve lots 2 and 3 also.

Mr. Warner of 5937 Frazier Lane informed the Board that he owns lots 9 & 10 and the outlot A. He spoke in support of the application.

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Mr. David Smith of 1102 Delmar Court spoke in opposition to the request. He stated that he represented a number of people. He stated that his primary concern is that the variance is not convenient and does not aid in the floodplain. He stated that he was concerned about a matter of disclosure in that the Board has not heard from all the builders involved in this variance. He indicated that the property is being sold. He further stated that the hardship is self-inflicted.

Chairman Smith inquired as to who the property owners were. He was informed that Mr. Warner and Mr. Wagner both own a portion of the proposed lot 3. Mr. Simmons stated that the only contract was with the Georges who plan to live on one of the lots. They have a contract with both Mr. Warner and Mr. Wagner.

The next speaker in opposition was Mr. Conrad of 13512 Pinetree Road. He stated that he also represented a number of people of the Westlawn Subdivision who were in opposition. He stated that he was a new owner having moved in a few months ago. He stated that he did not receive any notification of the hearing. He stated that there were several problems that need to be resolved. Mr. Conrad stated that the lot was irregularly shaped and would be further irregularly configured if the variance were granted. In addition, this variance would breach the covenants of the Westlawn Subdivision. He stated that the development plan should be agreed upon by the neighbors in the area and made a part of the record to prevent breaches of the covenants. Chairman Smith informed Mr. Conrad that any agreements would have to be worked out with Subdivision Control and the developer. He stated that the Board does not have any authority in that area. Mr. Conrad was asked to confine his remarks to lot 3. Mr. Conrad stated that the access to the development should be considered. He stated that there was an existing gravel road on the property which should be restricted and not widened into a public road. He asked that the detailed subdivision plans be submitted to the Westlawn Planning Committee as they have an interest in this matter. He stated that they should be made aware of any agreements with respect to ingress and egress for all of the lots. Without these arrangements, he stated that they would be unsatisfied and in opposition to the variance.

During rebuttal, Mr. Simmons stated that this was a six lot subdivision with only one lot requiring a variance. Four lots were only a rearrangement of lot lines. He stated that the variance was justified and reminded the Board that this was a 9 acre parcel.

R E S O L U T I O N

In Application No. V-140-79 by RICHARD D. WAGNER & CHARLES F. WARNER under Section 18-401 of the Zoning Ordinance to allow resubdivision of several parcels into 6 lots with proposed lot 3 having width of 12 ft. (100 ft. minimum lot width required by Sect. 3-206) on property located at 1371 Kirby Road, tax map reference 31-2((4))6 & 31-2((2))A, 9 & 10, County of Fairfax, Virginia. Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 24, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 9.13 acres.
4. That the applicant's property is exceptionally irregular in shape and has exceptional topographic problems.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

R E S O L U T I O N

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NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. DiGiulian being absent)

Page 307, July 24, 1979, Deferred case of

10:20 - W. MORGAN, M.D., & LILIA S. DELANEY, appl. under Sect. 18-401 of A.M. the Ord. to allow 6 ft. chain link fence to remain in front yard (4 ft. max. fence height in front yard req. by Sect. 10-105), located 1224 Tudor Place, Marlan Heights Subd., 93-4((4))(2)7, Mt. Vernon Dist., 16,091 sq. ft., R-3, V-135-79.

Mrs. DeLaney apologized to the Board for being in violation of the Ordinance. She informed the Board that she had called the Zoning Office regarding the height of fences and was told it could go as high as 7 ft. Mrs. DeLaney was not aware that her corner lot had two front yards. She stated that she contacted fence companies and hired one of them to increase the height of the fence because of her dogs. She stated that she has received numerous complaints about the fence and the dogs. However, she stated that she does not allow her dogs to run free and that they do not bite.

Chairman Smith informed Mrs. DeLaney that the Board was concerned with the fence and how it came into violation. Mrs. DeLaney stated that they increased the height of the existing fence which was about 4 ft. high. She stated that the fence existed when they bought the property in 1964. The fence was a wooden fence which she replaced with a chain link as she was concerned of injuries. She stated that the neighbors were afraid of the dogs and she wanted to protect them.

Mr. Barnes inquired if the fence obstructed the view for site distance on the corner lot. Mrs. DeLaney stated that the fence does not come near the curb of the corner. She stated there was plenty of visibility along that right-of-way.

Mrs. Betty Mitchell of 7123 Brendon Wood Dr. stated that she was the Vice-President of the Marlan Forest Gardens Club but that she was representing herself. She informed the Board she was in favor of the application as there has been a lot of vandalism in this neighborhood. She stated that the DeLanays had two dogs which had been poisoned. She informed the Board that the new fence had been placed on the previous fence line. She stated that there has been a petition circulated in opposition to this variance. She informed the Board that there are other lots in the area which fences exceed the maximum allowable height.

The next speaker was Mr. Capoletti who stated that he did not want a precedent set for this area as it would tear apart the neighborhood. He stated he only wanted to be neighborly. He indicated to force the DeLanays to cut down the fence would be bad for the neighborhood. He asked that the Board inspect the neighborhood to look for other lots in violation.

The following persons spoke in opposition to the variance. Mr. Robert Earl, Vice-President of the Marlan Forest Civic Association, stated that the area has 104 lots. He stated there are covenants to prevent the fence. The covenants specifically state that no fence may be erected at any intersection or corner lot in the subdivision. He stated that the fence was not approved by the civic association and that the DeLanays had not submitted plans for approval.

Chairman Smith inquired as to why the civic association did not take civil action in the matter. Mr. Earl stated they would not take action since the DeLanays had filed for a variance. He stated that they do not wish the variance to be granted because it would set a precedent. He stated that there is room on the property to put the fence that would leave enough room for the dogs and still be out of the setback area.

Mr. Lenn Koneczny of the Zoning Enforcement Branch informed the Board that his office had received a complaint about the fence and had cited Dr. and Mrs. DeLaney. They then made an application to the Board to correct the issue. Mr. Koneczny informed the Board that it had been mentioned at that time that there were other lots in violation; however, the DeLanays did not wish to register formal complaint. He stated his office did not take any action on the other lots. Since that time, he stated they have received another complaint for another lot in the area.

Chairman Smith inquired if it was a recent addition. Mr. Koneczny stated that it was not clear whether it was a recent addition or not. Chairman Smith inquired as to when the DeLaney fence was erected. Mr. Koneczny stated that his office made their inspection on May 2nd and cited the DeLanays on May 3rd. He indicated that the fence was being erected at that time. He stated that it was under construction at the time of the first inspection and was completed by the time of the violation. Mr. Covington stated that Mr. Barnes was concerned about the site distance. Mr. Koneczny replied that was not a problem. Mr. Yaremchuk inquired if the fence was unsightly. Mr. Koneczny replied that the inspector did not feel that the fence was unsightly.

Mr. Barnes inquired of Mrs. DeLaney if her veterinarian had actually determined that the two dogs were really poisoned. She replied he had. Mr. Yaremchuk inquired as to what amount of money it would cost to remove the fence. Mrs. DeLaney replied it would cost as much to move it as it did to put it up. She stated that they are installing a patio which will wrap around the back of the house.

Mr. Yaremchuk stated that he had a problem. He stated that when he goes for walks, the dogs in the area scare him and he feels that they should be fenced. However, if the Board granted a variance because of dogs, he stated it would be hard to refuse any future requests. Mr. Yaremchuk stated that he was concerned about the visibility. He informed the applicant that he felt the fence was located in a bad spot on the property.

Mrs. DeLaney informed the Board that the fence was not on Marine Drive. She indicated that there are not any sidewalks there and that there was 10 - 12 ft. between the fence and where anybody would walk. She stated that she had the support of 57 neighbors. She stated that she was going to screen the fence with shrubs and azalaes, etc. She stated that she was concerned about the Zoning Ordinance which was why she contacted the Zoning Office about the height of the fence. She stated that she did not intentionally break the law.

Page 308, July 24, 1979 Board of Zoning Appeals
W. MORGAN, M.D. & LILIA S. DELANEY

Mr. Yaremchuk stated that he sympathized with Dr. & Mrs. DeLaney but that he was concerned and felt that the fence should be even with the house and the setback. He stated he could not support the application; therefore, he moved that the Board deny the application. Mr. Yaremchuk's motion failed for lack of a second.

R E S O L U T I O N

In Application No. V-135-79 by W. MORGAN & LILIA S. DELANEY under Section 18-401 of the Zoning Ordinance to allow existing 6 ft. high chain fence to remain in front yard (4 ft. maximum fence height in front yard required by Section 10-105) on property located at 1224 Tudor Place, tax map reference 93-4((4))(2)7, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 24, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 16,091 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

R E S O L U T I O N

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED*with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion *FAILED by a vote of 2 to 1 (Mr. Smith) with 1 abstention (Mr. Yaremchuk)(Mr. DiGiulian being absent).

Chairman Smith informed the applicant that the variance was filed under the hardship and that he failed to see the hardship as the corner lot situation was a general condition. He stated that there were not any topographic problems. Chairman Smith stated these as his reasons for voting against the variance.

Mr. Barnes stated that he supported the variance because of the harassment of the dogs and the poisoning of the dogs. He stated that Mrs. DeLaney was going to put in shrubs to screen the fence. In addition, the Zoning Inspector had stated there was not any problem with site distance. Mr. Barnes stated that he felt the variance was justified as the applicants need their privacy.

Chairman Smith stated that the voting would not allow the granting of the variance. However, he stated that if the DeLanays would like, the absent Board member could be asked to review the tapes of the hearing and to participate in the decision. Chairman Smith indicated that the matter would be held open for 30 days to allow Mr. DiGiulian to review the record.

Page 309, July 24, 1979, Scheduled case for

11:00 - VICTORIA J. PRICE, appl. under Sect. 18-401 of the Ord. to allow four A.M. dogs on lot of 12,364 sq. ft. (12,500 sq. ft. min. required for four dogs by Sect. 2-512), located 6101 Vista Drive, Parkhaven Subd., 61-2((15))28, Mason Dist., 12,364 sq. ft., R-3, V-142-79.

As the required notices were not in order, the Board deferred the application until September 18, 1979 at 10:00 A.M.

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Page 309, July 24, 1979, Scheduled case for

11:10 - ALFRED & CATHERINE GRIFFIN, appl. under Sect. 18-401 of the Ord. to A.M. allow addition to existing dwelling to 22.8 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located 3117 Glen Carlyn Road, Congressional Acres Subd., 51-4((9))26, Mason Dist., 11,862 sq. ft., R-3, V-146-79.

Mr. Griffin's son appeared before the Board. He stated that he was representing his parents. Mr. Griffin informed the Board that the proposed location for the addition was the only place on the property in which to construct. In response to questions from the Board, he indicated that his parents have owned the property since 1963.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

R E S O L U T I O N

In Application No. V-146-79 by ALFRED & CATHERINE GRIFFIN under Section 18-401 of the Zoning Ordinance to allow addition to existing dwelling to 22.8 ft. from rear lot line (25 ft. minimum rear yard required by Sect. 3-307) on property located at 3117 Glen Carlyn Road, tax map reference 51-4((9))26, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 24, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 11,862 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 310, July 24, 1979, Scheduled case for

11:20 - BRUCE D. SLACK, appl. under Sect. 18-401 of the Ord. to allow
A.M. enlargement and enclosure of carport to 4.3 ft. from side lot line (10 ft. min. side yard required by Sect. 3-407), located 6605 Buckskin St., Springfield Estates Subd., 80-4((5))(1)509, Lee Dist., 8,400 sq. ft., R-4, V-149-79.

As the required notices were not in order, the Board deferred the application until September 18, 1979 at 10:10 A.M.

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Page 310, July 24, 1979, Scheduled case for

11:30 HOWARD C. & JUDITH C. BRANDENSTEIN, appl. under Sect. 18-401 of the
A.M. Ord. to allow construction of addition to residence to 9.17 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 7305 Austin St., Masonville Heights Subd., 60-1((7))61, Mason Dist., 12,125 sq. ft., R-3, V-150-79.

Mr. Arvydas Barzdukas, an architect associated with Charles Runyon & Associates of 152 Hillwood Avenue in Falls Church, represented the applicants. He stated that the applicant's property has converging lot lines. Mr. Barzdukas informed the Board that only a small portion of the addition would be in the setback area. He stated that this variance would not create an adverse effect to the neighborhood.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

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R E S O L U T I O N

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In Application No. V-150-79 by HOWARD C. & JUDITH C. BRANDENSTEIN under Section 18-401 of the Zoning Ordinance to allow construction of addition to residence to 9.17 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307) on property located at 7305 Austin Street, tax map reference 60-1((7)) 61, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 24, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 12,125 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 311, July 24, 1979,

The Board recessed the meeting at 12:55 P.M. for lunch and reconvened at 2:25 P.M. to continue with the remaining cases.

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Page 311, July 24, 1979

Chairman Smith informed the audience that the scheduled applications of Neil R. & Catherine R. McDonald would be deferred until August 2, 1979 at 12:15 P.M. as there was not a full Board present. The attorney for the applicants and the attorney for the opposition had agreed to this deferral.

Mrs. Ruby Smith of the McLean Planning Commission presented a letter of opposition for the file since she was not certain she could be present on August 2nd.

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Page 311, July 24, 1979, Scheduled case for

12:00 LUTHERAN CHURCH OF THE REDEEMER, appl. under Sect. 3-403 of the Ord.
NOON to permit education building addition to an existing church, located 1545 Chain Bridge Rd., 30-4((1))12, Dranesville Dist., 5.7059 acres, R-4, S-143-79.

Page 312, July 24, 1979
LUTHERAN CHURCH OF THE REDEEMER
(continued)

Mr. Wilmer Schantz, Jr., an attorney in McLean, represented the church. He thanked the Board for granting the church an out-of-turn hearing on the application. He stated that it is the church's desire to construct a one story addition to the church which has existed for 20 years. The addition will be used for Sunday school classes. He showed the Board a drawing of the present structure as well as the proposed structure.

In response to questions from the Board, Mr. Schantz stated that the new addition will blend in with the existing church and be in harmony with it. He stated that the brick would match to the extent that they could match the same color. In addition, Mr. Schantz replied that all parking requirements had been met.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 312, July 24, 1979 Board of Zoning Appeals
LUTHERAN CHURCH OF THE REDEEMER

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-143-79 by LUTHERAN CHURCH OF THE REDEEMER under Section 3-403 of the Fairfax County Zoning Ordinance to permit education building addition to an existing church on property located at 1545 Chain Bridge Road, tax map reference 30-4((1))12, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public, a public hearing by the Board of Zoning Appeals was held on July 24, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-4.
3. That the area of the lot is 5.7059 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The hours of operation shall be normal hours of church operation.
8. The number of parking spaces shall be 154.

R E S O L U T I O N

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Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 313, July 24, 1979, Scheduled case for

12:10 - GREAT FALLS VILLAGE GREEN DAY SCHOOL, INC., appl. under Sect. 4-603
P.M. of the Ord. to permit day care center, located 750 Walker Road,
13-1((1))6, Dranesville Dist., 12.93 acres, C-6, S-136-79.

Mr. Thomas J. McCauley represented the applicant. He stated that the center was located in Great Falls, Virginia and utilized 12,050 sq. ft. within the Village Green Center. He stated that the center would be a school and a preschool. There are a number of buildings in the shopping center. There will not be any entrances or exits onto Columbine Road. The proposed center will be in building no. 1 as shown on the plat. There is a grassy area adjacent to the building which will be fenced for a play area of 1,500 sq. ft. At no time will more than 15 children be using the play area. He stated that the present owner and director was Lynne Simmons who operates a center in Loudoun County. She is Vice-President of the Northern Virginia Preschool of Virginia. There would not be any more than 43 children at any one time. The hours of operation would be 6:30 A.M. to 6:15 P.M.; classes would be 9 to 12 and 12 to 3. The total enrollment for the two classes would be 80.

Ms. Ardis informed the applicant that there was letter of opposition in the file from Mr. Dederio. Mr. McCauley reminded the Board of the centers operated in Loudoun County with no complaints from the neighbors. In response to questions from the Board, Ms. Simmons stated that she operates the center Monday through Friday.

There was no one else to speak in support of the application. Mr. James Dederio spoke in opposition to the future expansion of the center onto Columbine Drive. He was made aware of the fact that expansion would require an amendment to the special permit and another public hearing process.

Page 313, July 24, 1979

GREAT FALLS VILLAGE GREEN DAY SCHOOL, INC.

R E S O L U T I O N

Ms. Ardis made the following motion:

WHEREAS, Application No. S-136-79 by GREAT FALLS VILLAGE GREEN DAY SCHOOL, INC. under Section 4-603 of the Fairfax County Zoning Ordinance to permit day care center in building #1 as shown on the plat and limited to 1,248 sq. ft. of that building, on property located at 750 Walker Road, tax map reference 13-1((1))6, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on July 24, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the lessee.
2. That the present zoning is C-6.
3. That the area of the lot is 346,103 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in C Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

R E S O L U T I O N

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3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.

5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.

7. The number of students shall be ~~42 per 4-hour session.~~ On 11-20-79, the BZA amended condition no. 7 to read: 42 at any one time.

8. No food will be prepared on the premises.

9. The hours of operation shall be 6:30 A.M. to 6:15 P.M., Monday through Friday.

10. 1,248 sq. ft. is the designated area for use under this permit.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent.)

Page 314, July 24, 1979, Scheduled case for

12:20 - VIRGINIA HILLS BAPTIST CHURCH MOTHER'S DAY OUT, appl. under Sect. 3-103 of the Ord. to permit day care center for max. 100 children, located 6507 Telegraph Road, 92-1((1))24, Lee Dist., 3.9239 acres, R-1, S-132-79.

Ms. Lois Ann Doyle of 7334 Wimford Drive in Alexandria represented the center. Ms. Doyle is the Director of the Mother's Day Out program at the church. Chairman Smith asked for clarification. He stated that the plat showed two parcels owned by the church but only one parcel was used for the center. Ms. Doyle replied that the center uses the play field. Chairman Smith inquired if the community also uses the ball field and was informed they do. Ms. Doyle informed the Board that the center wishes to expand its program. She stated that the children bring their own lunches and only snacks are prepared on a daily basis. There are six classroom teachers, one director, and several aides. In addition, there are also volunteers in this program. Ms. Doyle stated that most of the parents carpool the youngsters. She stated there is never more than 30 cars in the driveway. Ms. Doyle stated that the center operates as a service to the community and that the youngsters come from the surrounding community. Very few come from other areas of the County. She stated that the hours of operation were from 9 A.M. to 1 P.M., Tuesday, Wednesday and Thursday. There is a maximum of 100 children. Sixty parking spaces are provided.

There was no one else to speak in favor of the application and no one to speak in opposition to the application.

Page 314, July 24, 1979
 VIRGINIA HILLS BAPTIST CHURCH MOTHER'S DAY OUT
 (continued) R E S O L U T I O N

Board of Zoning Appeals

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-132-79 by VIRGINIA HILLS BAPTIST CHURCH MOTHER'S DAY OUT under Section 3-103 of the Fairfax County Zoning Ordinance to permit day care center for maximum of 100 children on property located at 6507 Telegraph Road, tax map reference 92-1((1))24, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on July 24, 1979; and

VIRGINIA HILLS BAPTIST CHURCH MOTHER'S DAY OUT
(continued) R E S O L U T I O N

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WHEREAS, the Board has made the following findings of fact:

- 1. That the owner of the subject property is the applicant.
- 2. That the present zoning is R-1.
- 3. That the area of the lot is 3.9239 acres.
- 4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
- 2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
- 3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional use, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
- 4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
- 5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
- 6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
- 7. The maximum number of students shall be 100.
- 8. The hours of operation shall be 9 A.M. to 1 P.M., Tuesday, Wednesday, and Thursday.
- 9. The number of parking spaces shall be 60.

a Special Permit, shall require/

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent.)

Page 315, July 24, 1979, Scheduled case for

12:30 - NEIL R. & CATHERINE R. McDONALD, appl. under Sect. 3-303 of the Ord. P.M. to permit antique shop in older structure, located 1500 Chain Bridge Road, West McLean Subd., 30-2((7))(2)1, 2, 4, 5 & 6, Dranesville & Dist., 22,762 sq. ft., R-3, S-156-79.

12:30 NEIL R. & CATHERINE R. McDONALD, appl. under Sect. 18-401 of the Ord. P.M. to allow attached addition of family room and conversion of carport into double garage 9.0 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307) and to allow enclosure of screened porch 24.1 ft. from front property line, (30 ft. min. front yard req. by Sect. 3-307), located 1500 Chain Bridge Road, West McLean Subd., 30-2((2))1; 2, 3, 4, 5 & 6, Dranesville Dist., 22,762 sq. ft., R-3, V-161-79.

The Chairman stated earlier in the meeting that the applications of Neil R. and Catherine R. McDonald would be deferred until August 2, 1979 at 12:15 P.M. for a full Board.

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Page 316, July 24, 1979, After Agenda Items

V-299-77 through V-301-77: The Board was in receipt of a letter from Mr. Herb Becker seeking clarification of the Board's intent of the word "development" in the resolutions for the R. M. Carrera applications. It was the consensus of the Board to defer this matter until Mr. DiGiulian was present as he was the maker of the original resolutions.

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Page 316, July 24, 1979, After Agenda Items

The Board was informed of the Planning Commission's desire to pull two BZA cases: Mt. Tabor Society and Woodruff Fitzhugh. The Planning Commission was requesting that the BZA defer its scheduled hearings. Chairman Smith stated that he would like to set up a meeting with Mr. Yates and the Planning Commission to discuss the 60 day hearing requirement.

// There being no further business, the Board adjourned at 3:15 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, Chairman

Submitted to the Board on _____.
Submitted to the other departments,
Board of Supervisors and Planning
Commission on _____.

APPROVED: _____
Date

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The Regular Meeting of the Board of Zoning Appeals held in the Board Room of the Massey Building on Tuesday, July 31, 1979. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes; John Yaremchuk and Barbara Ardis.

The Chairman opened the meeting at 8:10 P.M. led with a prayer by Mr. Barnes.

The Chairman called the scheduled 8:00 P.M. case.

8:00 P.M. - BERE A CHURCH OF CHRIST, appl. under Sect. 3-103 of the Ord. to permit building additions to existing church, located 8817 Leesburg Pike, Ash Grove Subd., 29-1((1))10A, Dranesville Dist., 72,919 sq. ft., R-1, S-141-79.

Mr. Russell Jenkins of McLean, Va. represented the church. He stated that the church wished to build an addition to the existing building to make it more readily visible from Rt. 7. The addition would be built of brick with a wood trellis. Mr. Jenkins stated all they were doing was adding an A-roof over the flat roof to raise the building high enough to be visible from Rt.7.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 317, July 31, 1979
BEREA CHURCH OF CHRIST

Board of Zoning Appeals

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-141-79 by BERE A CHURCH OF CHRIST under Section 3-103 of the Fairfax County Zoning Ordinance to permit building additions to existing church, on property located at 8817 Leesburg Pike, tax map reference 29-1((1))10A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on July 31, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-1.
3. That the area of the lot is 1.5506 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

Page 318, July 31, 1979
 BEREHA CHURCH OF CHRIST
 (continued)

Board of Zoning Appeals

R E S O L U T I O N

6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The hours of operation shall be normal hours of church activity.
8. The number of parking spaces shall be 50.

Mr. Barnes seconded the motion.

The motion passed by a vote of 5 to 0.

Page 318, July 31, 1979, Scheduled case of

8:10 - FIRST CHURCH OF GOD - HAPPY DAY CARE CENTER, appl. under Sect. 3-203 of P.M. the Ord. to permit an addition to an existing church and an existing day care center for education and fellowship space, located 4100 Hunt Road, Hunts Village Subd., 58-4((1))19B, & 19, Annandale Dist., 58, 620 sq. ft., & R-1, S-109-79.

FIRST CHURCH OF GOD, appl. under Sect. 18-401 of the Ord. to allow construction of addition to existing church to 15 ft. from side lot line and such that buildings will have F.A.R. of 0.20 (20 ft. min. side yard and 0.15 max. F.A.R. req. by Sect. 3-107) located 4100 Hunt Road, 58-4((1))19B & 19, Annandale Dist., 58,620 sq. ft., R-1, V-144-79.

Mr. Dennis Mitchell, Pastor, represented the church. He stated that they proposed to build a brick and frame addition which would blend in with the existing church. In response to questions from the Board, Mr. Mitchell stated that the day care center is limited to 57 children. He stated that they have an enrollment of 40 to 50 children and do not propose to increase the number of children. He stated 57 children was ample.

In justification for the variance request, Mr. Mitchell gave the Board the background. He stated that the church did a development study in 1974 when they needed more fellowship space and decided to replace the building. He stated that it was their belief it would be better to build new than to add to the existing structure. He stated that the church needs the parking and was not aware that the Ordinance would impose setbacks on their application. It was not until the special permit application was submitted that the church became aware of the need for a variance to the floor area ratio for both buildings. The existing church is substandard and does not meet any setbacks. It would be difficult for the congregation to replace the old buildings if they do not also increase the amount of space. Mr. Mitchell informed the Board that the church is zoned R-1. Some of the property along Hunt Road was rezoned but the church property was not. He stated that the new building would be a beautiful addition to the community. He indicated that the neighbors are willing to help and were present at the Planning Commission hearing.

Mr. Mitchell stated that they proposed to save the trees but also need all of the parking they can get. He stated that it would not enhance the area if they butted the parking area against the church building without any shrubs in between. Mr. Mitchell stated that if the church cut 5 ft. off the building size, it would cut the size of the classroom space. He stated that they believed that the plan as submitted is a good one and takes into consideration the aesthetics and would serve the people. With respect to the staff report, Mr. Mitchell noted that the staff indicated that all trees within the 25 ft. setback be preserved. Mr. Mitchell stated that was not possible and still retain the water retention. He pointed out to the Board that the church has been in existence for some time. He drew the Board's attention to comments made by the Planning Commission that if the church property was zoned in keeping with the community that the variance would not be necessary.

In further response to questions from the Board, Mr. Mitchell stated that the day care center operates from 7 A.M. to 6 P.M., five days a week. In response to Chairman Smith, Mr. Mitchell stated that it was not possible to cut 5 ft. off the building or to move the building over 5 ft. and still keep the design layout of the parking with the shrubbery.

There was no one to speak in opposition of the application and no one to speak in favor of the applications.

R E S O L U T I O N

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Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-109-79 by FIRST CHURCH OF GOD - HAPPY DAY CARE CENTER under Section 3-203 of the Fairfax County Zoning Ordinance to permit addition to an existing church and existing day care center for education and fellowship space on property located at 4100 Hunt Road, tax map reference 58-4((1))19B & 19, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on July 31, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the subject property is First Church of God.
2. That the present zoning is R-1.
3. That the area of the lot is 58,620 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses included on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The number of parking spaces shall be 63.
8. The play area shall be limited to conformance with the Health Department regulations.
9. The specific barriers as suggested in the matrix of Article 13 be modified along the side property lines with the understanding that the applicant will work with the Director of Environmental Management and the adjacent property owners to provide a barrier acceptable to all parties concerned.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

R E S O L U T I O N

In Application No. V-144-79 by FIRST CHURCH OF GOD under Section 18-401 of the Zoning Ordinance to permit construction of addition to existing church to 15 ft. from side lot line and such that buildings will have F.A.R. of .20 (20 ft. min. side yard and 0.15 maximum F.A.R. required by Sect. 3-107) on property located at 4100 Hunt Road, tax map reference 58-4((1))19B, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

Page 320, July 31, 1979
 FIRST CHURCH OF GOD
 (continued)

Board of Zoning Appeals

R E S O L U T I O N

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 31, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 58,620 sq. ft.
4. That the applicant's property and proposed addition IS NOT in need of a 5 ft. variance to the side yard but that a F.A.R. of 0.19 should be permitted to allow an addition of 5,718 sq. ft.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant HAS NOT satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved with regard to request of side yard variance; and

THAT the applicant HAS satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED IN PART (to allow the variance with regard to floor area ratio so that a F.A.R. of 0.19 be permitted and that 5,718 sq. ft. addition be authorized) with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 5 to 0.

 Page 320, July 31, 1979, Scheduled case for

8:30 P.M. - LANGLEY SCHOOL, INC., appl. under Sect. 3-303 of the Ord. to amend existing permit to permit increase in max. no. of students from 268 to 350 and an increase in land area to permit year round operation, located 1411 Balls Hill Road, 30-1((L))42A, 43, pt. of 44 & 30-1((11)) 2A & pt. of 1, Dranesville Dist., 9.5226 acres, R-3, S-147-79.

Mr. Mark Friedlander, Jr. represented Langley School. He informed the Board that the requested amendments were brought about not by major changes to the school's operation but by changes in the land acquisition. He stated that the school has been operating under a special permit for 20 years. The school is located between a police station and the American Legion Hall. Over the past 25 years, the American Legion has allowed the school to use the playing field for soccer. With new development in the area, the American Legion desired to sell the field. The school bid on it and purchased it. An amendment was necessary to the special permit to include the ballfield. Discussions with the County staff regarding the amendment resulted in the attorney becoming aware of the limitations of the permit with regard to hours of operation being limited to a normal school year. The school has always been operating a summer school program over the years as it was not aware of the limitation. Mr. Friedlander stated that the school is seeking to comply by asking that the restriction to a normal school year be amended to a year round operation. He indicated that the school does not plan any more than the one month summer program that they have had in the past.

Another amendment to the special permit was to ask for an increase in the number of enrollments as the school has been able to work out arrangements for a sewer tap which would eliminate the Health Department's restriction as to the septic field. The school was seeking an increase from 268 to 350 students contingent upon the school connecting to the public sewer. In the interim basis, Mr. Friedlander stated that the school was seeking an increase to 330 students. He indicated that the Health Department would approve the 330 on a temporary basis of up to one year.

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 LANGLEY SCHOOL, INC.
 (continued)

Mr. Friedlander stated that the school needs to add a second fourth grade class. He stated that not many students were leaving and so the increase was necessary to accommodate the overflow.

Mr. Friedlander stated that all of the amendments would have little impact on the surrounding community as they were minor changes. There would not be much additional traffic because of the carpools. He stated that most of the new growth was due to the fact that parents have more than one child attending the school so it would not increase the number of cars coming and going. He indicated that the school uses buses, vans and carpools for the transportation of students. The buses comply with the State standards.

During questions from the Board, Mr. Friedlander stated that the present hours of operation are from 8:30 A.M. to 3:00 P.M., Monday through Friday. He stated that the staff arrives between 8 and 8:30 A.M. Some activities in the afternoon last until 4:30 P.M. In addition, he stated that the tennis courts are used by other people in the community. The school has two meetings per year and one fair in the spring during the day and occasional community meetings at night.

Mr. Ralph Evans of Evans Farm Inn informed the Board that he had an association with Langley School that goes back 25 years. He indicated that he has never had a problem with the school. He stated that the school uses the pond at Evans Farm for nature walks. He stated that he was in favor of their application and the changes that they are seeking to the special permit.

Mr. John Nieroski of 1311 Ozkan Street in McLean spoke in opposition to the application. He stated that this development was directly across the street from the Langley School. He stated that he represented the majority of the people living in McLean Knolls who were in opposition to the amendment to the existing special permit. He stated the reasons for opposition were that Balls Hill Road was not properly graded between the American Legion parking lot and the Langley School. Yates Court intersects Balls Hill Road. Visibility from the American Legion parking lot to the Langley School is very limited. There is a 20 ft. drop 300 ft. from the parking lot which accounts for the bad visibility. Mr. Nieroski stated that this was a potential hazard. He stated that the association had been in contact with the State Highway Department and furnished the Board with a copy of their response from the record. In summary, he stated that the traffic pattern on Balls Hill Road would be significantly increased in the next three to eighteen months because of the McLean Station development and other developments in the area. He stated that he was bringing the traffic matter to the Board's attention because of the safety of the children and the neighborhood. He stated that the school would just be contributing to the problem.

Mr. Yaremchuk inquired of Mr. Friedlander if the school had thought about moving because of the traffic problems. Mr. Friedlander stated that the school has a lot of money tied up in land. He pointed out that the development Mr. Nieroski lived in was built across the street from the school four or five years ago. In addition the road was designed with the assistance of the Highway Department. Mr. Friedlander stated that they are cautious with their children.

The next speaker in opposition was Mr. Jean Nieroski of 1311 Ozkan Street in McLean. She stated that she is in an R-3 zone. The school operates under a special permit. She noted the limitation on the school. Chairman Smith indicated that the school could ask for an increase in enrollment. He stated that was what the Board was considering at the public hearing. Ms. Nieroski inquired if the school had ample parking as they park on County property. She stated that they do not have permission to park on Balls Hill Road and that they were operating under the good will of the people in the area. Chairman Smith stated that all parking must be on site or on the pre-arranged parking site. Ms. Nieroski indicated that people park in her subdivision and she can't get out. She stated she wanted to bring this to the Board's attention.

Mr. Friedlander stated that he did not have any rebuttal but indicated that the school does not park anywhere but on the site.

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 LANGLEY SCHOOL, INC.

Board of Zoning Appeals

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-147-79 by LANGLEY SCHOOL, INC. under Section 3-303 of the Fairfax County Zoning Ordinance to amend existing permit to permit increase in maximum number of students from 268 to 350 and an increase in land area and to permit year round operation on property located at 1411 Balls Hill Road, tax map reference 30-1((1))42A, part of 44 and 44A and 30-1((11))2A and part of 1, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

R E S O L U T I O N

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on July 31, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-3.
3. That the area of the lot is 9.8480 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The maximum number of students shall be 350 - contingent upon connecting to public sewer; and 330 students subject to Health Department approval.
8. The hours of operation shall be 8 A.M. to 5 P.M. for the school and 7 A.M. to 9 P.M. for the tennis courts, 12 months per year.
9. The minimum number of parking spaces shall be 104.
10. All other requirements of previous SUP's not modified by this action shall remain in effect.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

Page 322, July 31, 1979, Scheduled case for

8:45 P.M. - BURGUNDY FARM COUNTRY DAY SCHOOL, INC., appl. under Sect. 8-301 of the Ord. to permit private school for general education and community pool, located 3700 Burgundy Road, 82-2((1))5, 6 & 8, Lee Dist., 23.235 acres, R-4, S-111-79.
 (Deferred from June 26, 1979 for advertising of pool.)

Mr. Douglas Adams, attorney, represented the school. He indicated that this was a routine request and that the school has been operating. The application was amended to include the pool. The property has been used for a school for 33 years. He requested that the Board not impose any time limitations on the school in the future.

Chairman Smith indicated that the Board normally places a five year limitation on schools under special permit. Mr. Covington stated that was not a Code requirement. Mr. Adams stated that the present enrollment of the school was 225 students and that the special permit was limited to 250 students. The hours of operation are from 8:30 A.M. to 3:30 P.M., There are meetings that take place during the evenings.

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 BURGUNDY FARM COUNTRY DAY SCHOOL, INC.
 (continued)

With respect to the pool, Mr. Adams stated that it is a community pool for the summer on a membership basis. The hours for the pool are from 9 A.M. to 9 P.M., seven days a week. The Planning Commission reviewed the request and indicated that there should not be any access from Elmwood Drive. Elmwood Drive is a cut between lots and the school. There were only two restrictions from the Planning Commission. One called for a dustless surface. Mr. Adams stated that this was a country school and had a lot of trees around. The private road is in gravel. He indicated that the school would not wish to surface the road at this time and would prefer to retain the country atmosphere. In addition, he indicated this would slow the traffic down on the driveway. Chairman Smith indicated that the Board was not authorized to grant the waiver to the dustless surface. He indicated that the drive should be left as is but if the county staff required a dustless surface then the school would have to file a variance and come back to the Board.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 323, July 31, 1979
 BURGUNDY FARM COUNTRY DAY SCHOOL, INC.
 R E S O L U T I O N

Board of Zoning Appeals

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-111-79 by BURGUNDY FARM COUNTRY DAY SCHOOL, INC. under Section 8-301 of the Fairfax County Zoning Ordinance to permit private school for general education and community pool on property located at 3700 Burgundy Road, tax map reference 82-2((1))5, 6 & 8, County of Fairfax, Virginia has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on July 31, 1979; and deferred from June 26, 1979 for advertisement of pool; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-4.
3. That the area of the lot is 23.235 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The number of students shall be 250.
8. The hours of operation shall be school, 8:30 A.M. to 3:30 P.M., five days a week; and pool, 9:00 A.M. to 9:00 P.M., seven days a week.
9. The number of parking spaces shall be 90.

Mr. DiGiulian seconded the motion.
 The motion passed by a vote of 5 to 0.

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Page 324, July 31, 1979, Scheduled case for

9:00 P.M. - B & N EDUCATORS, INC. T/A THE FAIRFAX ACADEMY OF EARLY LEARNING, appl. under Sect. 3-303 of the Ord. to amend S-4-77 to permit change of permittee and building and parking additions to existing school facilities, located 820 S. Carlyn Springs Road, 62-1((2))6, Mason Dist., 1 acre, R-3, S-145-79.

As a variance was necessary in this application, Mr. Hansbarger asked the Board to defer the application pending the filing of the variance. This matter was deferred until September 25, 1979 at 9:00 P.M.

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Page 324, July 31, 1979, After Agenda Items

First Church of God: Mr. Yaremchuk moved that the case of First Church of God heard earlier in the evening be amended. Mr. DiGiulian seconded the motion to reconsider the resolution. The motion passed by a unanimous vote. Mr. Yaremchuk moved that the staff recommendation no. 8 be included in the resolution, that the specific barriers as suggested in Article 13 be modified along the side property lines and the adjacent property owners be consulted with respect to an acceptable barrier to be approved by all concerned parties. Mr. DiGiulian seconded the motion. The motion passed by a vote of 5 to 0.

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Page 324, July 31, 1979, After Agenda Items

Richard T. Ash: Mr. Ash requested the Board to reduce the number of children previously granted for the operation of a child care center in his home. He indicated the reason was because of the State Code requirements for improvements to be made to his home if he kept that number of children. If the Board reduced the number of children, he would not be required to make the extensive improvements. In addition, Mr. Ash requested the Board to delete condition no. 6 of the resolution involving landscaping and screening requirements. Mr. DiGiulian moved that the Board reduce the number of children and that condition no. 6 be deleted entirely. Ms. Ardis seconded the motion. The motion passed unanimously.

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Page 324, July 31, 1979, After Agenda Items

Langley Development Corporation, amended to C. O. North: The Board was in receipt of revised plans changing the boundary lines of the proposed subdivision. It was the opinion of the Board that as long as the front remained the same since that was what the variance was granted for, that new plats should be submitted meeting the original conditions of the original granting and they would examine them as a minor engineering change.

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Page 324, July 31, 1979, After Agenda Items

Carl A. Covington, V-233-78: The Board was in receipt of a request from Mark Bellonby requesting a six month extension on the variance granted to Carl A. Covington on November 7, 1978. Mr. Barnes moved that the Board approve a six month extension. Ms. Ardis seconded the motion. The motion passed by a vote of 5 to 0.

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R. M. Carrera, V-299-77 through V-301-77: The Board was in receipt of a letter from Mr. Herbert Becker regarding the variances granted to R. M. Carrera for the creation of 3 lots in Franklin Forest. The Board deferred the request for a review of the file.

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// There being no further business, the Board adjourned at 10:25 P.M.

By *Sandra L. Hicks*
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to the Board on _____
Submitted to the other departments,
Board of Supervisors and Planning
Commission on _____

APPROVED: _____
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Thursday, August 2, 1979. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman, George Barnes; John Yaremchuk and Barbara Ardis.

The Chairman opened the meeting at 11:00 A.M. led with a prayer by Mr. Barnes.

The Chairman announced that the required posting for the cases scheduled had not taken place and for that reason, the Board would have to reschedule the items not properly posted.

10:00 - GEORGE & VIRGINIA A. LUCAS, appl. under Sect. 18-301 of the Ord. to appeal decision of the Zoning Administrator that land which otherwise meets criteria of Sect. 2-403 cannot be subdivided pursuant thereto if a variance to minimum lot width requirement is needed, located 3919 Rugby Road, Maury Farms Subd., 45-2((2))31, Centreville Dist., 1.8595 acres, R-1, A-162-79.

Because of a deficiency in the posting requirements, this appeal was rescheduled for Friday, August 10, 1979 at 10:00 A.M.

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Page 326, August 2, 1979, Scheduled case for

10:10 - RALPH A. & ROSE MARIE BIANCANIELLO, appo. under Sect. 18-401 of the Ord. to allow construction of deck 10.7 ft. from rear lot line (19 ft. min. rear yard req. by Sect. 3-307 & Sect. 2-412), located 3059 Bohicket Court, Five Oaks Subd., 48-3((34))49, Providence Dist., 9,376 sq. ft., R-3, V-151-79.

Because of a deficiency in the posting requirements, this variance was rescheduled for Friday, August 10, 1979 at 10:10 A.M.

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Page 326, August 2, 1979, After Agenda Items

Fairfax Baptist Temple: The Board was in receipt of a memorandum from the Zoning Administrator, Philip Yates, regarding a possible public hearing for the Fairfax Baptist Temple in order to resolve some problems or inconsistencies with the resolution. After review of the memorandum, it was the opinion of the Board that these problems with the chain across Nan Mill Drive would be allowed if the citizens and Mr. Yates agreed to it. Reference was made to the violations by the church by occupying the structure without a non-residential use permit and for erecting signs on the property in violation of the Ordinance. The Board pointed out that these violations would have to be corrected by the Zoning Enforcement Division. Other problems cited by Ms. Kelsey with respect to possible fire code violations would have to be resolved by the Fire Marshal.

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Page 326, August 2, 1979, Executive Session

Mr. DiGiulian moved that the Board convene in Executive Session in order to discuss the State Code with the County Attorney, Lee Ruck. The meeting reconvened at 12:20 P.M. to continue with the scheduled agenda.

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Page 326, August 2, 1979, Scheduled case for

10:20 - ROLAND C. & ELVA L. MORRIS, appl. under Sect. 18-401 of the Ord. to allow subdivision, creating one lot with width of 150 ft. (200 ft. min. lot width req. by Sect. 4-807), located 13921 Lee Jackson Memorial Hwy., Rockland Village Subd., 34-4((1))53, Springfield Dist., 8.1399 acres, C-8, V-152-79.

As the required posting for the property was not properly executed, the Board deferred this case until Friday, August 10, 1979 at 10:20 A.M.

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Page 327, August 2, 1979, Scheduled case for

10:30 - HERBERT E., JR. & MARIE P. LANE, appl. under Sect. 18-401 of the Ord. to allow subdivision into 6 lots, with proposed lot 3 having width of 12 ft. and proposed corner lot 6 having width of 192.88 ft. (200 ft. minimum width for interior lot & 225 ft. minimum width for corner lot required by Sect. 3-E06), located 9210 Jeffery Road, 8-2((1))25, Dranesville Dist., 12.0 acres, R-E, V-153-79.

As the required posting was not in order, the Board deferred the hearing until Friday, August 10, 1979 at 10:30 A.M.

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Page 327, August 2, 1979, Scheduled case for

10:40 - MR. & MRS. CHARLES W. RILEY, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 8 ft. from side lot line (15 ft. minimum side yard required by Sect. 3-207), located 6705 South Kings Highway, Country Club Estates Subd., 92-2((11))1, Lee Dist., 20,514 sq. ft., R-2, V-155-79.

As the required posting was not in order, the Board deferred the application until Friday, August 10, 1979 at 10:40 A.M.

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Page 327, August 2, 1979, Scheduled case for

10:50 - MELVIN & MARGARET THOMPSON, appl. under Sect. 18-401 of the Ord. to allow construction of a detached garage 35 ft. from front lot line (40 ft. minimum front yard required by Sect. 3-107), located 11258 English Mill Drive, Old Mill Estates Subd., 12-4((1))3, Dranesville Dist., 1.1522 acres, R-1, V-158-79.

As the required posting was not in order, the Board deferred the application until Friday, August 10, 1979 at 10:50 A.M.

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Page 327, August 2, 1979, Scheduled case for

11:00 - JOHN OWENS & JOHN COWARDIN, appl. under Sect. 18-401 of the Ord. to allow resubdivision of 3 lots into 2 lots such that proposed corner lot 15A would have width of 86.21 ft. (95 ft. minimum lot width req. by Sect. 3-406), located 2409 Chestnut Street-LOT 16; 7214 Hickory Street-LOT 15, Gordon's Second Subd., 40-3((11))15, 16 & Outlot C, Providence Dist., 19,741 sq. ft., R-4, V-159-79.

As the required posting was not in order, the Board deferred the application until Friday, August 10, 1979 at 11:00 A.M.

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Page 327, August 2, 1979, Scheduled case for

11:10 - TRUSTEES OF BETHEL ORTHODOX PRESBYTERIAN CHURCH & WALTER A. BOOTHE, ET. US., appl. under Sect. 18-401 of the Ord. to allow resubd. of 2 lots into 4 lots such that proposed lots 3 & 4 would have widths of 15.01 ft. & 15.00 ft. respectively (200 ft. minimum lot width req. by Sect. 3-E06), located 854 & 858 Seneca Road, 6-4((1))8 & 9, Dranesville Dist., 9.8 acres, R-E, V-160-79.

As the required posting was not in order, the Board deferred the application until Friday, August 10, 1979 at 11:10 A.M.

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Page 327, August 2, 1979, Scheduled case for

11:20 - FRANZ & NICOLE ZENZ, appl. under Sect. 18-401 of the Ord. to allow construction of an addition to a dwelling to 8.6 ft. from a side lot line & 28.6 ft. from the front lot line (15 ft. min. side yard & 35 ft. min. front yard req. by Sect. 3-207), located 1859 Massachusetts Ave., Franklin Park Subd., 41-1((13))1B, Dranesville Dist., 11,500 sq. ft., R-2, V-163-79.

Page 328, August 2, 1979
 Franz & Nicole Zenz
 (continued)

As the required posting was not in order, the Board deferred the application until Friday, August 10, 1979 at 11:20 A.M.

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Page 328, August 2, 1979, Scheduled case for

11:30 A.M. - DONALD EDWARD BOLDT, appl. under Sect. 18-401 of the Ord. to allow construction of double car garage addition to dwelling to 12.1 ft. from side property line (15 ft. min. side yard req. by Sect. 3-207), located 8818 Gateshead Road, East At Mount Vernon Subd., 110-1((18))(8)10, Mt. Vernon Dist., 23,108 sq. ft., R-2, V-165-79.

As the required posting was not in order, the Board deferred the application until Friday, August 10, 1979 at 11:30 A.M.

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Page 328, August 2, 1979, Scheduled case for

11:40 A.M. - MR. & MRS. GEORGE HOYT, appl. under Sect. 18-401 of the Ord. to allow addition to existing dwelling & construction of a bath house for swimming pool, each to 10 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207 & Sect. 10-105), located 7007 Holyrood Holyrood Drive, Balmacara Subd., 21-4((17))22, Dranesville Dist., 21,086 sq. ft., R-2, V-166-79.

As the required posting was not in order, the Board deferred the application until Friday, August 10, 1979 at 11:40 A.M.

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Page 328, August 2, 1979, Scheduled case for

11:50 A.M. - H. C. HAYNES, appl. under Sect. 18-401 of the Ord. to allow a tennis court fence which exceeds 7 ft. in height to be located 38 ft. from the front lot line & 15 ft. from the side lot line (50 ft. min. front yard & 20 ft. min. side yard req. by Sect. 3-E07), located 9200 Deer Park Road, Deer Park Subd., 8-4((7))7, Dranesville Dist., 2.0 acres, R-E, V-167-79

&
 11:50 A.M. - H. C. HAYNES, appl. under Sect. 3-E03 of the Ord. to permit home professional (physician) office, located 9200 Deer Park Road, Deer Park Subd., 8-4((7))7, Dranesville Dist., 2.0 acres, R-E, S-168-79.

As the required posting was not in order the Board deferred the above applications until Friday, August 10, 1979 at 11:50 A.M.

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12:05 P.M. - COURTS ROYAL EAST LIMITED PARTNERSHIP, appl. under Sect. 5-603 of the Ord. to permit alteration of existing racquet/ball court to add restaurant/snack bar, located 5505 Cherokee Ave., 80-2((1))52, Annandale Dist., .5640 acres, I-6, S-164-79.

As the required posting was not in order the Board deferred the application until Friday, August 10, 1979 at 12:05 P.M.

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Page 328, August 2, 1979, Scheduled case for

12:15 P.M. - DR. VICTOR & BEATRICE B. LONGORIA, appl. under Sect. 18-401 of the Ord. to permit enclosure of screened porch 11 ft. from side lot line (20 ft. min. side yard required by Sect. 3-107) located 3108 Knoll Drive, Sleepy Hollow Subd., 51-3((7))30, Mason Dist., 28,409 sq. ft., R-1, V-126-79.
 (Deferred from July 17, 1979 for Notices.)

The required notices were in order. Mrs. Beatrice B. Longoria of the above address informed the Board that her present home was crowded and that the existing screened porch was an ideal room for expansion. She stated that by closing off the porch, it would be less offensive than when it was screened.

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In response to questions from the Board, Mrs. Longoria stated that her husband does not practice in his home. In addition, she stated that they have owned the home for 23 years.

There was no one to speak in favor of the application and no one to speak in opposition.

R E S O L U T I O N

In Application No. V-126-79 by DR. VICTOR & BEATRICE B. LONGORIA under Section 18-401 of the Zoning Ordinance to permit enclosure of screened porch on property located at 3108 Knoll Drive, tax map reference 51-3((7))30, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 2, 1979; and deferred from July 17, 1979 for Notices; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 28,409 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including long and narrow and has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

12:15 - NEIL R. & CATHERINE R. McDONALD, appl. under Sect. 3-303 of the P.M. Ord. to permit antique shop in older structure, located 1500 Chain Bridge Road, West McLean Subd., 30-2((7))(2)1 - 6, Dranesville Dist., 22,762 sq. ft., R-3, S-156-79. (Deferred from July 24, 1979 for full Board.)

&

12:15 NEIL R. & CATHERINE McDONALD, appl. under Sect. 18-401 of the Ord. P.M. to allow attached addition of family room and conversion of carport into double garage 9.0 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307) and to allow enclosure of screened porch 24.1 ft. from front property line (30 ft. min. front yard req. by Sect. 3-307) located 1500 Chain Bridge Road, West McLean Subd., 30-2((2))1-6, Dranesville Dist., 22,762 sq. ft., R-3, V-161-79. (Deferred from July 24, 1979 for full Board.)

At the beginning of the hearing, Chairman Smith announced that the Board would allow a total of 30 minutes for this hearing. If the hearing was not completed by that time, it would be necessary for the Board to defer the hearing until a later date. In addition, he informed the audience and the applicants that the Planning Commission had requested the Board to defer decision on this matter until receipt of its recommendation.

Mr. Robert Lawrence represented the applicants. He informed the Board that they had applied for a special permit for an antique shop in an older structure. The house was built in 1940. It is located on Buena Vista and Old Chain Bridge Road. Mr. McDonald is a former counsel for the Senate Judicial Committee of the U.S. Senate. Mrs. McDonald has been in the antique business for three years. Her most recent business has been in Arlington. The property is located in the Central Business District of McLean. Across the street from the subject property is a professional office with 39 offices. Adjacent to this property is the McLean Racquet Club. This requested use is in conformance with the Master Plan and is a good transitional use of the property.

Mr. Stroh's memorandum stated that although the Comprehensive Plan suggests commercial office use, it should be noted that such special permits are recommended for subject location and nothing in the text recommends against retail special permits in this location.

With respect to the use, the McDonalds are going to use two rooms, 10 x 14 and 21 x 11, for the antique furniture. They cannot expand this use because it is an older structure and is prohibited under the Ordinance. With respect to the McLean Planning hearing, Mr. Lawrence advised the Board that his clients were excluded and were asked to leave the hearing. Mr. Lawrence addressed the Board's attention to several letters in the file in support of the request, both from neighbors and former neighbors. Chairman Smith announced that there were a total of 13 letters in support of the application. Mr. Lawrence informed the Board of another antique shop in an older structure which was approved by the McLean Planning Committee. Chairman Smith stated that he was aware of the other antique shop and was amazed at the opposition to this request.

In closing, Mr. Lawrence presented arguments on behalf of his clients that they would be suffering a hardship if the decision were not made in a timely manner. He stated that Mr. McDonald was between jobs at the moment. In addition, Mr. Lawrence cited the County Code with respect to the 60 day requirement. Chairman Smith stated that it was evident that the Board would not be able to complete the hearing today but stated that the record would remain open until the 10th and at that time, the Board would consider a further deferral.

Mr. Lawrence informed the Board that the variance application had been withdrawn and that the additional structures would not be built.

Mr. Richard Hobson, an attorney representing an adjoining property owner, asked the Board to defer its decision in this matter until such time as the Planning Commission acts on this application. Mr. Hobson stated that the Board was not in a position to act on this application inasmuch as the plats were not correct since the structures would not be built. In presenting his opposition to the request, Mr. Hobson stated that he represented Mrs. Parker. He stated that the use was for a special permit of a retail nature. This would cause a problem with traffic in the area. He stated that the Board would not grant the special permit if it did not comply with the requirements under Section 8-006 of the Ordinance in that it could not have an adverse effect on the adjoining properties. He stated that this property was not zoned for an antique shop. It is zoned for a small family use. He stated that the McDonalds should have had a contingency in their contract. Mr. Hobson stated that he would like to know what the application was for and wanted to see plats as it would be. He inquired if the carport was going to be there next to Mrs. Parker.

Mrs. Ruby Smith of the McLean Planning Committee spoke in opposition to this request. She explained that the McLean Planning Committee operates much the same way as the Board of Zoning Appeals. It is not their policy to exclude anyone from the discussions at their hearings. She stated that the McDonalds had had an opportunity to present their case to the Committee on at least three occasions.

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Chairman Smith announced that the Board would defer this case until August 7, 1979 at 9:30 A.M. and would allow an additional 30 minutes of testimony and rebuttal at that time. If anyone could not be present, written testimony would be accepted. Mr. Lawrence stated for the record that he was not in agreement with the deferral.

// There being no further business, the Board adjourned at 1:15 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

DATE: _____ Date

Submitted to the Board on _____.
Submitted to the other departments,
Board of Supervisors and Planning
Commission on: _____.

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, August 7, 1979. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes; John Yaremchuk and Barbara Ardis.

The Chairman opened the meeting at 9:50 A.M. led with a prayer by Mr. Barnes.

The Chairman called the recessed case scheduled for 9:30 A.M.

9:30 - NEIL R. & CATHERINE R. McDONALD, APPL. under Sect. 3-303 of the Ord. to permit antique shop in older structure, located 1500 Chain Bridge Road, West McLean Subd., 30-2((7))(2)1 - 6, Dranesville Dist., 22,762 sq. ft., R-3, S-156-79. (Deferred from July 24, 1979 & August 2, 1979 for full Board.)

The Chairman called the recessed hearing of Neil & Catherine R. McDonald. Mr. Dick Hobson, representing Mrs. Parker, addressed the Board with respect to the 60 day hearing requirement. It was the opinion of Mr. Hobson that the Board should defer its decision pending receipt of the Planning Commission's recommendation. The Planning Commission has scheduled the hearing for September 19th. He suggested that if the Board hears and decides this application prior to the Planning Commission hearing that it would be a departure from the Zoning Ordinance.

With respect to the merits of the case, Mr. Hobson stated that Mrs. Parker was opposed. The subject property is located on the very edge of the Central Business District. The line for the Central Business District is between the subject property and Mrs. Parker's property. The property is zoned residential and could not be used for retail sales. It is a single family use. The property has a lot of shrubs around it and is screened very heavily in the summer. Unless the Board states otherwise, Mr. Hobson assumed that the screening on Chain Bridge Road would be torn down. He suggested that if the screening was torn down and the use was allowed then no one would ever want to live there as a single family residence ever again. He stated that the Comprehensive Plan calls for a townhouse residential use for the property. Mr. Hobson stated that this use would be 30 ft. from Mrs. Parker's door. The property line is only 12 ft. from the door.

Mr. Hobson presented other neighbors to speak in opposition to the use. Mr. John Stapleton of 1520 Buena Vista Avenue stated that he lived two doors away from the proposed use. He stated that he has owned his house for 7 years and was the original owner. He stated that he checked with the zoning when he moved in and relied on that when purchasing his house. Chairman Smith informed him that this was a use permitted in a residential area under a use permit and was not considered a commercial use as such. Mr. Stapleton stated that the subject property is 1 1/2 miles from Old Dominion and Chain Bridge Road. He stated that the house is very small but that the previous tenants had lived very comfortably there. His concern was traffic. He indicated that Buena Vista Avenue could not stand additional traffic. He stated that he had difficulty in parking in front of his home. He stated that the area was dangerous because of the inadequacy of the road. There have been many accidents in spite of the 25 m.p.h. zone. He stated that an antique shop is not defined by law. He indicated that 40 or 50 year old furniture could be antique or could be junk. He stated that the proposed house was too small for a fullscale antique shop and inquired as to where these items would be located. He stated that there must be a much more suitable location for this shop somewhere else in McLean. He suggested that it be located in a retail establishment. He stated that his experience with special permits has not pleasant. There is a tennis club across the street which was to be limited to tennis. Now they have restructured their program, increasing the density and changing the ages of the members. In addition, the tennis club has a retail outlet which is open to the public as well as their members. Mr. Stapleton stated that he feared if the Board granted the use permit for an antique shop that it would end up being a second hand furniture store.

The next speaker in opposition was Mr. Jim Hutchison who has been a property owner in McLean since 1961. He stated the he resided at 1522 Buena Vista Avenue and has resided there since 1972. Mr. Hutchison stated that he represented a group of eight townhouse owners. He stated that he was opposed to any type of retail outlet on his street as this was a residential neighborhood. The streets are only 15 ft. wide. The neighborhood is made up of older

people. He stated that he was amazed that anyone would want to have a business in this location. There is no room to park anywhere on Buena Vista Avenue. He stated that this was nice area to walk around. He indicated that by granting a special permit, it would destroy the neighborhood.

The next speaker in opposition was Mary Zoe of 1510 Buena Vista Avenue. She stated she lived across the street from the proposed antique hshop. Her concern was that this use would add to the traffic problem and noise problem. In addition, it would damage her investment in her property.

The next speaker against the use was Arthur Morley of 1428 Buena Vista Avenue. He stated that he lives 1 1/2 blocks away from the property in question. He stated that he just purchased his property and had studied the area very carefully before buying. It is a very pleasant place to live. An antique shop would be a threat to the pleasant residential area. He stated that the traffic problem would be a danger to the young children in the area. There is already a problem with the racquet ball club in the vicinity. People drive in excess of the speed limit. Mr. Morley stated that anything that would increase the traffic would be a negative point.

Ms. Mary Lou Serafin of 1518 Buena Vista Avenue informed the Board that even though the subject property was advertised on Chain Bridge Road, the driveway entrance comes off of Buena Vista Avenue which is a very hazardous road. If the use is allowed, there would be more on street parking. Any overflow of traffic would park in the townhouse parking lot. She stated that the townhouse parking lot does not even have extra spaces for guests. The area is basically a residential area. She urged the Board to deny the special permit.

Ms. Ann Cursio of 1501 Cedar Avenue stated that she was a professional real estate agent. Her property backs to the townhouses. She informed the Board the proposed location for the antique shop was an older structure. Unfortunately, the older structures seem to be a target for change. She stated that her house is 45 years old. The neighborhood is not a deteriorating area. People take care of their property. The houses are small. Many people renovate them and add additions on the old houses. The area does not need to go commercial but needs to stay residential. She stated that things under a special permit are subject to a change. She informed the Board that she does not want to live next to an office building and does not want the area to change.

Ms. Marie Parker, a contiguous property owner, stated that she opposed this special permit for two reasons. The special permit would not be compatible with the existing area and is not compatible with the Comprehensive Plan. Although the lot is large, the parking would be 25 ft. from her property, and would impact her property, as well as the rest of the neighborhood. Even though there is good screening, it would not be there during the winter. With respect to the Comprehensive Plan, it calls for R-5 zoning to R-8 zoning. A retail outlet would be against the Comprehensive Plan. This use would have a severe impact on Buena Vista Avenue. This area is a solid residential neighborhood. Any commercial stores would be downgrading to the area.

Mr. Hobson presented the Board with a petition of people in opposition to the use and a map showing the location of their homes to the use. Mr. Hobson suggested that the Board seek advice from the County Attorney's Office regarding the 60 day hearing requirement. If the Board votes in the matter today, it would set a precedent. In addition, Mr. Hobson stated that this special permit does not meet the general standards. Additions are to be added which can't be used for the antique shop. He stated that he did not think this was what the applicants wanted. If the shrubs are torn down, the house could not go back to a single family use again. The house needs to be shielded from Chain Bridge Road.

During rebuttal, Mr. Lawson stated that the proposed structure connected with the variance request had been withdrawn. With respect to the 60 day hearing requirement, Mr. Lawson stated that the State Code requires a decision within 60 days but it doesn't say 60 days from any specific point. To delay the decision until after the Planning Commission would be a burden on the applicants. The Planning Commission was promptly notified when the application was filed. They had ten meetings since that time. Waiting until September for the Planning Commission hearing would not be fair to the applicants. Under Section 8-009 and 9-009, a public hearing is not required

by the Planning Commission. They could discuss it any meeting and make a recommendation to the Board of Zoning Appeals. Mr. Lawrence stated he could not understand why the Planning Commission has not been able to act on this matter within the past ten weeks.

Mr. Lawrence submitted a property identification map to the Board showing the relationship of the subject property to the surrounding area. There are three commercial uses on three corners; a racquetball facility, a pharmacy, eye doctor and an office building. Mr. Lawrence stated that these types of uses were oriented towards this area. The Central Business District line is directly behind this property. The antique shop is a good transition use for the property. It would keep the property from being neglected.

With regard to the road, Mr. Lawrence stated that the road was widened in front of the racquetball facility. There are plans in Richmond to widen the road by 11 ft. in about two years. This would take away some land from the site. Anyone traveling to the site, would only drive down Baena Vista Avenue for about 60 ft. It is not a through street. Any increase in traffic would be coming from the racquetball club. Any increase in traffic for the antique shop would not be substantial. The parking as shown on the plats was provided per the instructions of the County staff. The number of parking spaces was determined by Mr. Hendrickson's Office.

Mr. Lawrence stated that there had been a lot of talk about the quality of merchandise to be sold. Mr. Lawrence informed the Board that there was another antique shop called George's which sells junk. The McDonalds were not able to control the shop in Arlington which is why they are seeking their own shop in Fairfax County. Mr. Lawrence stated he had several witnesses who could speak to the quality of merchandise Mrs. McDonald sells. Mr. Lawrence stated that he had a letter for the file establishing that the garage on the property was built prior to 1949. Ms. Susan Colt of 700 Belgrove Road in Arlington spoke to the Board on behalf of the applicants. She stated that she had known the McDonalds for one year and that they have a lovely shop in Arlington. She stated that they had shared space with a lady who ran George's. She stated that the McDonalds would be an asset to McLean. The next speaker was Mr. Robert Hall of 315 N. Highland Street in Arlington. He was the rector of St. George's Church in Clarendon. He stated that this use would be a retail business shop. He indicated that the McDonald's home was a model for the neighborhood. They had bought an older home in Clarendon and did an extremely good job of remodeling it. He stated that the McDonalds are good neighbors. Mr. John Dougherty of 3222 N. Pershing Drive in Arlington stated that he has known the McDonalds for five years and was sorry to lose them to McLean.

During rebuttal, Mr. Hobson stated that the proposed use was not to be in the garage. It is proposed in the two rooms only. The application for the garage would not be granted by the Board as it does not meet the setback for the zone. Chairman Smith stated that they could use it for their own personal storage and as a garage. Mr. Hobson stated that he only wanted to make it clear that it was not a part of the application for the antique shop. He stated that he did not question the character of the applicants or their qualifications for running an antique shop. He informed the Board that he thought they should have the benefit of the Planning Commission's judgment on this application before making a decision. The Planning Commission had asked the Board to defer this decision. Mr. Hobson stated that as a condition of granting he would like to limit the number of patrons and to retain the screening along Chain Bridge Road and along the property line next to Mrs. Parker. If a special permit is permitted for an antique shop, the quality should be retained as much as possible. No used furniture or storage of goods should be permitted. In addition, Mr. Hobson stated he would oppose a site plan waiver for the property.

During rebuttal, Mr. Lawrence stated that the whole point of the transitional yard requirement is to provide screening. He stated that his clients do not want to be protected. The existing vegetation is overgrown. It hasn't been taken care of in years. With respect to waiting for the Planning Commission recommendation, the McDonalds would have to bear the expense of that delay. It would not change the voting requirements of the Board of Zoning Appeals. Mr. Lawrence stated that he could not understand what all the fuss was about. The zoning map shows all of the commercial uses in the area. He stated that they would like a special permit like the one down the street. He stated that he thought this would be compatible with the area.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-156-79 by NEIL R. & CATHERINE R. McDONALD under Section 3-303 of the Fairfax County Zoning Ordinance to permit antique shop in older structure on property located at 1500 Chain Bridge Road, tax map reference 30-2((7))(2)1-6, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on August 2, 1979 and deferred until August 7, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-3.
3. That the area of the lot is 22,762 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance; and

NOW, THEREFORE; BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The hours of operation shall be 9 A.M. to 9 P.M., Monday through Friday Saturday with a maximum of 3 patrons at any one time.
8. The number of parking spaces shall be 4.
9. Existing screening along the northerly property line shall remain and shall be supplemented by additional evergreen plantings as determined by the Director of Environmental Management.
10. This permit is granted for a period of five years.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 with 1 abstention (Mr. Yaremchuk).

Page 335, August 7, 1979
BOARD POLICY

It was the consensus of the Board of Zoning Appeals that a policy be adopted wherein an application would be heard within a reasonable period of time and that the 60 day hearing requirement related to the time a decision was to be made following the hearing.

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Page 336, August 7, 1979, Scheduled case of:

10:00 - ARTHUR T. HUNSBERGER, appl. under Sect. 18-401 of the Ord. to allow construction of an addition to existing dwelling 20 ft. from rear property (25 ft. minimum rear yard required by Sect. 3-407), located 3220 Nottage Lane, Jacobs Park 1st Subd., 60-2((8))6, Mason Dist., 8,578 sq. ft., R-4, V-169-79.

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Mr. Arthur Hunsberger of the above address stated that he was representing himself as the homeowner in this application. He stated he needed a variance to reduce the rear setback. Mr. Hunsberger informed the Board that his property was irregularly shaped having 20 ft. only on one corner. The proposed addition would be a screened porch but would be closed for the winter months. The addition would be well screened from adjacent properties. He submitted a plat to the Board showing his house in relationship to other properties in the area. He stated that a variance was necessary in order for him to construct the porch because of the narrow depth of the lot.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 336, August 7, 1979
ARTHUR T. HUNSBERGER

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-169-79 by ARTHUR HUNSBERGER under Section 18-401 of the Zoning Ordinance to allow construction of an addition to existing church on property located at 3220 Nottage Lane, tax map reference 60-2((8))6, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 7, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-4.
3. The area of the lot is 8,578 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including shallow.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 336, August 7, 1979, Scheduled case for

10:10 - MT. TABOR SOCIETY, INC., co/appl. REV. ARTHUR F. VERSTRAETE, A.M. PRESIDENT, appl. under Sect. 3-103 of the Ord. to permit monastery/seminary, located 2363 Hunter Mill Road, pt. of Hunter Mill Estates & Kemper Park Subd., 37-2((1))29 & ((11))43 & 44, Centreville Dist., 97,630 sq. ft., R-1, S-171-79.

Ms. Marilyn Moore acted as agent for the applicant. Her address was 9411-S Lee Highway in Fairfax. She informed the Board that this application had been pulled by the Planning Commission. She stated that the applicant was willing to waive the 60 day hearing requirement in order for the Planning Commission to review the application and make a recommendation to the Board. Chairman Smith stated that in view of the type of use proposed, it would be a good idea to recess the hearing as far as the decision. He stated that the Board would go ahead and hear the application and any opposition.

Ms. Moore informed the Board that the filing of this application was done under the direction of Mr. Yates. She stated that it was an application for several priests and several lay persons and there was some uncertainty as to what to categorize it. Ms. Moore stated that the applicants want to conduct private religious meetings which would be controlled by Mt. Tabor. People would be residing at this facility. In addition to the day to day services, the applicants would conduct special services and meetings for about 6 hours a week. These would be at a set time and scheduled. Parking would be provided on the site. There is existing parking for 15 vehicles. The adjacent property to the east is owned and maintained by the applicants. She informed the Board that there is also pending an application for a variance to the dustless surface requirement.

There was no one else to speak in favor of the application; however, the file contained two letters of support which were made a part of the record. The following persons spoke in opposition to the application. Ms. Mary Ann Curry of 2403 Beekay Court stated that she was an adjacent property owner in Kemper Park. She stated that this application was not in keeping with the planned use of this area as a residential area. She stated there were a lot of verbal assurances about what would take place on the property. She stated that the area already has one illegal religious group operating on the corner of Vale Road which the County had ruled against. Chairman Smith stated that he remembered that the Board did not approve the special permit for that organization. He suggested that she address that issue to the proper authorities. Once again, Ms. Curry stated that verbal assurances were fine but who could say that the occupants would not change or the sense of direction change. She stated that she questioned the establishment as she has heard many rumors about the property. She stated that she had not heard until today that it was proposed as a seminary. She informed the Board that several years the property was investigated for a school but it could not pass the fire code. Ms. Curry stated she had several questions that were not clear except for verbal assurances. She stated that she would like to impress upon the Board that this was not the right neighborhood for this use.

Ms. Lillian Romaro of 2405 Beekay Court spoke in opposition. She informed the Board that she had discussed the application with the agent, Ms. Moore.

The next speaker in opposition was Dr. Morton S. Raymond of Vale Road. He stated that he was three blocks from the proposed use but directly across the street from the property that was alluded to as a church. He stated that he was here seeking some confidence from the County government. He stated that he was concerned with the County government passing Ordinances with a lack of coordination. He stated that the proposed church for the corner of Vale Road and Hunter Mill Road was denied a special permit as a church. He stated that the County Attorney has not yet acted on it. He stated that he got in touch with one of the members of the Board of Supervisors and she instructed the County Attorney to review it. He stated that whatever the Board's action, it was not as important as rape and murder and the County Attorney's caseload. Chairman Smith informed Dr. Raymond that his comments had no merit on this particular case. Dr. Raymond stated that the County thumbs his nose at the citizens and that he had some doubts about the laws that are passed. Chairman Smith stated that the property he was talking about is not under a special permit. He stated that it was a violation of the County Code and that it had been upheld by all of the County courts.

Chairman Smith informed Ms. Moore that she would be given some rebuttal time at the time of the public hearing. Ms. Moore stated that she had some pertinent comments for the Board regarding this application. She stated that she contacted the Kemper Park Civic Association and met with them in June to discuss the Mt. Tabor Society's application. The people were not in opposition at that time. She stated that it was apparent that the Mt. Tabor Society application had been prejudiced by the previous applications in this neighborhood. She stated that there was no question that the other church was in direct violation of the Code. She stated that the relationship everyone was associating with this proposed use was totally uncalled for. She stated

that the Mt. Tabor Society was presently operating without any problems. She informed the Board that the members of the Kemper Park subdivision in opposition were representative of a minority of the group. She stated that the rumor that this was a ~~halfway-house~~ and not a monastery was absurd.

The Board deferred this application for a decision until October 2, 1979 at 10:00 A.M.

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Page 338, August 7, 1979, Scheduled case for

10:10 - MT. TABOR SOCIETY, INC., co/appl. ARTHUR F. VERSTRAETE, PRESIDENT, appl. under Sect. 18-401 of the Ord. to allow gravel driveway for monastery/seminary (dustless surface req. by Sect. 11-102, located 2363 Hunter Mill Road, pt. of Hunter Mill Estates & Kemper Park Subd., 37-2((1))29 & ((11))43 & 44, Centreville Dist., 97,630 sq. ft., R-1, V-172-79.

For testimony presented by the applicant's agent, please refer to the Minutes in the special permit application folder. The Board deferred decision on this application until October 2, 1979 at 10:00 A.M. because of the Planning Commission hearing.

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Page 338, August 7, 1979, Scheduled case for

10:25 - FIRST BAPTIST CHURCH OF HAYFIELD, appl. under Sect. 3-103 of the Ord. to permit Sunday school class rooms addition to existing church, located 7313 Hayfield Road, 91-3((1))72, Lee Dist., 2.054 acres, R-1, S-170-79.

The representative for the church stated that the existing building was built in 1972. He stated that the church was asking the Board for a special permit to add an additional structure on the property for Sunday school class rooms. It would be added to the back side of the existing structure away from the road clearance. He stated that the addition would not add any traffic congestion to the area around the church. He stated that the neighbors around the church had expressed their support for the addition. He indicated that this addition would not cause any adverse hardship to the community.

Chairman Smith inquired if the parking for 25 vehicles was adequate. Mr. Covington informed the Board that additional parking was not necessary as the proposed addition was for Sunday school classrooms.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 338, August 7, 1979 Board of Zoning Appeals
FIRST BAPTIST CHURCH OF HAYFIELD

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-170-79 by FIRST BAPTIST CHURCH OF HAYFIELD under Section 3-103 of the Fairfax County Zoning Ordinance to permit Sunday school class rooms addition to existing church on property located at 7313 Hayfield Road, tax map reference, 91-3((1))22, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-1.
3. That the area of the lot is 2.054 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

R E S O L U T I O N

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The hours of operation shall be normal hours of operation.
8. The number of parking spaces shall be 25.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 339, August 7, 1979, Scheduled case for

10:35 - DIFFERENT DRUM, INC., appl. under Sect. 3-103 of the Ord. to permit continued operation of school for 25 students, aged 14 to 18, located 7150 Telegraph Road, 91-4((1))13, Lee Dist., 2.81 acres, R-1, S-190-79.

Mr. Michael Kenny of 8235 Frye Road in Alexandria represented Different Drum. He informed the new members of the Board who were not familiar with the operation that Different Drum was a school in Northern Virginia for students referred by Social Services and the juvenile court system. He stated that the students were unsuccessful at the public schools. Different Drum operates with 25 students, ages 14 through 18. Mr. Kenny stated that the school has both fulltime and parttime teachers. He stated that the school has been located at 7150 Telegraph Road for about a year. Prior to that time, the school was operating at the Mt. Vernon Unitarian Church. Mr. Kenny told the Board that the school has experienced some minor complaints since moving to this new location. The complaints were associated with trespassing. He explained that the property is wooded and it was unclear as to the location of the property lines. Five students from Different Drum have finished high school and passed a G.E.D. Some of the students have even gone back to the public high schools. Mr. Kenny stated that he was appearing before the Board to seek a renewal of their operation for whatever period of time was usual in these cases. In response to questions from the Board, Mr. Kenny stated that the lease runs for three years and they only had two years left on it. Chairman Smith inquired if Mr. Covington had received any complaints on this use. Mr. Covington stated that he could not find any in the file.

Page 339, August 7, 1979
DIFFERENT DRUM, INC.

Board of Zoning Appeals

R E S O L U T I O N

Ms. Ardis made the following motion:

WHEREAS, Application No. S-190-79 by DIFFERENT DRUM, INC. under Section 3-103 of the Fairfax County Zoning Ordinance to permit continued operation of school for 25 students, ages 14 to 18, on property located at 7150 Telegraph Road, tax map reference 91-4((1))13, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on August 7, 1979; and

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R E S O L U T I O N

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the subject property is Glen Ovzevik and that the applicant is the lessee.
2. That the present zoning is R-1.
3. That the area of the lot is 2.81 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The number of memberships shall be 25, ages 14 to 18.
8. The hours of operation shall be 8:30 A.M. to 4:40 P.M., Monday through Friday plus one night meeting per week from 7 P.M. to 9:30 P.M., 9 months a year (normal school year).
9. The number of parking spaces shall be 19.
10. This permit is granted for a period of three (3) years with the Zoning Administrator empowered to grant three (3) one-year extensions.
11. This special permit is subject to all provisions of S-155-78 not altered by this resolution.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

 Page 340, August 7, 1979, Recess for Lunch

Chairman Smith announced that the Board would recess the meeting at 12:30 for lunch and to attend a special meeting set up with Mr. Herrity, Mr. Ruck, Mr. Lambert and Mr. Yates at 1:30 P.M. He stated that the Board would reconvene after 2:00 P.M.

At 2:35 P.M., the Board reconvened to continue with the remaining cases on the agenda.

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- 10:45 - CLARENCE R. REID, appl. under Sect. 18-401 of the Ord. to allow
A.M. construction of dwelling to 8 ft. from side lot line (10 ft. min.
side yard req. by Sect. 3-407), located Albans Road, Beverly Manor
& Subd., 30-2((4))(N)9 & 11, Dranesville Dist., 6,250 sq. ft., R-4,
V-179-79.
- 10:45 - CLARENCE R. REID, appl. under ~~Sect. 18-401 of the Ord.~~ to allow
A.M. construction of dwelling to 8 ft. from side lot line (10 ft. min.
side yard req. by Sect. 3-407), located Albans Road, Beverly
& Manor Subd., 30-2((4))(N)10 & 12, Dranesville Dist., 6,250 sq. ft.,
R-4, V-179-79.
- 10:45 - CLARENCE R. REID, appl. under Sect. 18-401 of the Ord. to allow
A.M. construction of dwelling to 8 ft. from side lot line (10 ft. min.
side yard req. by Sect. 3-407), located Albans Road, Beverly Manor
& Subd., 30-2((4))(N)13 & 15, Dranesville Dist., 6,250 sq. ft., R-4,
V-181-79.
- 10:45 - CLARENCE R. REID, appl. under Sect. 18-401 of the Ord. to allow
A.M. construction of dwelling to 8 ft. from side lot line (10 ft. min.
side yard req. by Sect. 3-407), located St. Albans Road, Beverly
& Manor Subd., 30-2((4))(N)14 & 16, Dranesville Dist., 6,250 sq. ft.,
R-4, V-182-79.
- 10:45 - CLARENCE R. REID, appl. under Sect. 18-401 of the Ord. to allow
A.M. construction of dwelling to 8 ft. from side lot line (10 ft. min.
side yard req. by Sect. 3-407), located Albans Road, Beverly Manor
& Subd., 30-2((4))(N)17 & 19, Dranesville Dist., 6,250 sq. ft., R-4,
V-183-79.
- 10:45 - CLARENCE R. REID, appl. under Sect. 18-401 of the Ord. to allow
A.M. construction of dwelling to 8 ft. from side lot line (10 ft. min.
side yard req. by Sect. 3-407), located St. Albans Road, Beverly
& Manor Subd., 30-2((4))(N)18 & 20, Dranesville Dist., 6,250 sq. ft.,
R-4, V-184-79.
- 10:45 - CLARENCE R. REID, appl. under Sect. 18-401 of the Ord. to allow
A.M. construction of dwelling to 8 ft. from side lot line (10 ft. min.
side yard req. by Sect. 3-407), located Albans Road, Beverly Manor
& Subd., 30-2((4))(N)21 & 23, Dranesville Dist., 6,250 sq. ft., R-4,
V-185-79.
- 10:45 - CLARENCE R. REID, appl. under Sect. 18-401 of the Ord. to allow
A.M. construction of dwelling to 8 ft. from side lot line (10 ft. min.
side yard req. by Sect. 3-407), located St. Albans Road, Beverly
& Manor Subd., 30-2((4))(N)22 & 24, Dranesville Dist., 6,250 sq. ft.,
R-4, V-186-79.
- 10:45 - CLARENCE R. REID, appl. under Sect. 18-401 of the Ord. to allow
A.M. construction of dwelling to 8 ft. from side lot line (10 ft. min.
side yard req. by Sect. 3-407), located St. Albans Road, Beverly
& Manor Subd., 30-2((4))(N)26 & 28, Dranesville Dist., 6,250 sq. ft.,
R-4, V-187-79.

Mr. Charles E. Runyon of 152 Hillwood Avenue in Falls Church represented the applicant. He informed the Board that Mr. Reid has owned this property for a long while. In addition, he owns more land than is shown in this application. A variance is being requested because of the narrowness of the lots. The exact amount of a variance is requested for each of these lots. Mr. Runyon informed the Board that the problems associated with this property goes back to August 1978. In August, a new Zoning Ordinance was adopted but it did not have all the answers to it so revisions were made to it. The applicant's problem is that the R-4 zone originally called for a 8 ft. setback from the side property line. In April of 1979, the Ordinance was changed and the side setback changed to 10 ft.

Chairman Smith inquired of Mr. Covington as to the reason the Board of Supervisors changed the setback for this zone. Mr. Covington stated that the Board of Supervisors reverted the setback back to what it had been originally before the adoption of the 1978 Zoning Ordinance.

Mr. Runyon stated that the original subdivision plan called for the 8 ft. setback. This setback was changed in April of 1979; however, Mr. Reid had already ordered the houses for a certain dimension. They are now asking for a variance on some of these lots. Mr. Reid was not asking for a variance on all of the lots in his subdivision but only the ones which he had already

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Page 342, August 7, 1979
CLARENCE R. REID
(continued)

ordered the houses. Chairman Smith inquired if Mr. Reid would come back requesting a variance for each of the other 25 lots. Mr. Runyon stated that he would not be back. He indicated that they were trying to compromise by just getting a variance on the 9 lots they ordered houses for.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 342, August 7, 1979
CLARENCE R. REID

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-179-79 by CLARENCE R. REID under Section 18-401 of the Zoning Ordinance to permit construction of dwelling to 8 ft. from side lot line (10 ft. minimum side yard required by Sect. 3-407) on property located at St. Albans Road, tax map reference 30-2((4))(N)9 & 11, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 7, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-4.
3. The area of the lot is 6,250 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and has an unusual condition in that the plans for this development have been in the process of preparation since last fall in accordance with the minimum side yard requirements of the Ordinance adopted August 14, 1978. On April 9, 1979, the Board of Supervisors amended the Zoning Ordinance whereby the minimum side yard for this zoning district was increased to ten feet.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 342, August 7, 1979
CLARENCE R. REID

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-180-79 by CLARENCE R. REID under Section 18-401 of the Zoning Ordinance to permit construction of dwelling to 8 ft. from side lot line (10 ft. minimum side yard required by Sect. 3-407) on property located at St. Albans Road, tax map reference 30-2((4))(N)10 & 12, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

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R E S O L U T I O N

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WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 7, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-4.
3. The area of the lot is 6,250 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and has an unusual condition in that the plans for this development have been in the process of preparation since last fall in accordance with the minimum side yard requirements of the Ordinance adopted August 14, 1978. On April 9, 1979, the Board of Supervisors amended the Zoning Ordinance whereby the minimum side yard for this zoning district was increased to ten feet.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

R E S O L U T I O N

In Application No. V-181-79 by CLARENCE R. REID under Section 18-401 of the Zoning Ordinance to permit construction of dwelling to 8 ft. from side lot line (10 ft. minimum side yard required by Sect. 3-407) on property located at St. Albans Road, tax map reference 30-2((4))(N)13 & 15, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 7, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-4.
3. The area of the lot is 6,250 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and has an unusual condition in that the plans for this development have been in the process of preparation since last fall in accordance with the minimum side yard requirements of the Ordinance adopted August 14, 1978. On April 9, 1979, the Board of Supervisors amended the Zoning Ordinance whereby the minimum side yard for this zoning district was increased to ten feet.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

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R E S O L U T I O N

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

R E S O L U T I O N

In Application No. V-182-79 by CLARENCE R. REID Under Section 18-401 of the Zoning Ordinance to permit construction of dwelling to 8 ft. from side lot line (10 ft. minimum side yard required by Sect. 3-407) on property located at St. Albans Road, tax map reference 30-2(4)(N)14 & 16, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 7, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. The present zoning is R-4.
3. The area of the lot is 6,250 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, and has an unusual condition in that the plans for this development have been in the process of preparation since last fall in accordance with the minimum side yard requirements of the Ordinance adopted August 14, 1978. On April 9, 1979, the Board of Supervisors amended the Zoning Ordinance whereby the minimum side yard for this zoning district was increased to ten feet.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

R E S O L U T I O N

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In Application No. V-183-79 by CLARENCE R. REID under Section 18-401 of the Zoning Ordinance to permit construction of dwelling to 8 ft. from side lot line (10 ft. minimum side yard required by Sect. 3-407) on property located at St. Albans Road, tax map reference 30-2((4))(N)17 & 19, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 7, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-4.
3. The area of the lot is 6,250 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and has an unusual condition in that the plans for this development have been in the process of preparation since last fall in accordance with the minimum side yard requirements of the Ordinance adopted August 14, 1978. On April 9, 1979, the Board of Supervisors amended the Zoning Ordinance whereby the minimum side yard for this zoning district was increased to ten feet.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

R E S O L U T I O N

In Application No. V-184-79 by CLARENCE R. REID under Section 18-401 of the Zoning Ordinance to permit construction of dwelling to 8 ft. from side lot line (10 ft. minimum side yard required by Sect. 3-407) on property located at St. Albans Road, tax map reference 30-2((4))(N)18 & 20, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 7, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-4.
3. The area of the lot is 6,250 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and has an unusual condition in that the plans for this development have been in

R E S O L U T I O N

the process of preparation since last fall in accordance with the minimum side yard requirements of the Ordinance adopted August 14, 1978. On April 9, 1979, the Board of Supervisors amended the Zoning Ordinance whereby the minimum side yard for this zoning district was increased to ten feet.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Smith).

R E S O L U T I O N

In Application No. V-185-79 by CLARENCE R. REID under Section 18-401 of the Zoning Ordinance to permit construction of dwelling to 8 ft. from side lot line (10 ft. minimum side yard required by Sect. 3-407) on property located at St. Albans Road, tax map reference 30-2((4))(N)21 & 23, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 7, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-4.
3. The area of the lot is 6,250 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and has an unusual condition in that the plans for this development have been in the process of preparation since last fall in accordance with the minimum side yard requirements of the Ordinance adopted August 14, 1978. On April 9, 1979, the Board of Supervisors amended the Zoning Ordinance whereby the minimum side yard for this zoning district was increased to ten feet.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

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2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

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Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

R E S O L U T I O N

In Applicationn No. V-186-79 by CLARENCE R. REID under Section 18-401 of the Zoning Ordinance to permit construction of dwelling to 8 ft. from side lot line (10 ft. minimum side yard required by Sect. 3-407) on property located at St. Albans Road, tax map reference 30-2((4))(N)22 & 24, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 7, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-4.
3. The area of the lot is 6,250 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and has an unusual condition in that the plans for this development have been in the process of preparation since last fall in accordance with the minimum side yard requirements of the Ordinance adopted August 14, 1978. On April 9, 1979, the Board of Supervisors amended the Zoning Ordinance whereby the minimum side yard for this zonign district was increased to ten feet.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

R E S O L U T I O N

In Application Ns. V-187-79 by CLARENCE R. REID under Section 18-401 of the Zoning Ordinance to permit construction of dwelling to 8 ft. from side lot line (10 ft. minimum side yard required yby Sect. 3-407) on property located at St. Albans Road, tax map reference 30-2((4))(N)26 & 28, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 7, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-4.
3. The area of the lot is 6,250 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and has an unusual condition in that the plans for this development have been in the process of preparation since last fall in accordance with the minimum side yard requirements of the Ordinance adopted August 14, 1978. On April 9, 1979, the Board of Supervisors amended the Zoning Ordinance whereby the minimum side yard for this zoning district was increased to ten feet.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

 Page 348, August 7, 1979, Scheduled case for

11:00 - THOMPSON-DUNN ASSOCIATES, appl. under Sect. 18-401 of the Ord. to
 A.M. allow construction of dwelling to 9.5 ft. from side lot line (12
 ft. min. side yard req. by Sect. 3-307), located 1252 Pine Hill
 Road, Kings Manor Subd., 30-2((22))(B)9&10, Dranesville Dist.,
 6,250 sq. ft., R-3, V-191-79.

THOMPSON-DUNN ASSOCIATES, appl. under Sect. 18-401 of the Ord. to
 allow construction of dwelling to 9.5 ft. from side lot line (12
 ft. min. side yard req. by Sect. 3-307), located 1240 Pine Hill
 Road, Kings Manor Subd., 30-2((22))(C)3&4, Dranesville Dist.,
 6,250 sq. ft., R-3, V-192-79.

THOMPSON-DUNN ASSOCIATES, appl. under Sect. 18-401 of the Ord. to
 allow construction of dwelling to 9.5 ft. from side lot line (12
 ft. min. side yard req. by Sect. 3-307), located 1236 Pine Hill
 Road, Kings Manor Subd., 30-2((22))(D)5&6, Dranesville Dist.,
 6,250 sq. ft., R-3, V-193-79.

THOMPSON-DUNN ASSOCIATES, appl. under Sect. 18-401 of the Ord. to
 allow construction of dwelling to 9.5 ft. from side lot line (12
 ft. min. side yard req. by Sect. 3-307), located 1232 Pine Hill
 Road, Kings Manor Subd., 30-2((22))(E)7&8, Dranesville Dist.,
 6,250 sq. ft., R-3, V-194-79.

THOMPSON-DUNN ASSOCIATES, appl. under Sect. 18-401 of the Ord. to
 allow construction of dwelling to 9.5 ft. from side lot line (12
 ft. min. side yard req. by Sect. 3-307), located 1228 Pine Hill
 Road, Kings Manor Subd., 30-2((22))(F)9&10, Dranesville Dist.,
 6,250 sq. ft., R-3, V-195-79.

- 11:00 - THOMPSON-DUNN ASSOCIATES, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling to 9.5 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 1224 Pine Hill Road, Kings Manor Subd., 30-2((22))(C)11&12, Dranesville Dist., 6,250 sq. ft., R-3, V-196-79.
- 11:00 - THOMPSON-DUNN ASSOCIATES, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling to 9.5 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 1220 Pine Hill Road, Kings Manor Subd., 30-2((22))(C)13&14, Dranesville Dist., 6,250 sq. ft., R-3, V-197-79.
- 11:00 - THOMPSON-DUNN ASSOCIATES, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling to 9.5 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 1216 Pine Hill Road, Kings Manor Subd., 30-2((22))(C)15&16, Dranesville Dist., 6,250 sq. ft., R-3, V-198-79.

Mr. Martin D. Walsh, an attorney with Harrell, Campbell and Larson of 1400 N. Glebe Street in Arlington represented the applicant. He stated that the variance applications were basically to permit a 9.5 ft. side yard in lieu of the required 12 ft. side yard requirement. He indicated that the justifications were similar to those variances presented previously in Mr. Reid's case. The property consists of 24 25 ft. lots. The proposed houses will straddle two lots. The only problem is that the applicant wishes to build houses in conformity with other houses in the area. The builder would have to construct a smaller house if the variance were not granted. These homes would be buffer homes as they border the Kings Manor Townhouses.

Mr. Walsh stated that previously the applicant could have come in under Sect. 18-417 of the Ordinance which would allow a reduction in the side yard requirements for recorded lots. However, that discretion was removed from the Ordinance because apparently there were some violations to the buildings that was not in the best interest of the neighborhood.

Chairman Smith inquired as to who owned the property under consideration. Mr. Walsh stated that he had just found out that Mr. Henry Mackall was the owner of the property. Chairman Smith indicated that the applications could not be amended at the public hearing without Mr. Mackall's permission. He stated that only the property owner has the hardship. Chairman Smith stated that the Board would pass over the variance applications and continue with the scheduled agenda until Mr. Walsh could contact Mr. Mackall.

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Page 349, August 7, 1979, Scheduled case for

- 11:00 - ROBERT J. & BARBARA A. FERRIS, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling to 9.5 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 1212 Pine Hill Road, Kings Manor Subd., 30-2((22))(C)17&18, Dranesville Dist., 6,250 sq. ft., R-3, V-199-79.

Mr. Martin Walsh represented the applicant. He stated that the justification for this variance was the same as he presented in the Thompson-Dunn case. Mr. Walsh informed the Board that these lots were platted in 1920. They have 50 ft. of frontage when combined into two lots. These lots are the same as other lots in the area. He indicated that this is an unusual situation. Chairman Smith inquired if Mr. & Mrs. Ferris owned other property in the area and was informed they did not. Chairman Smith inquired if any of Mr. Walsh's clients owned other property in the area that they would request a variance on. Mr. Dunn stated that they would not request any further variances.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 349, August 7, 1979
ROBERT J. & BARBARA A. FERRIS

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-199-79 by ROBERT J. & BARBARA A. FERRIS under Section 18-401 of the Zoning Ordinance to allow construction of dwelling to 9.5 ft. from side lot line (12 ft. min. side yard required by Sect. 3-307) on property located at 1212 Pine Hill Road, tax map reference 30-2((22))(C)17&18, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 7, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 6,250 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including long and narrow.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 350, August 7, 1979, Scheduled case for

11:00 - KENNETH M. & MINNIE D. THOMPSON, appl. under Sect. 18-401 of the A.M. Ord. to allow construction of dwelling to 9.5 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 1208 Pine Hill Road, Kings Manor Subd., 30-2((22))(C)19&20, Dranesville Dist., 6,250 sq. ft., R-3, V-200-79.

Mr. Martin D. Walsh represented the applicants. The required notices were in order. Mr. Walsh informed the Board that the lots were substandard in nature. He stated that the applicants were seeking a variance in order to develop the property in accordance with the surrounding properties. Chairman Smith asked if the other homes already built in the area were located at 9.5 ft. from the side lot line. Mr. Walsh replied that the previous Ordinance only required a 10 ft. side yard setback. In addition, a reduction in the side yard setback was allowed up to 10%.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 350, August 7, 1979
KENNETH M. & MINNIE D. THOMPSON

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-200-79 by KENNETH M. & MINNIE D. THOMPSON under Section 18-401 of the Zoning Ordinance to allow construction of dwelling to 9.5 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307) on property located at 1208 Pine Hill Road, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

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WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 7, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 6,250 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including long and anarrow.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as list listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 351, August 7, 1979, Scheduled case for

11:00 - THOMPSON-DUNN ASSOCIATES, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling to 9.5 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 1204 Pine Hill Road, Kings Manor Subd., 30-2((22))(C)21&22, Dranesville Dist., 6,250 sq. ft., R-3, V-201-79.

11:00 - THOMPSON-DUNN ASSOCIATES, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling to 9.5 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 1200 Pine Hill Road, Kings Manor Subd., 30-2((22))(C)23&24, Dranesville Dist., 6,250 sq. ft., R-3, V-202-79.

Chairman Smith announced that the Board would pass over these two other variance applications of Thompson-Dunn also to allow Mr. Walsh an opportunity to contact the property owner, Mr. Henry Mackall. Chairman Smith stated that the Board would hear the cases later in the day if possible.

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Page 351, August 7, 1979, Scheduled case for

11:15 - WOODROOF FITZHUGH, appl. under Sect. 3-103 of the Ord. to permit A.M. golf driving range, located 11811 Leesburg Pike, 6-3((1))33, Dranesville Dist., 21.5618 acres, R-1, S-176-79.

Mr. Charles E. Runyon of 152 Hillwood Avenue in Falls Church represented the applicant. Chairman Smith inquired if part of this application was in the historic district. Mr. Runyon informed the Board that this special permit request was a Group VI use and not a Group V use. He indicated that they could move the driving range out of the historic district area. He stated that the Board has to be fair. The property is zoned R-1. Chairman Smith asked Mr. Runyon to yield the floor to Ms. Kelsey for a statement. Ms. Kelsey informed the Board that Ms. David had just called the problem to the attention of Mr. Yates. Mr. Yates had determined that the driving range was an outdoor commercial use under the Ordinance. Ms. David informed the Board that the historic districts take in up to 1/4 mile of the land surrounding them. But under the terms of the historic districts, the ARB did not hear this application.

Chairman Smith inquired if Mr. Runyon would be adverse to continuing this application to allow time to amend the application and to delete that area being contested out of the driving range. Mr. Runyon stated that the Board could grant the use permit and make that a condition of the granting. He stated that the application meets all of the Ordinance requirements. He indicated that if he thought they did not meet the requirements, he would not have been before the Board. Chairman Smith informed Mr. Runyon that the Board was meeting again on Friday, August 10th if he could get the problems ironed out by then. Mr. Smith indicated that he did not have any problems with hearing the application but believed that they should submit revised plats.

This matter was deferred until Friday, August 10, 1979 at 12:15 P.M. for new revised plats.

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Page 352, August 7, 1979, Scheduled case for

11:25 - TERRY C. & ELLEN P. SMITH, appl. under Sect. 18-401 of the Ord. to allow construction of addition to existing dwelling 16'2" from side lot line (20 ft. min. side yard req. by Sect. 3-107), located 2587 Babcock Road, Aredale Subd., 38-3((3))2, Centreville Dist., 43,560 sq. ft., R-1, V-178-79.

Mr. Terry Smith informed the Board that he was requesting a variance in order to build a two story addition to his home that would be located 16 ft. from the side property line. He informed the Board that he was caught in the changes of the side yard setbacks that changed in April. He stated that the addition could not be built elsewhere as he is building onto his family room. Another important feature is that with the two story addition, they would be able to use the existing stairway in the house. The septic field and tank is located on the opposite side of the house. He stated that they have just hooked up to the sewer so that is not a problem anymore.

There was no one to speak in favor of the application and one one to speak in opposition.

Page 352, August 7, 1979 Board of Zoning Appeals
TERRY C. & ELLEN P. SMITH

R E S O L U T I O N

In Application No. V-178-79 by TERRY C. & ELLEN C. SMITH under Section 18-401 of the Zoning Ordinance to permit construction of addition to existing dwelling on property located at 2587 Babcock Road, tax map reference 38-3((3))2, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 7, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 43,560 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

R E S O L U T I O N

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

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2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 with 1 absention (Mr. Smith).

Page 353, August 7, 1979, Scheduled case for

11:30 - JOHN P. & JUDITH S. O'REILLY, appl. under Sect. 18-401 of the A.M. Ord. to allow construction of deck to 16 ft. from rear lot line (25 ft. min. rear yard required by Sect. 3-307), located 8596 Coral Gables Lane, Carters Green Subd., 29-3((14))22, Centreville Dist., 9,894 sq. ft., R-3, V-119-79. (Deferred from July 10, 1979 for Notices.)

The required notices were in order. Mr. John O'Reilly of the above captioned address informed the Board that he was applying for a variance because of the odd shape of his property. In addition, the lot has topographic problems. The house has been set far back on the lot. The land slopes away on three sides. He stated that he has submitted all required notification to property owners. There is no objection from anyone in the neighborhood to the variance. In fact, the property owners to the back who would be most impacted by the variance are in support of it.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 353, August 7, 1979
JOHN P. & JUDITH S. O'REILLY

R E S O L U T I O N

In Application No. V-119-79 by JOHN P. & JUDITH S. O'REILLY under Section 18-401 of the Zoning Ordinance to permit construction of deck to 16 ft. from rear lot line (25 ft. minimum rear yard required by Sect. 3-307) on property located at 8596 Coral Gables Lane, tax map reference 29-3((14))22, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 7, 1979 and deferred from July 10, 1979 for notices; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 8,894 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including shallow.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

R E S O L U T I O N

2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

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Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith)

Page 354, August 7, 1979, Scheduled case for

11:40 A.M. - JUDITH WEBSTER CLARKE, appl. under Sect. 3-303 of the Ord. to permit continued operation of school of general education, located 3527 Gallows Road, Holmes Run Acres, Subd., 60-1((1))25, Providence Dist., 2.8385 acres, R-3, S-114-79.
(Deferred from July 10, 1979 for notices.)

The required notices were in order. Ms. Clarke informed the Board that the school has been in operation for six years. She stated that she wished to continue it. She operates a nursery school from 9 A.M. to 2:30 P.M. and would like to increase the enrollment from 37 to 50. She stated that she has complied with the regulations of the County and the Health Department. In addition, she asked the Board that the use permit be granted indefinitely. In response to Mr. Smith, she stated that her lease is on a continuing basis. Again in response to questions from the Board, Ms. Clarke stated that she wishes to increase the number of children from 37 to 50 and would operate five days a week.

There was no one to speak in favor of the application and no one to speak in opposition.

R E S O L U T I O N

Ms. Ardis made the following motion:

WHEREAS, Application S-114-79 by JUDITH WEBSTER CLARKE under Section 3-303 of the Fairfax County Zoning Ordinance to permit continued operation of school of general education on property located at 3527 Gallows Road, tax map reference 60-1((1))25, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on August 7, 1979; and deferred from July 10, 1979 for notices; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the owner of the subject property is Friendship United Methodist Church and that the applicant is the lessee.
- 2. That the present zoning is R-3.
- 3. That the area of the lot is 2.8649 acres.
- 4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board and is for the location indicated in the application and is not transferable to other land.
- 2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
- 3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such

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approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.

5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.

7. The number of students shall be 50.

8. The hours of operation shall be 9 A.M. to 2:30 P.M., five days a week.

9. This special permit is subject to all provisions of S-128-73 not altered by this resolution.

10. This permit is granted for a period of three (3) years with the Zoning Administrator empowered to grant three one-year extensions.

Mr. Barnes seconded the motion.

The motion passed by a vote of 5 to 0.

Page 355, August 7, 1979, Scheduled case for

11:45 - CHRYSLER INDUSTRIAL CORPORATION, appl. under Sect. 18-401 of the A.M. Ord. to allow construction of building in I-4 portion of site such that there will be a floor area ratio of 1.0 (maximum floor area ratio of 0.70 required by Sect. 5-407), located 2726 Merrilee Drive, 49-1((16))5, 6 & 7, Providence Dist., 45,131 sq. ft., I-4 & I-5, V-104-79.

Mr. Andrew God, Jr. informed the Board that he had acquired the property in April from the Chrysler Industrial Corporation. He stated that he was asking that the property be considered as one continuous piece and that the floor area ratio be a weighted average. He stated that each lot would be calculated on a percentage as to the floor area portion of the lot. He indicated that they were not asking for an increase in the density. He stated that most of parking was laid out with double drives through the center. In order to accomplish the floor area ratio, the building would have to be shifted over 22 ft. This 22 ft. would not decrease the density of the property. It would only eliminate 36 parking spaces. In addition, the side yard would decrease on the other side and they would not be able to get a double loading parking on that side of the building.

Mr. God stated that by granting a variance, it would allow a redistribution of the floor area ratio across the three lots and have a weighted average of FAR of .79. In addition, it would not be detrimental to any adjoining properties. Mr. God informed the Board that the Zoning Administrator had included an open mall in his floor area ratio. The two buildings are connected by bridges or walkways. He asked the BZA not to include these in the floor area ratio as it was not clearly defined in the Ordinance. He stated that this space was merely a walkway and not a rented space. He stated that there was entire underground parking and it would be a shame to lose 36 parking spaces.

Mr. DiGiulian stated that the testimony seemed different than what was presented in the staff report. Mr. God stated that the weighted average is .78. 103,000 includes the walkways and is not including the cellar because that was used for parking.

Ms. Kelsey stated that she had little comments other than what was presented in the staff report. She stated that he had to satisfy the requirements for each zone and not average the two together. She stated that was tantamount to rezoning. Mr. God showed the Board his figures and calculations and the breakdown for each area. Mr. DiGiulian stated that on the second sheet of the plan it showed a cellar level but did not indicate any parking. Mr. God replied that they would use that level for parking in the middle. Chairman Smith inquired if the buildings would be leased by one tenant. Mr. God stated that they would have multi-tenants each having access to their own level. He indicated that the only alternative was to shift the building 22 ft. to the south.

Page 356, August 7, 1979
 CHRYSLER INDUSTRIAL CORP ATION
 (continued)

Mr. DiGiulian stated that with respect to the square footage, he agreed with the Zoning Administrator's interpretation so that there was a discrepancy of 1,000 sq. ft. Mr. God stated that discrepancy is in the walkways between the two buildings. The Zoning Administrator had stated that the walkways should be included in the floor area ratio. Mr. God reemphasized that that area was not rented space but only walkways. They are only bridges going over to the other buildings. Mr. Kelsey stated that the Zoning Administrator had included the walkway because they must be included like any functional part of the building like an elevator or a stairway.

Mr. God stated that if the Board had a problem with the walkways then he would eliminate them or withdraw that particular request. He stated that it was not that big of an issue between the two buildings and would eliminate them if there was a problem.

The Board recessed for five minutes to discuss the matter. When the Board reconvened, the Chairman called for testimony from the audience. There was no one to speak in favor of the application and no one to speak in opposition. However, the Board was in receipt of a letter in opposition from the George H. Rucker Company. Mr. God stated that the signer of the letter did not fully understand what he was requesting a variance for. He indicated that the density would not be increased over the three lots. There is as much parking as can be located there.

Page 356, August 7, 1979 Board of Zoning Appeals
 CHRYSLER INDUSTRIAL CORPORATION

R E S O L U T I O N

In Application No. V-104-79 by CHRYSLER INDUSTRIAL CORPORATION under Section 18-401 of the Zoning Ordinance to permit construction of building in I-4 portion of site such that there will be a floor area ratio of 1.0 (maximum floor area ratio of 0.70 required by Sect. 5-407) on property located at 2726 Merrilee Drive, tax map reference 49-1((16))5, 6 & 7, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 7, 1979 and deferred from June 19, 1979 and July 10, 1979 at request of applicant; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is I-4 and I-5.
3. The area of the lot is 45,131 sq. ft.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has not satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 with 1 abstention (Mr. DiGiulian).

Page 356, August 7, 1979, Recessed cases of

THOMPSON-DUNN ASSOCIATES: V-191-79 through V-198-79 and V-201-79 & V-202-79. The Board continued with the recessed variance applications of Thompson-Dunn Associates. Mr. Martin D. Walsh presented the Board with a letter from Mr. Henry Mackall. Chairman Smith stated that the memorandum from Mr. Yates would be placed in the record regarding variances V-191-79 through 198-79. Mr. Walsh stated that they wished to build houses on the lots at 9.5 ft. from the side lot line. A 10 ft. setback was allowed under Sect. 2-417 of the Ordinance for previously recorded lots but was recently removed. The houses would be built in accordance with other houses already built in the area. If the variances were not approved, the applicant would have to construct a smaller house which would not be in harmony with the community. To meet the

requirements of the Ordinance would deprive the applicant of the reasonable use of the land.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 357, August 7, 1979 Board of Zoning Appeals
HENRY C. MACKALL AND THOMPSON-DUNN ASSOCIATES R E S O L U T I O N

In Application No. V-191-79 by HENRY C. MACKALL AND THOMPSON-DUNN ASSOCIATES under Section 18-401 of the Zoning Ordinance to allow construction of dwelling to 9.5 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307) on property located at 1252 Pine Hill Road, tax map reference 30-2((22))(C)9 & 10, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 7, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 6,250 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including long and narrow.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions offlaw:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 357, August 7, 1979 Board of Zoning Appeals
HENRY C. MACKALL AND THOMPSON-DUNN ASSOCIATES R E S O L U T I O N

In Application No. V-192-79 by HENRY C. MACKALL AND THOMPSON-DUNN ASSOCIATES under Section 18-401 of the Zoning Ordinance to allow construction of dwelling to 9.5 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307) on property located at 1240 Pine Hill Road, tax map reference 30-2((22))(C)3 & 4, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

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WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 7, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 6,250 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including long and narrow.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

R E S O L U T I O N

In Application No. V-193-79 by HENRY C. MACKALL AND THOMPSON-DUNN ASSOCIATES under Section 18-401 of the Zoning Ordinance to allow construction of dwelling to 9.5 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307) on property located at 1236 Pine Hill Road, tax map reference 30-2((22))(C)5 & 6, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 7, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 6,250 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including long and narrow.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

R E S O L U T I O N

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

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R E S O L U T I O N

In Application No. V-194-79 by HENRY C. MACKALL AND THOMPSON-DUNN ASSOCIATES under Section 18-401 of the Zoning Ordinance to allow construction of dwelling to 9.5 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307) on property located at 1232 Pine Hill Road, tax map reference 30-2((22)(C)7 & 8, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 7, 1979; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the owner of the property is the applicant.
- 2. The present zoning is R-3.
- 3. The area of the lot is 6,250 sq. ft.
- 4. That the applicant's property is exceptionally irregular in shape, including long and narrow.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

R E S O L U T I O N

In Application No. V-195-79 by HENRY C. MACKALL AND THOMPSON-DUNN ASSOCIATES under Section 18-401 of the Zoning Ordinance to allow construction of dwelling to 9.5 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307) on property located at 1228 Pine Hill Road, tax map reference 30-2((22)(C) 9 & 10, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 7, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 6,250 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including long and narrow.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

R E S O L U T I O N

In Application No. V-196-79 by HENRY C. MACKALL AND THOMPSON-DUNN ASSOCIATES under Section 18-401 of the Zoning Ordinance to allow construction of dwelling to 9.5 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307) on property located at 1224 Pine Hill Road, tax map reference 30-2((22)) (C)11 & 12, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 7, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 6,250 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including long and narrow.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

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HENRY C. MACKALL AND THOMPSON-DUNN
ASSOCIATES
(continued) V-196-79

Board of Zoning Appeals

R E S O L U T I O N

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NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 361, August 7, 1979
HENRY C. MACKALL AND THOMPSON-DUNN
ASSOCIATES

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-197-79 by HENRY C. MACKALL AND THOMPSON-DUNN ASSOCIATES under Section 18-401 of the Zoning Ordinance to allow construction of dwelling to 9.5 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307) on property located at 1220 Pine Hill Road, tax map reference 30-2((22)) (C)13 & 14, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 7, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 6,250 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including long and narrow.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 361, August 7, 1979
HENRY C. MACKALL AND THOMPSON-DUNN
ASSOCIATES

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-198-79 by HENRY C. MACKALL AND THOMPSON-DUNN ASSOCIATES under Section 18-401 of the Zoning Ordinance to allow construction of dwelling to 9.5 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307) on property located at 1216 Pine Hill Road, tax map reference 30-2((22)) (C)15 & 16, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 7, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 6,250 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including long and narrow.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

R E S O L U T I O N

In Application No. V-201-79 by HENRY C. MACKALL AND THOMPSON-DUNN ASSOCIATES under Section 18-401 of the Zoning Ordinance to allow construction of dwelling to 9.5 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307), on property located at 1204 Pine Hill Road, tax map reference 30-2((22)) (C)21 & 22, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 7, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 6,250 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including long and narrow.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

Page 363, August 7, 1979
HENRY C. MACKALL AND THOMPSON-DUNN
ASSOCIATES
(continued)

Board of Zoning Appeals

R E S O L U T I O N

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

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1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 363, August 7, 1979
HENRY C. MACKALL AND THOMPSON-DUNN
ASSOCIATES

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-202-79 by HENRY C. MACKALL AND THOMPSON-DUNN ASSOCIATES under Section 18-401 of the Zoning Ordinance to allow construction of dwelling to 9.5 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307) on property located at 1200 Pine Hill Road, tax map reference 30-2((22))(C)23 & 24, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 7, 1979; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the owner of the property is the applicant.
- 2. The present zoning is R-3.
- 3. The area of the lot is 6,250 sq. ft.
- 4. That the applicant's property is exceptionally irregular in shape, including long and narrow.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

// There being no further business, the Board adjourned at 4:50 P.M.

by Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

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DATE: _____
Date

Submitted to the Board on _____.
Submitted to the other departments,
Board of Supervisors and Planning
Commission on _____.



The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Friday, August 10, 1979. The following Board Members were present: Daniel Smith, Chairman, John DiGiulian, Vice-Chairman (arriving at 10:30 A.M.); John Yaremchuk and Barbara Ardis. Mr. Barnes was absent.

The Chairman opened the meeting at 10:15 A.M. led with a prayer by Mr. Covington.

The Chairman called the scheduled 10:00 case.

10:00 - GEORGE & VIRGINIA LUCAS, appl. under Sect. 18-301 of the Ord. A.M. to appeal decision of the Zoning Administrator that land which otherwise meets criteria of Sect. 2-403 cannot be subdivided pursuant thereto if a variance to minimum lot width requirement is needed, located 3919 Rugby Road, Maury Farms Subd., 45-2((2))31, Centreville Dist., 1.8595 acres, R-1, A-162-79.

Mrs. Lucas of 3919 Rugby Road in Fairfax informed the Board that she and her husband had purchased the property 1 1/2 years ago. At that time, they were told they could divide the property. Both the Lucas and their son bought the property. Mrs. Lucas stated they paid \$22,000 and the son paid \$11,000 towards the property. She stated that without his being able to build on the property, his money was tied up in the land. She stated she was told by Mr. Hendrickson of the County that if the lot could be divided, he would allow an easement. Mrs. Lucas informed the Board that there are other lots in the area that have been divided in such a manner. She stated that on Rugby Road there were about 5 lots other than her own which have been divided into 10 lots of about the same size as she is proposing. There is one lot in the area that is 3 acres in size.

Chairman Smith stated that if she needed the variance that she did not meet the requirements of the Ordinance under the 180% rule. He stated that she did not meet the frontage requirement. Mrs. Lucas stated that they were going to get an easement which would meet the frontage requirement. She stated that her lot contains 150 ft. of frontage. The lot is 150 ft. wide by 540 ft. long.

Chairman Smith informed Mrs. Lucas that she could build a house on the lot but she could not subdivide the property since she does not have at least two acres of land. In order to use the 180% rule, he informed Mrs. Lucas she would have to comply with the frontage requirement. Mrs. Lucas stated that she wants an easement to go into the lot. She stated there are other lots with the same situation that have been subdivided.

In response to questions from the Board, Mrs. Lucas stated that she only has one lot which she wishes to subdivide.

There was no to speak in favor of the request. Mrs. Jane Kelsey from the Zoning Administrator's Office informed the Board that Mrs. Lucas did go to Mr. Oscar Hendrickson and request a waiver or an easement for no frontage for the lot. She stated that Mr. Hendrickson had problems with Sect. 3-403 of the Code and referred Mrs. Lucas to the Zoning Administrator's Office. She stated that it was the Zoning Administrator's interpretation that Mrs. Lucas' need for a variance to the lot width requirement would not allow the property to be subdivided. Mrs. Lucas was before the Board to appeal the Zoning Administrator interpretation that the need for a variance causes her not to be able to use Sect. 3-403 of the Ordinance.

Chairman Smith stated that if Mrs. Lucas had the two acres of land, she could then come to the Board for a variance to the lot frontage requirement.

Mr. Yates stated he wanted to clarify one question for Mr. Yaremchuk. He stated that he would not accept a variance application from Mrs. Lucas because of the wording of Sect. 3-403. Mr. Yates stated that if the Board upheld his position then there would not be any problem. If the Board reversed his decision, then the next step for Mrs. Lucas would be to file for a waiver or a variance.

Mrs. Lucas again informed the Board that she is only appealing the decision so that her son could build a house on the property. Chairman Smith told her that the Ordinance precludes her from taking advantage of the 180% rule if compliance with the Ordinance could not be met. He stated that two variances

would be required in order to subdivide the property. Chairman Smith stated that he was in sympathy with her. Mrs. Lucas inquired if the Board granted a variance to allow the drive, then what would she do next. Chairman Smith stated that the Board could not grant a variance because she was not allowed to subdivide the property as it does not meet the Ordinance requirements.

Mrs. Lucas inquired as to her other options. Chairman Smith suggested that she consult her engineer to determine if there were other solutions to the problem. He also stated that she might wish to buy additional land to comprise the minimum two acres in order to subdivide without the 180% clause. Then the Board could consider a variance to the lot width requirement. Or, Chairman Smith suggested that she seek a rezoning of the property from the Board of Supervisors.

There was no one else to speak either in favor or in opposition to the application.

Mr. Yaremchuk moved that the Board of Zoning Appeals uphold the decision of the Zoning Administrator. Ms. Ardis seconded the motion. The motion passed by a vote of 3 to 0 (Mr. DiGiulian and Mr. Barnes being absent.)

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Page 366, August 10, 1979

Mr. DiGiulian arrived at 10:30 A.M.

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Page 366, August 10, 1979, Scheduled case for

10:10 - RALPH A. & ROSE MARIE BIANCANIELLO, appl. under Sect. 18-401 of the Ord. to allow construction of deck 10.7 ft. from rear lot line (19 ft. min. rear yard req. by Sect. 3-307 & Sect. 2-412), located 3059 Bonicket Court, Five Oaks Subd., 48-3((34))49, Providence Dist., 9,376 sq. ft., R-3, V-151-79.

The required notices were in order. Mr. Ralph Biancaniello of 3059 Bonicket Court informed the Board he was requesting a variance in order to construct a deck 10.7 ft. from the rear property line. He stated that his request was based on the fact that his property is bounded on two sides and on the rear by the County Park Authority. He stated that the deck would not cause any ill effect on anyone. He further stated that the Park Authority does not plan to develop their land anytime within the next five years.

Mr. Biancaniello stated that his neighbors are in favor of his request. He stated that the first floor in the rear of his house was 8 to 10 ft. above ground. There is no rear exit from the first floor. He stated that he wished to point out to the Board members that at the time he purchased his home 1 1/2 years ago, the builder was selling sliding glass doors as an option to the buyers. He stated that he decided to do it on his own. He stated that he was led to believe that there would not be any problem with the construction of a deck at that time. He stated that he would suffer a financial hardship if he could not construct a deck because all of the other homes in the area have decks.

Chairman Smith inquired if the other homes met the setback requirements when their decks were built. Mr. Biancaniello informed the Chairman that the other properties do not have the same problems as his lot. Chairman Smith indicated that he was proposing a rather large deck. Mr. Biancaniello stated that the large size has a lot to do with the contour of the lot to the rear of his house. If the deck were made smaller, it would not blend in with the area. By extending the deck as proposed, he stated that he could use an existing hill and use it for privacy. With respect to the 16 ft. width, he stated a number of people have constructed 12 ft. decks but then you do not have the room to move around on it. He stated 16 ft. width seemed to be the best for utilization of the deck.

There was no one to speak in favor of the application and no one to speak in opposition.

RALPH A. & ROSE MARIE BIANCANIELLO

R E S O L U T I O N

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In Application No. V-151-79 by RALPH A. & ROSE M. BIANCANIELLO under Section 18-401 of the Zoning Ordinance to allow construction of deck to 10.7 ft. from rear lot line (19 ft. minimum rear yard required by Sect. 3-307 & Sect. 2-412 on property located at 3059 Bohicket Court, tax map reference 48-3((34))49, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 10, 1979; deferred from August 2, 1979 for improper posting; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the owner of the subject property is the applicant.
- 2. The present zoning is R-3.
- 3. The area of the lot is 9,376 sq. ft.
- 4. That the applicant's property is exceptionally irregular in shape and has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

- 1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
- 2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Barnes being absent).

Page 367, August 10, 1979, Scheduled case for

10:20 - ROLAND C. & ELVA L. MORRIS, appl. under Sect. 18-401 of the Ord. A.M. to allow subdivision, creating one lot with width of 150 ft. (200 ft. min. lot width req. by Sect. 4-807), located 13921 Lee Jackson Memorial Hwy., Rockland Village Subd., 34-4((1))53, Springfield Dist., 8.1399 acres, C-8, V-152-79.

Mr. Hal Simmons of Paciulli, Simmons & Associates, represented the applicants. He informed the Board that the lot has insufficient frontage for the creation of the subdivision. The Ordinance required 200 ft. minimum lot width or frontage. He stated that they were seeking a variance of 50 ft. Mr. Simmons stated that under the old Zoning Ordinance there was not any minimum lot width requirement for property zoned C-6. He stated that by granting the variance, it would be in keeping with the surrounding properties.

In response to questions from the Board, Mr. Simmons stated that they did not plan any access from Walney Road. He stated that the only entrance to the lot was from Rt. 50 off of the service drive.

There was no one to speak in favor of the application but Mrs. Morris who informed the Board that she and her husband have owned the property since 1940. She stated that they have lived in this area since 1927. She stated that she needed to keep the restaurant for the rental money but wanted to

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sell the other lot. She stated that her husband was quite ill and she did not want to put him in a nursing home.

R E S O L U T I O N

In Application No. V-152-79 by ROLAND C. & ELVA L. MORRIS under Section 18-401 of the Zoning Ordinance to allow subdivision creating one lot with width of 150 ft. (200 ft. minimum lot width required by Sect. 4-807) on property located at 13921 Lee Jackson Memorial Highway, tax map reference 34-4((1))53, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 10, 1979 and deferred from August 2, 1979 for improper posting; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is C-8.
3. The area of the lot is 8.1399 acres.
4. That the applicant's property is exceptionally irregular in shape.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Barnes being absent).

Page 368, August 10, 1979, Scheduled case for

10:30 - HERBERT E., JR. & MARIE P. LANE, appl. under Sect. 18-401 of the Ord. to allow subdivision into 6 lots, with proposed lot 3 having width of 12 ft. and proposed corner lot 6 having width of 192.88 ft. (200 ft. min. width for interior lot & 225 ft. min. width for corner lot required by Sect. 3-E06), located 9210 Jeffery Road, 8-2((1))25, Dranesville Dist., 12.00 acres, R-E, V-153-79.

Mr. Douglas Mackall and Mr. Hal Simmons of Paciulli, Simmons & Associates represented the applicants. Mr. Mackall informed the Board that they were seeking two requests. One was for a corner lot of 192 ft. and the other request was for a lot with 12 ft. width. He stated that the property is a long and narrow lot. If it was turned around, there would be enough frontage to meet the requirements. The entrance to the lots was created because of site distance. The hardship for the back lot was because of topography. There is a drainage swell which also creates some problems. Mr. Mackall stated that there were lots in the back served by a 25 ft. outlet road. On the other side, there are other lots served by an outlet road. Mr. Mackall informed the Board that he was familiar with the land across Jeffery Road because he had owned it at one time. He stated that he developed his land into 6 lots with the 2 rear lots having no frontage and being served by an outlet road. He stated that if the Lanes were to cluster their development, they would not need a variance. However, people do not want cluster develop-

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ment in Great Falls. He stated that they could run a road all the way through the property and still get the same number of lots but that the development would not look right and would be worse for the neighborhood than what was proposed. He stated that the Lanes would be an asset to the community.

Chairman Smith stated that since there were only four Board members present, the Board would continue to hear the variance but defer decision. Mr. Hal Simmons informed the Board that the subject property has extreme topographic problems. He stated if the road was put in to serve the development, there would have to be a tremendous amount of filling done and removal of trees. Mr. Yaremchuk inquired if Mr. Simmons had addressed the issue with staff to determine if the County wanted access to the adjacent properties. Mr. Mackall informed the Board that the adjacent property owner was in opposition to the variance and was present at the hearing.

There was no one to speak in favor of the application. The following persons spoke in opposition. Mr. Otto Spokas of 9034 Jeffery Road stated that his property abuts the subject property on the rear. He owns lot 10. He stated that his property was rather large and that he has been living there for 28 years. He stated that he was opposed to the variance request on two grounds. There is a stream valley through the subject property which continues onto his property. Mr. Spokas stated that once the property was cleared of the heavily wooded trees and houses constructed, his property would receive a lot of runoff. He stated that he had crystal clear springs on his property and wanted the water to remain pure. He stated that he had an erosion problem from another adjacent property which had a drainage swell running through it. He indicated that everytime there was a big storm, it washed down into his stream valley down to the Potomac. He stated that there was no way for a developer to build on the Lane property and prevent the runoff from ruining his stream valley.

The other concern Mr. Spokas had was with respect to the location of the septic fields on lots 2, 3 & 4. He stated that they were located on a steep slope in a small area and are located on a silt-lime area. He stated that liquids would penetrate the soil and filter down to the rock and run off into the stream valley. This would contaminate his water and ruin River Bend Park. In addition, he stated that he thought the property should be developed in a lessor density. In response to the Board's question as to how it should be developed, Mr. Spokas stated that if it was his land, he would not put any more than two houses on it. Mr. Spokas informed the Board that the plats submitted with the variance application were not the result of a field survey. He stated that Mr. Detwiler had surveyed his property and connected it in with Jeffery Manor. He stated that there was some serious discrepancies with respect to the measurements. He stated that he seriously wondered whether the land consisted of 12 acres.

The next speaker in opposition was Steven Burnet of 9100 Jeffery Road. He stated that he had a letter of opposition in the file. The residents in the area had submitted a letter of opposition because no hardship or unusual conditions existed for the property that was not any different than the other lots in the area. He stated that this development would change the character of the community. Approval of the variance would have a negative impact on the neighborhood. If the variance were granted, other landowners would petition the Board for similar requests. He stated that they felt this proposal violates the Comprehensive Plan and would not preserve the beauty of the area. He stated that the property was rich in natural beauty and animal life and that it would be destroyed by the development. In addition, it would exceed the maximum density by one dwelling unit per two acres when the plan calls for one dwelling unit per five acres. He stated that there was not any hardship here. With respect to cluster, he informed the Board that the Master Plan does not call for cluster development in this area.

Mr. Ed Rittenbach of 9208 Jeffery Road was the next speaker in opposition. He stated that he owned 4 acres and has lived here for 15 years. He stated that he purchased the 4 acres for isolation. He thought that 5 acre tracts were in keeping for this area. He stated that the development proposal would put three homes in his back yard. Even though cluster development is not allowed, the effect is still cluster. He stated that Mrs. Henson had asked him to express her opposition to the Board.

The next speaker in opposition was Mr. Harry Estrop of 9108 Jeffery Road. He stated he had very little to say. He reminded the Board that he had been before them previously on a similar application. Once again, he stated that the Lanes do not live in their neighborhood. He indicated that the Lanes

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interest in the property was monetary. He stated that they didn't even care enough to show up at the public hearing on their application. He stated that they were attempting to push the density as hard as they could beyond the legal limits. He urged the Board to uphold the Master Plan and deny the variance.

During rebuttal, Mr. Mackall stated that the applicants could get 5 lots without a variance but that it would be much worse on the area. A road would have to be run back further and would not improve the situation any. He stated that the plan for 6 lots was better for the area than the 5 lots they could have by right. A private road could serve the 6 lots. He stated that the other proposal the Board had turned down in the past was for three pipe-stems. This request is only for one pipestem. He stated that there was not any Board of Supervisors resolution to prevent a cluster development. However they did not wish to cluster the area. Mr. Mackall informed the Board this proposal was a good utilization of the land and would be an asset to the community. The 6 lots would do less damage than the 5 lot development. In response to questions from the Board regarding the septic fields, Mr. Mackall stated that the Health Department approved the septic fields to be located 25 ft. from the property line. He indicated that they could go to 50 ft.

Mr. DiGiulian moved that the Board defer the decision but leave the record open for Mr. Mackall to respond to the staff report. The purpose of the deferral was to allow the fifth Board member an opportunity to review the file and listen to the tapes and participate in the vote. Ms. Ardis seconded the motion for the deferral. The vote passed by a vote of 4 to 0. The deferral date was set for September 11, 1979 at 12:30 P.M. for a continuation of the hearing and for decision.

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Page 370, August 10, 1979, Scheduled case for

10:40 - MR. & MRS. CHARLES W. RILEY, appl. under Sect. 18-401 of the A.M. Ord. to allow construction of garage addition to dwelling to 8 ft. from side lot line (15 ft. minimum side yard required by Sect. 3-207), located 6705 South Kings Highway, Country Club Estates Subd., 92-2((11))1, Lee Dist., 20,514 sq. ft., R-2, V-155-79.

Mrs. Sandra Riley of 6705 S. Kings Highway informed the Board that they wanted to construct a garage adjacent to their home. She stated that they needed a variance of 7 ft. in the back side of the garage. She informed the Board that it was more beneficial to build an attached garage than to separate it from the house. She stated that they were planning to construct a second story to the house and the garage would be most attractive. The reason for the variance is that the house is not located in the center of the property. She informed the Board that in order to get the best utilization of the property, they would have to construct the garage on the side indicated in the plats. This would mean that they would have to relocate their driveway. The garage would provide a safer access to the home. She stated the neighbors have been informed of the variance and are in agreement.

In response to questions from the Board regarding the width of the garage being 24 ft., Mrs. Riley stated that it was a two car garage. In addition, she stated that they needed the extra space and it was a personal preference. She indicated that they could live with a 22 ft. garage but would rather have the 24 ft. She indicated that she would like to have a workshop for her husband. Mr. Yaremchuk stated that a 22 ft. garage would make it a little tight. Chairman Smith suggested that the Board defer the decision because he could not support the variance. Mrs. Reilly stated that she would like to have the matter decided today so that she could begin the construction.

There was no one to speak in favor of the application and no one to speak in opposition. Mrs. Reilly stated that she could live with the 22 ft. if the Board would approve the variance. She stated that she could give the Board revised plats at a later date.

R E S O L U T I O N

In Application No. V-155-79 by Mr. and Mrs. Charles W. Riley under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 8 ft. from side lot line (15 ft. minimum side yard required by Sect. 3-207) on property located at 6785 South Kings Highway, tax map reference 92-2((1))1, County of Fairfax, Virginia. Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 10, 1979 and deferred from August 2, 1979 for improper posting; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 20,514 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED IN PART *(to allow construction of garage addition to dwelling to 10 ft. from side lot line) with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 0 (Mr. Barnes and Ms. Ardis being absent)

Page 371, August 10, 1979, Scheduled case for

10:50 - MELVIN & MARGARET THOMPSON, appl. under Sect. 18-401 of the Ord. to allow construction of a detached garage 8 ft. from front lot line (40 ft. minimum front yard required by Sect. 3-107), located 11258 English Mill Drive, Old Mill Estates Subd., 12-4((1))3, Dranesville Dist., 1.1522 acres, R-1, V-158-79.

Mr. Charles E. Runyon of 152 Hillwood Avenue in Falls Church represented the applicants. Mr. Runyon informed the Board that the applicants have owned the property for some time. Recently, the property was subdivided and the road was set up to extend onto the Thompson's property. The curve that is in the road and the location of the existing house are such that the variance is necessary in order to locate the garage and leave room between in case of fire. The setback requirement from the road is 40 ft. The old Ordinance only required 30 ft. It was changed in April by the Board of Supervisors. If the Ordinance had not been changed, the variance would not be necessary. Mr. Runyon stated that the variance should be granted.

There was no one to speak in favor of the application and no one to speak in opposition. Chairman Smith informed Mr. Runyon that he could not support the requested variance for a garage more than 22 ft. in width. Mr. Runyon informed Chairman Smith that the previous Zoning Ordinance would have allowed the detached garage by right. Chairman Smith stated he could not support the variance. Mr. Runyon informed the Board that he would accept the 22 ft. garage and bring in revised plats.

R E S O L U T I O N

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In Application No. V-158-79 by MELVIN & MARGARET THOMPSON under Section 18-401 of the Zoning Ordinance to allow construction of detached garage *35 ft. from front property line (40 ft. minimum front yard required by Sect. 3-107) on property located at 11258 English Mill Drive, tax map reference 12-4((1))3, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 10, 1979, deferred from August 2, 1979 for improper posting; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lots 1.1522 acres.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED IN PART *(to allow construction of detached garage 37.5 ft. from front property line) with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 0 (Mr. Barnes and Ms. Ardis being absent).

Page 372, August 10, 1979, Scheduled case for

11:00 - JOHN OWENS & JOHN COWARDIN, appl. under Sect. 18-401 of the Ord. A.M. to allow resubdivision of 3 lots into 2 lots such that proposed corner lot 15A would have width of 86.21 ft. (95 ft. min. lot width req. by Sect. 3-406), located 2409 Chestnut Street, lot 16; 7214 Hickory Street, lot 15, Gordon's Second Subd., 40-3((11))15, 16 & outlot C, Providence Dist., 19,741 sq. ft., R-4, V-159-79.

Mr. Charles E. Runyon of 152 Hillwood Avenue in Falls Church represented the applicants. He stated that the applicant was trying to clean up this old property from an old subdivision by taking three lots and reducing it down into two lots. The topography is bad. Mr. Runyon informed the Board that a pipestem driveway would serve the property better. The property would be entered from Chestnut Street. The existing lots are very narrow and the topography is such that it was felt to be more beneficial to create two lots. Lot 16A would have the proper frontage and lot 15A would have roughly 86 ft. The requirement is for 95 ft. The applicants need a variance for the corner lot. Chairman Smith stated that since Chestnut Street was not in, an easement would have to be used. Mr. Runyon stated that Chestnut Street would be continued sometime but that it was quite a burden to place on this one lot at this time. It was suggested by Preliminary Engineering that the applicants seek a variance. Mr. Runyon informed the Board that they met the proper frontage requirements for Hickory Street but need a variance on Chestnut Street.

Mr. Covington informed the Board that the application met all of the Zoning Ordinance requirements but the lot width requirement for the one lot.

There was no one to speak in favor of the application and no one to speak in opposition.

R E S O L U T I O N

In Application NO. V-159-79 by JOHN OWENS & JOHN COWARDIN under Section 18-401 of the Zoning Ordinance to allow resubdivision of 3 lots into 2 lots such that proposed corner lot 15A would have width of 86.21 ft. (95 ft. minimum lot width required by Sect. 3-406) on property located at 2409 Chestnut Street - lot 16 and 7214 Hickory Street - lot 15, tax map reference 40-3((11))15, 16 & outlot C, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 10, 1979, deferred from August 2, 1979 for improper posting; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-4.
3. The area of the lot is 19,741 sq. ft.
4. That the applicant's property is exceptionally irregular in shape.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 0 (Mr. Barnes and Ms. Ardis being absent).

Page 373, August 10, 1979, Scheduled case for

11:10 - TRUSTEES OF BETHEL ORTHODOX PRESBYTERIAN CHURCH & WALTER A. BOOTHE, ET. US., appl. under Sect. 18-401 of the Ord. to allow resubdivision of 2 lots into 4 lots such that proposed lots 3 & 4 would have widths of 15.01 ft. & 15.00 ft. respectively (200 ft. min. lot width req. by Sect. 3-E06), located 854 & 858 Seneca Road, 6-4((1))8 & 9, Dranesville Dist., 9.8 acres, R-E, V-160-79.

Mr. Charles E. Runyon of 152 Hillwood Avenue in Falls Church represented the church. Mr. Runyon informed the Board that this subdivision was 2 lots which they proposed to resubdivide into 4 lots on Seneca Road. However, there would not be adequate road frontage for the creation of the lots. The lots are well above the minimum lot area. The property is very narrow which is the basis for the variance. In response to questions from the Board, Mr. Runyon informed the Board that the church owned the top half of the property. The church owns the property but there is not a church constructed on the property. The church does not plan to build on this property. It was land given to them and they are attempting to liquify some of their assets.

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Chairman Smith stated that the application does not meet the lot width requirements for lots 1, 3 and 4. Mr. Runyon stated that lot 1 does meet the requirements.

There was no one to speak in favor of the application. The following persons spoke in opposition to the application. Mr. Anthony Romolia of 850 Seneca Road informed the Board that the variance application was faulty in that it did not show the existing house on the property. In addition, he stated that the variance did not meet the requirements of having unique or special conditions. The lot given to the church was a single family lot. The lot where Mr. Boothe has his home was originally subdivided by him along with the other lot. Chairman Smith inquired as to the house on the property. Mr. Romolia stated that Mr. Boothe chose at that time to subdivide for a house and the property remained as a single family subdivision for a long time. Therefore, the situation was not a unique circumstance warranting a variance. The variance would violate the rights of others and degrade the area. In response to questions from the Board, Mr. Romolia stated that his lot contained two acres but that it doesn't have the minimum frontage. He stated that his lot was divided in 1958. It only has 140 ft. of frontage. The surrounding parcels are large and could also request a similar variance in the future. The people who moved into this area expected that the large lots would remain. Chairman Smith inquired as to the zoning in the area. Mr. Romolia stated that it was two acre zoning but has other restrictions. He stated that he moved in expecting that the lot next door would only have one house. The Boothe house was already occupied. ~~If the variance is granted, all of the other lots~~ would have an equal right for such a request. It would degrade the area and promote a general increase in the traffic and the concentration of people in the area. Mr. Romolia stated that the variance request was just for speculative purposes and urged the Board to deny it because it was not justified.

The next speaker in opposition was Mrs. Romolia who also lived next door. She informed the Board that the property was not given to the church but that the church bought the property. At that time, the zoning was such that they could not expect to have more than a single family house on the property. She stated that they did not have any justification for asking for a variance. She stated that she also wanted to complain about the fact that the justification for the variance was not complete when it was submitted to the Board. Mrs. Romolia inquired as to whether Mr. and Mrs. Boothe were members of the Bethel Orthodox Presbyterian Church and they replied they were not.

The next speaker in opposition was Mr. Burt Nard of 421 Dirt Road in Great Falls. He stated that he was against the Ordinance change. This variance would be another step towards the destruction of the area. He stated that he realized that the plan calls for .2 to .5 dwelling units per acre but that Beach Mill Road has about two to one dwelling unit per acre. He stated that the County Zoning Ordinance was created just to keep ~~this sort of thing~~ from happening. However, they did foresee a need for unusual circumstances. However, Mr. Nard stated that the applicants have failed to show him that any hardship exists. He stated that the request should be denied because it changes the character of the area which is a rural area. In addition, it violates the plan by pipestemming.

The next speaker in opposition was Mrs. Edith McGwinn who informed the Board that she has ten acres next to the subdivision. She stated that Mr. David Kenner had forwarded a letter of opposition to the Board. She stated that she was in complete agreement with his statements. She stated that if she developed her property, she could make a financial killing but that she prefers the rural setting and the trees. She stated that this subject property is not unusual and the topography is not that difficult. She stated that her property is much the same. It's not an unusual feature to the area.

The Board was in receipt of letters in opposition from Mr. Kinney, Mr. Adams, Mr. Cravitz and Mr. Bradman.

During rebuttal, Mr. Runyon stated that the Board should look at the tax map to see what the area looks like. Directly across the street is two parcels which are 2½ acres in size. Mr. Romolia has two acres with less frontage than is required under the Ordinance. The requirement has been 200 ft. frontage for a long time for two acre lots. Mr. Runyon stated that the point was the density suggested by the Master Plan which is within what they are requesting. There is a lot of open parcels in Great Falls and there is a lot of development. Mr. Runyon informed the Board that he works with the Great Falls Civic Association and they try to encourage as much upper range of development as possible.

TRUSTEES OF BETHEL ORTHODOX PRESBYTERIAN CHURCH
& WALTER A. BOOTHE, ET. UX.
(continued)

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Mr. Runyon stated that they sent out a questionnaire to people in Great Falls and received 980 responses. These people specified that the average size lot they would like to see is 3.1+ acres. Mr. Runyon stated that this variance application was within the purview of the density.

Mr. Runyon informed the Board that he had read the letters in opposition. He indicated that they all followed the same theme regarding the rural atmosphere. This area of the County is a cause of a lot of debate among the citizens. The Civic Association has 560 members yet there are 3,000 households..

The unusual characteristics of this application are that there are two parcels of land being combined and it still does not have sufficient frontage to provide the density for four or five lots. This is 10 acres which would allow almost five lots. Mr. Runyon stated that four lots on 10 acres was reasonable density. The requirement to be met was the public street frontage which the applicants do not have and cannot achieve. Therefore, they are seeking a variance from the Board because of the narrowness of the lot.

Chairman Smith closed the public hearing and suggested the Board might want to defer decision as he had a problem with the variance.

TRUSTEES OF BETHEL ORTHODOX PRESBYTERIAN CHURCH
& WALTER A. BOOTHE, ET. UX.

R E S O L U T I O N

In Application No. V-160-79 by TRUSTEES OF BETHEL ORTHODOX PRESBYTERIAN CHURCH & WALTER A. BOOTHE, ET. UX. under Section 18-401 of the Zoning Ordinance to allow resubdivision of 2 lots into 4 lots such that proposed lots 3 & 4 would have widths of 15.01 ft. & 15 ft. respectively (200 ft. minimum lot width required by Sect. 3-E06) on property located at 854 & 858 Seneca Road, tax map reference 6-4((1))8 & 9, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 10, 1979; and deferred from August 2, 1979 for improper posting; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the owner of the property is the applicant.
- 2. The present zoning is R-E.
- 3. The area of the lot is 9.8 acres.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has not satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 0 Mr. Barnes and Ms. Ardis being absent.)

The Board recessed for lunch at 12:40 P.M. and reconvened at 2:15 P.M. to continue with the scheduled agenda.

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Page 376, August 10, 1979, Scheduled case for

11:20 - PRANZ & NICOLE ZENZ, appl. under Sect. 18-401 of the Ord. to allow construction of an addition to a dwelling to 8.6 ft. from a side lot line and 28.6 ft. from the front lot line (15 ft. min. side yard & 35 ft. min. front yard req. by Sect. 3-207), located 1859 Massachusetts Ave., Franklin Park Subd., 41-1((13))(1)B, Dranesville Dist., 11,500 sq. ft., R-2, V-163-79.

The Board was in receipt of a letter requesting deferral of the above-captioned application until September 18, 1979. The letter was from Charles L. Shumate, attorney-at-law. The required notices were in order. The Board took action to defer the application until September 18, 1979 at 10:20 A.M. at the request of the applicant's attorney.

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Page 376, August 10, 1979, Scheduled case for

11:30 - DONALD EDWARD BOLDT, appl. under Sect. 18-401 of the Ord. to allow construction of double car garage addition to dwelling to 12.1 ft. from side property line (15 ft. min. side yard req. by Sect. 3-207) located 8818 Gateshead Road, East At Mount Vernon Subd., 110-1((18))(8)10, Mt. Vernon Dist., 23,108 sq. ft., R-2, V-165-79.

Mr. Donald Boldt of the above address stated that he desired to construct a two car garage 23 ft. in width 12.1 ft. from the side property line. The Zoning Ordinance requires a minimum side yard setback of 15 ft. In response to questions from the Board, Mr. Boldt explained that he had an existing one car carport and he wished to expand it. Mr. Boldt informed the Board that he was caught in the middle of the change in the Zoning Ordinance. The change took place in April. Before the change in the Ordinance, the garage could have gone to 12 ft. from the side lot line. Mr. Boldt informed the Board that he had retained an architect to draw up the plans for the garage. The plans were delivered on April 5th. Then Mr. Boldt stated that he contracted with a builder to construct the garage. Prior to obtaining the building permit, Mr. Boldt stated that he tore up the blacktop and dug the footing and the retaining wall for the garage. In addition, he stated that he removed some shrubs. When he applied to the County for the building permit, it was denied because of the change in the Ordinance.

There was no one to speak in favor of the application and no one to speak in opposition. However, the file contained two letters in support of the application.

Page 376, August 10, 1979 Board of Zoning Appeals
DONALD EDWARD BOLDT

R E S O L U T I O N

In Application No. V-165-79 by DONALD E. BOLDT under Section 18-401 of the Zoning Ordinance to allow construction of double car garage addition to dwelling to 12.1 ft. from side property line (15 ft. minimum side yard required by Sect. 3-207) on property located at 8818 Gateshead Road, tax map reference 110-1((18))(8)10, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 10, 1979, deferred from August 2, 1979 for improper posting; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 23,108 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

R E S O L U T I O N

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NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 0 (Mr. Barnes and Ms. Ardis being absent.)

Page 377, August 10, 1979, Scheduled case for

11:40 - MR. & MRS. GEORGE HOYT, appl. under Sect. 18-401 of the Ord. to
A.M. allow addition to existing dwelling & construction of a bath house
for swimming pool, (each to 10 ft. from side lot line (15 ft. min.
side yard req. by Sect. 3-207) & Sect. 10-105), located 7007 Holy-
wood Drive, Balmacara Subd., 21-4((17))22, Dranesville Dist.,
21,086 sq. ft., R-2, V-166-79.

Mr. Douglas Mackall, attorney-at-law, represented Mr. & Mrs. Hoyt. He stated that the Hoyts had been caught in the changeover of the Zoning Ordinance from the 8 ft. setback to the 15 ft. setback. The house had been built last September and the plans for the pool were drawn up at that time. Before the Ordinance was changed, they had the right to go to 8 ft. Now, they are asking the Board for an additional 2 ft. Mr. Mackall stated that the architect designed the plans for the pool and the living room addition. To make the additions look totally right, the 2 ft. is necessary for both the living room and the bathhouse. The bathhouse addition will cover up the filter and the motor. The property is totally fenced. There is a topographic problem. Mr. Mackall stated that they have letters in the file from the neighbors on both sides.

Chairman Smith informed Mr. Mackall that the bathhouse would have been permitted before the Ordinance change but that the living room addition would not have been. Mr. Mackall stated that the addition could have gone to 12 ft. and they only need a variance of 2 ft. The architect had prepared drawings for 8 ft. Mr. Mackall stated that the neighbor on the bathhouse side had sold his property. The new owner does not object to the variance. The neighbor on the other side has conditional support. He wants the air conditioning unit to remain where it is or at least not moved any closer than it presently is located and the second condition that the coloring of the brick be the same color as the existing house. Mr. Mackall stated that the Hoyts do not have any problem with those conditions. In response to questions from the Board, Mr. Bradford DeWolf, the architect, stated that the location for the bath house was chosen so far from the house in order to get a better view of the pool. Chairman Smith stated that the bathhouse would have to be located 12 ft. Mr. Mackall stated that the lot next door is 6 ft. higher. The closer the bathhouse gets to the property line, the more it would be screened from the property next door. The closer it is, the better it would be for the neighbors. Chairman Smith stated that he could not see any topographic reason for locating the bathhouse so close to the property line. Chairman Smith stated that if it could not be moved to 15 ft. that he would only consider 12 ft. as originally allowed before the change in the Ordinance. Mr. Mackall stated that they would abide by the Board's judgment as it was not that critical.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 377, August 10, 1979
MR. & MRS. GEORGE HOYT

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-166-79 by MR. & MRS. GEORGE HOYT under Section 18-401 of the Zoning Ordinance to allow addition to existing dwelling and construction of a bath house for swimming pool, each to 10 ft. from side lot line (15 ft. minimum side yard required by Sect. 3-207) & Sect. 10-105), on property located at 7007 Holywood Drive, tax map reference 21-4((17))22, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

R E S O L U T I O N

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WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 10, 1979; and deferred from August 2, 1979 for improper posting; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 21,086 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED IN PART *(to allow construction of addition 10 ft. from side lot line and construction of bathhouse 12 ft. from side lot line) with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. That the air conditioning unit not be located closer than 15 ft. from the side property line.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 0 (Mr. Barnes and Ms. Ardis being absent.)

 Page 378, August 10, 1979, Scheduled case for

11:50 - H. C. HAYNES, appl. under Sect. 18-401 of the Ord. to allow a
 A.M. tennis court fence which exceeds 7 ft. in height to be located
 38 ft. from the front lot line & 15 ft. from the side lot line
 (50 ft. min. front yard and 20 ft. min. side yard req. by Sect.
 3-E07), located 9200 Deer Park Road, Deer Park Subd., 8-4-((7))7,
 Dranesville Dist., 2.00 acres, R-E, V-167-79

and

11:50 - H. C. HAYNES, appl. under Sect. 3-E03 of the Ord. to permit home
 A.M. professional (physician) office, located 9200 Deer Park Road,
 Deer Park Subd., 8-4-((7))7, Dranesville Dist., 2.00 acres, R-E,
 S-168-79.

Mr. Robert Lawrence, an attorney in Fairfax, represented Dr. Haynes. He informed the Board that they would like to defer the applications since there was not a full Board present. In addition, Mr. Lawrence stated that they had discovered some problems with the home professional office application. The covenants for Deer Park needed to be examined and resolved prior to the public hearing.

Mr. Richard Bliss of 9100 Deer Park Road voiced his objections to the deferral. He stated that the covenants could not be changed; therefore a deferral would not accomplish anything. In addition, a deferral would mean that people would have to take time off from work again. He urged the Board to hear the applications as scheduled.

It was the opinion of the Board to defer the application until October 2, 1979 at 10:20 A.M. for a full Board.

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Page 379, August 10, 1979, Scheduled case for

12:05 - COURTS ROYAL EAST LIMITED PARTNERSHIP, appl. under Sect. 5-603 & P.M. 8-502 of the Ord. to permit alteration of existing racquet/ball court to add restaurant/snack bar, located 5505 Cherokee Ave., 80-2((1))52, Annandale Dist., .5640 acres, I-6, S-164-79.

Mr. Ken Saunders, an attorney in Fairfax, represented the applicant. He informed the Board that the use was allowed by right prior to the new Zoning Ordinance. Because the club wishes to expand, they have to apply for a special permit. The addition of a restaurant/snack bar means that they would have to comply with the Health Department Facilities Manual. Mr. Saunders stated that there is room on the property for parking. The club needs the approval from the Board prior to occupancy. In response to questions from the Board, Mr. Saunders stated that the club would sell beer. They would alter the building as shown on the site plan. Mr. Saunders stated that they would use the existing space within the building. The snack bar would have 4 tables seating 16 people which would require an additional 4 parking spaces. Mr. DiGiulian inquired as to the total parking spaces to be provided. He was informed by Mr. Covington that the code differs now from what was originally approved. At present, there are only 28 parking spaces. The hours of operation would be 6 a.m. to 1 a.m, seven days a week.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 379, August 10, 1979 Board of Zoning Appeals
COURTS ROYAL EAST LIMITED PARTNERSHIP
R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-164-79 by COURTS ROYAL EAST LIMITED PARTNERSHIP under Section 5-603 & Sect. 8-502 of the Fairfax County Zoning Ordinance to permit alteration of existing racquet ball court to add restaurant/snack bar with maximum of 4 tables - 16 seats, on property located at 5505 Cherokee Avenue, tax map reference 80-2((1))52, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on August 10, 1979; and deferred from August 2, 1979 for improper posting; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is I-6.
3. That the area of the lot is 0.564 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in I Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

R E S O L U T I O N

6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.

7. The hours of operation shall be 6 A.M. to 1 A.M., 7 days a week.

88. This approval is subject to submission of a plat showing total of 31 parking spaces on the site.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 0 (Mr. Barnes and Ms. Ardis being absent.)

Page 380, August 10, 1979, Scheduled case for

12:15 - WOODROOF FITZHUGH, appl. under Sect. 3-103 of the Ord. to permit P.M. golf driving range, located 11811 Leesburg Pike, 6-3((1))33, Dranesville Dist., 21.5618 acres, R-1, S-176-79.
 (Deferred from August 7, 1979 for revised plats.)

Mr. Charles E. Runyon of 152 Hillwood Avenue in Falls Church represented the applicant. Chairman Smith stated that Mr. Runyon had submitted new plats showing a dotted line. He inquired if the dotted line represented a deletion from the original request for a special permit. Mr. Runyon explained that that area represented the area outside of the Dranesville Historic District. He informed the Board that the use was subject to Site Plan approval. Mr. Runyon stated that he had relocated the driving range and stated that it does meet the standards set forth for group 6 uses under special permits. He asked the Board for a little leeway with regard to the plats until after site plan approval. Chairman Smith suggested that they bring the plats back to the Board as after agenda item. Chairman Smith stated that he felt this use was a commercial venture which was not allowed in an historic district. Mr. Runyon stated that it met the requirements for an outdoor recreation use under the group 6 uses. He indicated that there would be a fence on the property line. Chairman Smith inquired as to the maximum distance the golfballs would travel. Mr. Runyon stated it would be about 300 ft. uphill. He informed the Board that there was 280 yards to the property line and they would have a 6 ft. fence to keep them from rolling but added that they balls could not roll uphill. The property contains 31 acres and the driving range would use 23 of those acres. There would not be any structures closer than 100 ft. to any property line.

Chairman Smith inquired if the Historical Board had reviewed the special permit. Mr. Runyon stated that he had requested a meeting with Ms. David and that she was present at the hearing. He stated that he was not able to schedule a meeting with them. Chairman Smith stated that since the driving range was so close, they should try to work out a compatible scheme with the Historical Board. Mr. Runyon replied that they have to work with Site Plan. The structure would be wooden. The driving range is only an interim use for the site. There is no sewer serving the property and the area is not suitable. There would be bathroom facilities provided on the site. The permit would only be for a 10 to 15 year period until sewer comes through.

Chairman Smith asked for comments from Ms. Kelsey who deferred to Ms. David. She stated that since they had moved the buildings outside of the historic district that they would have no jurisdiction over the plans. She stated that the Historic Board was satisfied with the plans.

Chairman Smith stated that this was a commercial use and he had a problem with commercial uses in Rt. 7 area as far as the comprehensive plan was concerned. Chairman Smith suggested that Mr. Runyon seek a deferral. The application was deferred until September 18, 1979 at 10:30 A.M. for decision.

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Page 380, August 10, 1979, After Agenda Items

V-299-77, V-300-77 & V-301-77 R. M. Carrara: The Board was in receipt of a letter from Mr. Herbert H. Becker seeking a clarification of the Board's motion on the above-captioned variances. After review of the file and the motion, Mr. DiGiulian stated that it was his intent of condition no. 3 that there be two driveways to serve the four lots in the subdivision and lot 38 which was not a part of the application. Mr. Paciulli stated to the Board at the time of the public hearing that the driveway from lot 38 would be connected to lot 37-A.

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Page 381, August 10, 1979, After Agenda Items

Mt. Vernon-Lee Enterprises: The Board was in receipt of a letter requesting the Board's approval for an increase of one student until August 9th. The second part of the request was to allow an increase of 10 students until a new satellite building was constructed. Chairman Smith stated that the Board did not have any problem with allowing the addition of one student until the 9th since there was not anything they could do at this point. However, he stated that the Board could not permit an increase of 10 students without a public hearing.

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Page 381, August 10, 1979, After Agenda Items

The Board reviewed a memorandum regarding legal counsel. The procedural memorandum had been reviewed and modified by the Zoning Administrator. The Board stated that they did not have any problems with the modifications and asked the Clerk to type it up as modified and forward to the Acting County Executive.

// There being no further business, the Board adjourned at 3:45 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED _____
Date

Submitted to the Board on _____.
Submitted to the other departments,
Board of Supervisors and Planning
Commission on _____.

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, September 11, 1979. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes; John Yaremchuk and Barbara Ardis (arriving at 12:40 P.M.)

The Chairman opened the meeting at 10:20 A.M. led with a prayer by Mr. Barnes.

The Chairman called the scheduled case of:

10:00 - THE RUG MAN, appl. under Sect. 18-301 of the Ord. to appeal the A.M. Zoning Administrator's decision that display of goods in a required yard of applicants property constitutes a violation of Sect. 2-504 of the Zoning Ordinance, located 6906 Richmond Hwy., 92-2((1))1, Mt. Vernon Dist., 82,241 sq. ft., C-8, A-189-79.

The Board was in receipt of a letter from the applicant's attorney, Mr. Dugan, requesting a deferral of the appeal application in order that a variance application could be submitted. The Board deferred the appeal until November 6, 1979 at 10:10 A.M. providing all information for the variance was submitted

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Page 382, September 11, 1979, After Agenda Items

Mr. & Mrs. George Hoyt: V-166-79: The Clerk was requested to amend the Board's resolution of V-166-79 to read that the bath house was to be constructed 12 ft from the side lot line.

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Page 382, September 11, 1979, Scheduled case for

10:30 - MR. & MRS. BARRY TOOMBS, appl. under Sect. 18-401 of the Ord. to A.M. allow 6 ft. fence to remain in front yard (4 ft. maximum height for fence in front yard required by Sect. 10-105), located 3212 Foxvale Drive, Foxvale Subd., 46-2((9))5, Centreville Dist., 43,583 sq. ft., R-1, V-157-79.

Mr. Arthur Meisner of 1707 L Street in Washington represented the applicants. Mr. Meisner explained to the Board that when the Toombs erected the fence, they had a contract with a pool company to build a pool in the front yard. They were advised to put up a 6 ft. fence at that time. The fence has been erected for over two years. It is a wooden fence. The Toombs are willing to plant roses in front of the fence to make it more attractive. Mr. Meisner stated the pool has not been constructed yet but that the Toombs still intend to have the pool in the front yard and want the original pool company to build it for them. Mr. Meisner stated that he felt the fence was attractive. The fence was costly to build. Mr. Meisner showed the Board pictures of the dog belong to the Toombs. He stated that the reason they wanted a 6 ft. fence was because the dog could jump the 4 ft. fence. He stated that the fence should be permitted to remain in the front yard. In addition, he stated that it does no good to have a 4 ft. fence in the front yard when the neighbor children could climb the fence to get to the pool.

In response to questions from the Board, Mr. Meisner stated that in order to comply with the front yard setback, the fence would have to be moved back 40 ft. He stated that the fence would lose its attractiveness if moved. Chairman Smith stated that the Board has to have a topographic reason for allowing the variance to remain. He inquired if the Toombs have a contract for the pool. Mr. Meisner stated that there was a permit in the file. He stated that he did not have a copy of the original contract with him. Mr. DiGiulian inquired as to the location of the pool from the house. Mr. Meisner stated that the plats showed the distance. Mr. DiGiulian noted that there was not any reason to have the fence 200 ft. away from the pool. Mr. Meisner stated that when the Toombs constructed the fence, they were not aware they were in violation of the Code. The fence has steel posts which have been covered up with boards.

Chairman Smith stated that the Board has to have a topographic reason in order to grant a variance. He informed Mr. Meisner that there had to be more of a justification than a large dog. Mr. Meisner stated that the property has one acre of land. He indicated that the Toombs would lose 1/3 of their property

if the fence was relocated. He stated that the Toombs purchased the property because it was so large.

There was no one to speak in favor of the application. The following persons spoke in opposition to the application. Mr. Williams of 3200 Foxvale Drive stated that he lived three doors down from the Toombs. He presented the Board with photographs of the fence. Mr. Williams stated that the fence was inconsistent with the neighborhood and as a result was a detriment to the values of the properties. He suggested that if the fence were moved back 24 ft. into the trees that it would not be as objectionable. Mr. Jack Galbraith of 3208 Foxvale Road informed the Board he lived next door. He stated that he shared the sentiments of Mr. Williams. He stated that the front of the fence sticks out from the trees. He informed the Board that he had been told by real estate people that the fence was ruining real estate values in the area. Mr. Galbraith stated that he would like to see the fence moved back towards the trees. He stated that would be more aesthetically pleasing to the neighborhood.

During rebuttal, Mr. Meisner informed the Board that the majority of the people in opposition wanted to see the fence moved back between 21 to 24 ft. He stated that would be wrong since the fence would be allowed at this location if it were 4 ft. in height.

R E S O L U T I O N

In Application No. V-157-79 by MR. & MRS. BARRY TOOMBS under Section 18-401 of the Zoning Ordinance to allow 6 ft. fence to remain in front yard (4 ft. maximum height for fence in front yard required by Sect. 10-105) on property located at 3212 Foxvale Drive, tax map reference 46-2((9))5, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 11, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 43,583 sq. ft.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has not satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0 (Ms. Ardis being absent.)

10:40 - DR. & MRS. DAVID J. REESE II, appl. under Sect. 18-401 of the Ord. A.M. to allow construction of an addition to a detached garage to 13.2 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 824 Arcturus On The Potomac, 102-2((1))36, Mt. Vernon Dist., .4391 acres, R-2, V-174-79.

Mr. Thomas Kerns, an architect of 1150 17th Street in Washington, represented Dr. & Mrs. Reese. Mr. Kerns informed the Board that the applicant's property has a topographic problem in that the lot slopes down about 25 ft. into a ravine. The area in which they plan to build a garage is a flat slope at the end of the driveway. He stated that they were limited in the placement of the garage because of the property. There is an existing structure which is

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 DR. & MRS. DAVID J. REESE, II
 (continued)

Board of Zoning Appeals

located approximately 13 ft. from the property line. The applicants are planning to construct a workshop next to the existing garage which would only leave a 20" space between the two structures. They decided it would look better if the workshop was attached to the existing garage. Mr. Kerns stated that Dr. Reese was present and had letters from the surrounding property owners in support of the variance.

In response to questions from the Board, Mr. Kerns stated that the existing garage is already located in the required setback area. He indicated that the garage would remain a garage. Mr. Kerns informed the Board that the area in question was the 20". The workshop was to be used for the maintenance of cars and home repairs.

There was no one to speak in favor of the application and no one to speak in opposition.

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 DR. & MRS. DAVID J. REESE, II

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-174-79 by DR. & MRS. DAVID J. REESE, II under Section 18-401 of the Zoning Ordinance to allow construction of addition to detached garage 13.2 ft. from side lot line (15 ft. minimum side yard required by Sect. 3-207) on property located at 824 Arcturus on the Potomac, tax map reference 102-2(1)36, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 11, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is .4391 acres.
4. That the applicant's property has exceptional topographic problems and has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other similar structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Ms. Ardis being absent.)

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10:50 - EDWARD L. & ETHEL MAE SCHULTZ, appl. under Sect. 18-401 of the Ord. A.M. to allow enclosure of existing patio to 21 ft. from rear lot line (25 ft. minimum rear yard req. by Sect. 3-307), located 13118 Pavilion Lane, Greenbriar Subd., 45-1((3))(25)23, Springfield Dist., 9,072 sq. ft., R-3, V-175-79.

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The required notices were in order. Mrs. Ethel Mae Schultz of the above address informed the Board that they were screening in a patio for more use year-round and to provide a bug free area. The patio is already existing.

There was no one to speak in favor of the application and no one to speak in opposition. The file contained eight letters in support of the variance.

Page 385, September, 1979 Board of Zoning Appeals EDWARD L. & ETHEL MAE SCHULTZ

R E S O L U T I O N

In Application No. V-175-79 by EDWARD L. & ETHEL MAE SCHULTZ under Section 18-401 of the Zoning Ordinance to permit enclosure of existing patio to 21 ft. from rear lot line (25 ft. minimum rear yard required by Sect. 3-307) on property located at 13118 Pavilion Lane, tax map reference 45-1((3))(25)23, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the owner of the property is the applicant.
- 2. The present zoning is R-3.
- 3. The area of the lot is 9,072 sq. ft.
- 4. That the applicant's property is exceptionally irregular in shape.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

- 1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
- 2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Ms. Ardis being absent.)

Page 385, September 11, 1979, Scheduled case for

11:00 - TOYS R US, INC., appl. under Sect. 12-305(1) of the Ordinance to allow a free-standing sign 25 ft. in height (20 ft. maximum height req. by Sect. 12-203), located 8457 Leesburg Pike, 29-3((1))41, Providence Dist., 6.9848 acres, C-7, V-188-79.

Mr. Robert Lawrence, an attorney in Fairfax, represented Toys R Us. He told the Board that the special permit would only allow a 26 ft. sign and they are only asking for a 25 ft. sign. The property is located at Tysons Corner between Cappers Nursery and JFK Chevrolet. There is a huge gully there and the store is located down in the gully. Mr. Lawrence informed the Board that the stores are located over 400 ft. from Rt. 7. The elevation is much lower where the stores are situated. Because of the topography, they are seeking a variance to allow the free standing sign.

In response to questions from the Board, Mr. Lawrence explained that the building is 16 ft. high and has a massive roof. The sign on the roof is lower than Rt. 7. by about 4 ft. Chairman Smith stated that this sign was not

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the usual sign for Toys R Us. Mr. Lawrence replied that under the new Zoning Ordinance they were not able to use the giraffe anymore. Chairman Smith inquired if other businesses would use the same free standing sign. In response, Mr. Lawrence stated that Hub Furniture would use the lower portion of the free standing sign. Mr. Lawrence pointed out to the Board that there are similar signs in the area, one being a 30 ft. sign, Radio Shack having a 36 ft. sign and Citgo having a 38 ft. sign. He stated that it was apparent that these businesses all need the larger signs because of the road situation. Someone driving along the highway would have an easier time spotting the free standing sign at the road rather than the building mounted signs. Mr. Lawrence explained to the Board that the free standing sign was crucial to the business of Toys R Us. In addition, he stated that the land in this area is very expensive.

There was no one to speak in favor of the application and no one to speak in opposition.

R E S O L U T I O N

In Application No. V-188-79 by TOYS R US under Section 18-401 of the Zoning Ordinance to permit freestanding sign 25 ft. in height (20 ft. maximum height required by Sect. 12-203) on property located at 8457 Leesburg Pike, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 11, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is C-7.
3. The area of the lot is 6.9848 acres.
4. That the applicant's property has exceptional topographic problems.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. The sign shall be limited to a maximum area of 80 sq. ft.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Ms. Ardis being absent.)

11:10 - WILLIAM D. BAXTER, appl. under Sect. 18-401 of the Ord. to allow shed 12 ft. in height to remain 5.5 ft. from rear lot line and 8.2 ft. from side lot line (minimum 12 ft. rear and 15 ft. side setbacks req. by Sect. 10-105 & Sect. 3-207), located 9304 Craig Avenue, Mt. Vernon Subd., 110-3((2))A & 110-3((13))M)326 & 327, Mt. Vernon Dist., 18,955 sq. ft., R-2, V-203-79.

Mr. William Baxter of 9204 Craig Avenue informed the Board that the project for the shed began a year ago. He stated that the project they envisioned was for a shed and they were not aware it was in violation of the Code. He informed the Board that the property was triangular in shape. They located the structure and poured the footings and started the structure. They wanted to construct a pre-fab building and it was discovered that a permit was necessary. Then it was determined that they would need a variance. The shed would be well screened from most of the neighbors except during the winter. In addition, there is a big drainage ditch there. Mr. Baxter told the Board he had a letter from one of his neighbors who was in support of the shed. One side of the shed faces his house and he does not object. The land in this area is swampy and unusable.

Chairman Smith inquired as to when the outlot was acquired. Mr. Baxter replied that they began the structure about a year ago. He indicated that he planned to use the shed for overflow from the garage.

There was no one to speak in favor of the application. The following persons spoke in opposition to the application. Mr. Hal Paulson informed the Board he lived next door to Mr. Baxter. He stated that Mr. Baxter acquired this piece of property which is directly behind his house. He showed the Board a sketch of the land clearly indicating that the property is behind his house. Mr. Paulson informed the Board that he was the one most directly affected by this shed. It is about 20 ft. from his fence line. He indicated that Mr. Baxter did everything he could to screen the shed. However, he objected to the height of the shed. The structure is 12x18x7. He stated that the shed is now 14 ft. high. Mr. Paulson stated he has a 7 ft. fence and he would have to look at the shed. He indicated that he would not have any problem with it if it was put down to 7 ft. in height. He also informed the Board that there is a drainage ditch there that goes down the north side of the property. He stated that the shed was quite inaccessible to the fire department. He stated that it's well over a 100 ft. from the road to the shed and it might cause a fire hazard back there. He stated that he understood Mr. Baxter was planning to store some furniture back there. Mr. Paulson stated that he called Mr. Bertoni when the building was originally started. When he returned from an out-of-town trip, the shed was up. He stated that he then called the Zoning Office to determine if a building permit had been issued and found out one was issued recently. Mr. Paulson's strongest objection was the height of the structure because it gave the shed the appearance of a large warehouse. Mr. Paulson stated that the shed was a wooden structure with a line of trees around it. He stated that his fence was 7 ft. high and the structure was 14 ft. high.

In response to questions from the Board, Mr. Baxter stated that the shed was of standard construction made with cedar shingles, stained brown. Mr. Paulson informed the Board that his objection was the height of the shed as the shed was quite a bit larger than the normal utility shed. He indicated that before the shed was constructed, he had a natural landscaping there. Now, it is interrupted by a ugly shingled roof. He stated that if the shed was behind Mr. Baxter's house and he was looking at it at an angle, it would be different.

The next speaker in opposition was the owner of lot 329, 9226 Craig Ave. He indicated that he lived adjacent to Mr. Paulson on the opposite side of the drainage ditch. He indicated that he supported the objections and was objecting to the height of the shed also.

During rebuttal, Mr. Baxter stated the shed size was 12 ft. by 18 ft. In response to questions as to why he did not obtain a building permit before starting construction, Mr. Baxter stated he was not in violation of the Code. Mr. Covington explained to the Board that the shed could have been constructed under the previous Zoning Ordinance without a variance 4 ft. from the property line. Mr. Baxter informed the Board that he was aware of the Code requirements prior to purchasing the land. During the process of acquiring the land, the Code changed. He stated that there were trees between the shed and Mr. Paulson's fence. The shed sits on two cinderblocks about 18" off of the ground. He indicated that he was going to fill in the space. The shed would be used for storage of household debris.

R E S O L U T I O N

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In Application No. V-203-79 by WILLIAM D. BAXTER under Section 18-401 of the Zoning Ordinance to allow shed 12 ft. in height to remain 5.5 ft. from rear lot line (minimum 12 ft. rear and 15 ft. side setbacks required by Sect. 10-105 & Sect. 3-203) on property located at 9304 Craig Avenue, tax map reference 110-3((2))A & 110-3((13))(M)326 & 327, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 11, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 18,955 sq. ft.
4. That the applicant's property is exceptionally irregular in shape.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Ms. Ardis being absent.)

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11:20 - ALFRED T. OVERSTREET, appl. under Sect. 18-401 of the Ord. to allow 11.1 ft. high shed to remain 4.4 ft. from rear lot line & 6 ft. from side lot line (minimum 11.1 ft. rear and 20 ft. side setbacks req. by Sect. 10-105 & Sect. 3-107), located 7216 Wesley Road, Woodland Subd., 90-1((6))15, Springfield Dist., 21,850 sq. ft., R-1, V-204-79.

Mr. Overstreet of the above address informed the Board that in mid-July of 1978, he decided to build a storage shed. He stated that he called the Zoning Office and was informed that the setbacks for both side and rear was only 2 ft. He stated that he set his shed back 4 ft. thinking that he was in the clear. He informed the Board that he started to construct the shed without a building permit because he did not think a permit was necessary for this type of construction. Most of the houses on his street have storage sheds. Mr. Overstreet stated when he learned he needed a permit he went to the Zoning Office. It was then that he was told that the setbacks had changed because of a new Zoning Ordinance that became effective in August 1978. He stated that he was trying to correct the situation by applying for this variance. Mr. Overstreet stated that the drainage is poor and water accumulates in the swell. The shed is located in this area because it would be least affected by this problem. Mr. Overstreet stated that the other houses in his area are 2 ft. above the normal ground elevation. As a result, the water backs up and overflows onto his property. He stated that he has huge trees which he wanted to keep so he located the shed close to the property lines. He stated he also picked this location to keep the shed away from the septic fields. He stated that the shed would be rather close to the house if it was moved in to the required 11.1 ft. from the rear property line. He gave the Board a letter of

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support from the neighbors in his community. The letter stated they did not have any objection to the shed remaining where Mr. Overstreet located it. In addition, he presented a letter from the Springvale Civic Association stating they did not have any objection to the shed.

There was no one to speak in favor of the application and no one to speak in opposition. However, the file contained two letters of opposition to the shed. The letters were from Mr. and Mrs. Williams and the other from Mr. Michael V. Finley. Both letters addressed the lack of screening and the painting of the shed.

In response to questions from the Board, Mr. Overstreet stated that he actually began construction of the shed in mid-July of 1978. He stated that he has not done any work on the shed since May of this year as he was told a variance would be necessary. Chairman Smith stated that the problem Mr. Overstreet had was that he did not get a building permit. He stated that he was required to obtain a building permit and if he had obtained one prior to the new Zoning Ordinance, he would not need a variance.

R E S O L U T I O N

In Application No. V-204-79 by ALFRED T. OVERSTREET under Section 18-401 of the Zoning Ordinance to allow 11.1 ft. high shed to remain 4.4 ft. from rear lot line & 6 ft. from side lot line (minimum 11.1 ft. rear & 20 ft. side setback required by Sect. 10-105 & Sect. 3-107) on property located at 7216 Wesley Road, tax map reference 90-1((6))15, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 11, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 21,850 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including shallow in depth.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Ms. Ardis being absent.)

Page 389, Board Recess

At noon, the Board recessed for a short break. At 12:15 P.M., the Board reconvened to continue with the scheduled agenda.

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11:30 A.M. - JACK V. WASHINGTON, appl. under Sect. 18-401 of the Ord. to allow double carport to remain 0.7 ft. from side property line (15 ft. minimum side yard req. by Sect. 3-107 & Sect. 2-412), located 5966 Clames Drive, Walhaven Subd., 81-4((16))22, Lee Dist., 40,726 sq. ft., R-1, V-205-79.

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Mr. Washington of the above address informed the Board that on May 1st of this year he contracted with some men to build a two car carport connected to his house. He stated that they were supposed to take care of the permits. He stated that by the 6th of May, the roof was on the carport. On the 7th of May, there was a notice of violation attached to the building. On the 8th, Mr. Washington called the Zoning Office and was told not to do anything to the carport. On the 11th of May, the carpenter went to the Zoning Office to obtain a building permit. He was told at that time that a variance was needed. Mr. Washington stated that he has not seen the contractor since that time. Chairman Smith inquired if he has tried to contact the contractor. Mr. Washington stated that he has called the office but not reached him. Apparently, the contractor was not licensed.

There was no one to speak in favor of the application and no one to speak in opposition.

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JACK V. WASHINGTON

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-205-79 by JACK V. WASHINGTON under Section 18-401 of the Zoning Ordinance to allow double carport to remain 0.7 ft. from side property line (15 ft. minimum inside yard required by Sect. 3-107 & Sect. 2-412) on property located at 5966 Clames Drive, tax map reference 81-4((16))22, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 11, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 40,726 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Ms. Ardis being absent.)

11:40 - MAURICE L. BYRD, appl. under Sect. 18-401 of the Ord. to allow a subd. into 48 lots whereby proposed lots 1-25 have insufficient depth to allow construction of houses in compliance with the 200 ft. min. setback from an interstate highway req. by Sect. 2-414, and to allow construction of houses on each of the 25 lots at various distances ranging from 35 ft. to 110 ft. from the I-95 right-of-way, located 5458 or 5459 Peaceful Terrace & 5510 Linnean St., 82-2((1))9 & 82-2((3))(D)B, Lee Dist., 13.9152 acres, R-4, V-206-79.

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Mr. John Engleside of Alexandria represented Mr. Byrd. He introduced Mr. Byrd and Mr. Kephart, the engineer. Mr. Byrd informed the Board that he was seeking a variance to the 200 ft. setback in order to put in 40 homes. He stated that he started Section I when a lot of the homes were a lot closer. Mr. DiGiulian noted that the staff report indicated that the property had been rezoned. He inquired of Mr. Byrd as to when the rezoning took place. Mr. Byrd stated that he did not know. He indicated that the property was all R-4 when he purchased the property in 1974 or 1975. He stated that he purchased some other land nearby where he developed 30 individual homes on the site. In April of 1979, the setback of 200 ft. from an interstate was adopted. Mr. Byrd stated that he has discussed this variance with Supervisor Alexander and the citizens in the area. They did not want a straight street all the way through the subdivision. He indicated that he has tried to work closely with the civic associations in this area.

In response to questions from the Board, Mr. Byrd stated that the sound barrier on I-95 was constructed in this section. Mr. DiGiulian asked the staff what the setback was prior to the adoption of the Zoning Ordinance. Mr. Covington stated that only a 25 ft. setback was required for a highway limited access.

Mr. Kephart told the Board that he had worked on Section I when it was zoned R-10. With the adoption of the new Zoning Ordinance, R-10 was converted to R-4. Mr. Kephart showed the Board a drawing of how the 200 ft. setback line would affect Mr. Byrd. Mr. DiGiulian inquired of Mr. Byrd if the property had already been rezoned when he purchased it and was told it had been. Mr. Byrd stated that he did not institute the rezoning. Ms. Kelsey informed the Board the engineering department had reviewed the variance request and concluded that the barrier constructed on I-95 eliminated the noise to an acceptable level and therefore, they did not have any problem with the variance.

There was no one else to speak in favor of the application. The following person spoke in opposition. Mrs. JoAnne Endres of 5522 Linnean Street presented the Board with a petition signed by 200 residents of Burgundy Village which was the area Mr. Byrd was proposing to construct in. She stated that her property was on the corner of Holme Wood and Linnean. If the variance was granted, then Linnean Street would become the main thoroughfare for the subdivision. She stated that her neighborhood was 30 years old. She had another letter for the Board setting forth opposition because of traffic congestion, overpopulation, safety for the children and pets, and the general health and well being of the community. Mrs. Endres urged the Board to deny the variance request.

During rebuttal, Mr. Byrd reminded the Board that he had met with the civic associations with respect to his variance. He stated that Mrs. Endres had not come to the meetings and did not want to see any buildings. As far as a traffic pattern, he stated that there would be some cars coming down Linnean Street. Chairman Smith inquired as to the closest point a house would be constructed from the I-95 right-of-way line. Mr. Byrd stated 35 ft. at the nearest point. He further stated that the travel lane on I-95 was 150 ft. away from his property. Chairman Smith inquired as to whether the barrier that was constructed was located on the right-of-way line. Mr. Byrd stated that the barrier was 25 to 35 ft. from the right-of-way line. Mr. Yaremchuk inquired as to the price range of the homes. Mr. Byrd stated that the homes would be priced from \$68,000 to \$70,000. Mr. Yaremchuk inquired if he had built in this area previously. Mr. Byrd stated he had constructed Section I. Mr. Yaremchuk inquired if he was having problems selling the homes since the barrier was constructed. Mr. Byrd stated that some people have left the area since the barrier was put up. Mr. Yaremchuk was curious as to what the decibal level was with the noise from I-95. No one was able to answer that question.

R E S O L U T I O N

In Application No. V-206-79 by MAURICE L. BYRD under Section 18-401 of the Zoning Ordinance to allow subdivision into 48 lots with proposed lots 1 - 25 having insufficient depth to allow construction of houses in compliance with the 200 ft. minimum setback from an interstate highway required by Sect. 2-414 and to allow construction of houses on each of the 25 lots at various distances ranging from 35 ft. to 110 ft. from the I-95 right-of-way, on property located at 5458 or 5459 Peaceful Terrace and 5510 Linnean Street, tax map reference 82-2((1))9 & 82-2((3))(D)B, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 11, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-4.
3. The area of the lot is 13.9152 acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 0 with 1 abstention (Mr. Yaremchuk) (Ms. Ardis being absent.)

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Ms. Barbara Ardis arrived at the Board meeting at 12:30 P.M. and remained for the rest of the scheduled agenda.

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Page 392, September 11, 1979, Scheduled case of

11:50 - JEROME J. WEBER, appl. under Sect. 18-401 of the Ord. to allow enlargement and enclosure of existing carport to 9.6 ft. from side lot line such that total side yards would be 20.2 ft. (8 ft. min. but total of 24 ft. min. side yard req. by Sect. 3-207), located 2006 Cantata Court, Tiburon Subd., 38-1((25))357, Centreville Dist., 15,391 sq. ft., R-2(C), V-207-79.

Mrs. Vibeka T. Weber of the above address stated that they would like to enclose their carport. She stated that a variance was necessary to the total minimum side yard requirements. Mrs. Weber told the Board that they needed to enlarge the carport. By doing so, the total side yard would be 20.2 ft. The Zoning Ordinance requires a minimum of 8 ft. and a total minimum of 24 ft. Chairman Smith noted that the applicant has a narrow lot. He inquired as to how long they have owned the property. Mrs. Weber replied that they bought the property on June 1, 1979. In response to where the property was located, Mrs. Weber stated it was on Beulah Road. She stated

that it was an area of several homes.

There was no one to speak in favor of the application and no one to speak in opposition.

R E S O L U T I O N

In Application No. V-207-79 by JEROME J. WEBER under Section 18-401 of the Zoning Ordinance to allow enlargement and enclosure of existing carport to 9.6 ft. from side lot line such that total side yards would be 20.2 ft. (8 ft. minimum but total of 24 ft. minimum side yard required by Sect. 3-207) on property located at 2006 Cantata Court, tax map reference 38-1((25))357, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 11, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-2(C).
3. The area of the lot is 15,391 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, having converging lot lines.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Ms. Ardis seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

12:00 - DR. MICHAEL GARY FINE, appl. under Sect. 3-203 of the Ord. to
NOON permit home professional (doctor's) office, located 12614
Etruscan Drive, Fox Mill Estates Subd., 25-2((6))777, Centreville
Dist., 11,964 sq. ft., R-2, S-177-79.

Dr. Michael Gary Fine of the above address stated that he had applied for a special permit to use his personal residence as an office to practice podiatric medicine. He stated that he and his family are residents of the home. He stated he met all notification requirements for notifying surrounding property owners. The home has the appearance of a single family dwelling. Dr. Fine informed the Board that this was a new practice. He stated that he would have very few appointments initially. The hours would be cut back in light of that fact. He stated there would only be one employee. The traffic impact would be minimal and there would not be a detrimental impact to the neighborhood. Dr. Fine stated that his home faces three streets. Anyone coming to his home would easily locate the property. He stated that he has provided a double asphalt driveway with sufficient area for parking. This would avoid

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 DR. GARY MICHAEL FINE
 (continued)

Board of Zoning Appeals

any on the street parking. He informed the Board that his patient load would be controlled, mostly every half-hour. The vicinity to be served would be the Reston and Herndon area.

In response to questions from the Board, Dr. Fine stated that his practice was now located in Arlington in a home which was converted in Clarendon. He stated that he was in practice with his father-in-law. He informed the Board that he has lived at his present address since April of 1979. In response to additional questions, Dr. Fine stated that there would be parking for six cars. He stated that there would not be any more than two patients at any one time.

There was no one to speak in favor of the application and no one to speak in opposition.

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 DR. GARY MICHAEL FINE

Board of Zoning Appeals

R E S O L U T I O N

Ms. Ardis made the following motion:

WHEREAS, Application No. S-177-79 by DR. MICHAEL GARY FINE under Section 3-203 of the Fairfax County Zoning Ordinance to permit home professional (doctor's) office on property located at 12614 Etruscan Drive, tax map reference 25-2((6) 777, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on September 11, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-2(C).
3. That the area of the lot is 11,964 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The number of employees shall be one.
8. The hours of operation shall be by appointment: Monday, Tuesday, Thursday, Friday: 6 P.M. to 9 P.M., Wednesday: 1 P.M. to 9 P.M., and Saturday: 1 P.M. to 6 P.M.

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- 9. The number of parking spaces shall be two.
- 10. This permit is granted for a period of five years.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 395, September 11, 1979, Scheduled case for

12:15 - CENTREVILLE ASSEMBLY OF GOD, appl. under Sect. 3-103 of the Ord.
P.M. to permit construction of new church building addition to existing church facilities, located 14821 Lee Highway, 64-2((1))3, Springfield Dist., 1.721 acres, R-1, S-173-79.

Mr. Robert Fredericks of 7011 Calamno Street stated he represented the church. He stated at present there was a church building located on Lee Highway. The structure is 60 or more years old. He informed the Board that the church wants to construct a new addition in the same location. The new structure would provide for the same congregation. There is not any expected increase in use or traffic and he requested the Board to grant the special permit. Pastor Edward Allen was introduced to the Board.

The architect, Charles Zimmerman spoke in favor of the application. He stated that the church did have a special permit but that it expired in December. He stated his point to the Board was that they did have a special permit once and that consideration should be given to them again. There was no one to speak in opposition.

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-173-79 by CENTREVILLE ASSEMBLY OF GOD under Section 3-103 of the Fairfax County Zoning Ordinance to permit construction of new church building addition to existing church facilities on property located at 14821 Lee Highway, tax map reference 64-2((1))3, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public, and a public hearing by the Board of Zoning Appeals held on September 11, 1979; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the owner of the subject property is the applicant.
- 2. That the present zoning is R-1.
- 3. That the area of the lot is 1.721 acres.
- 4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
- 2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
- 3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

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4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.

5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental management.

7. The hours of operation shall be normal hours of church operation.

8. The number of parking spaces shall be 66.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

 Page 396, September 11, 1979, Scheduled case of

12:30 - HERBERT E., JR. & MARIE P. LANE, appl. under Sect. 18-401 of the Ord. to allow subdivision into 6 lots, with proposed lot 3 having width of 12 ft. and proposed corner lot 6 having width of 192.88 ft. (200 ft. minimum width for interior lot & 225 ft. minimum width for corner lot req. by Sect. 3-E06), located 9210 Jeffrey Road, 8-2((1)) 25, Dranesville Dist., 12.0 acres, R-3, V-153-79. (Deferred from August 10, 1979 at the request of the applicant.)

Mr. Douglas Mackall, an attorney located at 4031 Chain Bridge Road in Fairfax, represented Dr. and Mrs. Lane. He informed the Board that this matter had been before them in August. He stated that Dr. Lane is trying to get 6 lots and requires a variance on two lots. One variance is for a corner lot and the other is for a pipestem lot. Mr. Mackall informed the Board that the Fitzgerald land was served by a pipestem driveway. He stated that most of the land in the area is one acre lots. The property belonging to Dr. Lane is a long narrow piece of land and is difficult to develop. He stated that the six lots to be placed on the 12 acres would be nice lots. Mr. Mackall stated he personally developed the property across the street with three \$250,000 homes on it. He stated that he understood the people in Great Falls did not like the homes. Mr. Mackall stated he liked the homes and thinks they are beautiful. He stated they have talked to the neighbors. Without any variances, only 5 lots could be developed. He stated that they are only asking for one pipestem lot. The corner lot requires a variance because it does not have the proper street frontage. Previously, everyone in the area who has developed land has gone under the old requirement that you had to have only two cuts and over five acres. Because of the topographic problems, these lots would have two acres and he stated that the variance should be granted.

one

There was no/to speak in favor of the application. The following persons spoke in opposition. Mr. Burnet of 9100 Jeffrey Road stated that he had submitted a letter in opposition. He informed the Board that this variance lacked a hardship. He stated that the Lanes had alternatives to develop the property without a variance. Mr. Burnet stated that pipestem lots were for cluster developments.

The next speaker in opposition was Mr. Otto Spokas of 9034 Jeffrey Road. He stated he owned parcel 10 which was directly north of the Lane property. He stated he had spoken at the last hearing and that his main concern was the drainage of the septic fields. According to the soils scientist report back in 1968 prepared by Mr. Coleman, the soil was mostly silt in the Riverbend area and was rather thin and was underlaid by rock. Mr. Spokas stated that it would be difficult for the soil to pass a perc test. He stated that anyone could dig a hole for a perc test. Mr. Spokas stated that this area consisted of steep slopes. He stated that the water would hit the rock and run down to the outslopes which would contaminate the stream. He stated that the dropoff from Jeffrey Road was equivalent to the dropoff of Great Falls. Mr. Spokas stated that he objected to six lots in this area because it would be damaging to the area.

The next speaker was Edward Britenbach of Jeffrey Road. He stated that he has lived on Jeffrey Road for 15 years and they wanted the isolation. He stated that the general character of the neighborhood used to be small cottages. Development has taken place and most of the lots are five acres or more. He stated that the development of Mr. Mackall had changed the character of the road and the neighborhood itself. He stated that he wanted to bring the plat

to the attention of the Board. Mr. Britenbach stated that lots 2, 3 & 4 are like cluster lots even though they are not categorized as cluster. He stated this would bring the septic fields for these lots right adjacent to his property. He stated he would have three houses within a two acre area immediately adjacent to his property. He strongly recommended that the Board deny the variance.

Mr. Estrop of 9108 Jeffrey Road who spoke in opposition stated the main issue is density. He questioned the number of people the land could support. He informed the Board that the frontage requirements were really just another way of controlling density. He stated that the Lanes were attempting to push the density way beyond the zoning law. He stated that this land was vulnerable because of the steep slopes. He stated that the land has been good to Dr. Lane. He stated that the question was now how would we treat the land; with respect or with the highest number of lots possible.

The next speaker in opposition was Mrs. Mary Henson of 9202 Jeffrey Road. She stated that the legal reasons for not granting the variance have been made clear. She stated that she simply wanted to speak as an old resident in order to preserve the character of the area. She informed the Board that she moved to this area in 1957 and is not pleased with the development that has occurred. She informed the Board that she subdivided her own property in 1968. She stated that she built a house that was in keeping with the character of the neighborhood. Mrs. Henson stated she realized that the land was going to be developed but that she only resented the variance to the Ordinance.

During rebuttal, Mr. Mackall stated that the property did have a land hardship in that the property was long and narrow. The proper way to develop it was with the six lot subdivision with one pipestem. He stated that this development was no different than any other. He stated that every septic tank on the lots have been approved by the Health Department. He reminded the Board that frontage is something different than density.

R E S O L U T I O N

In Application No. V-153-79 by HERBERT E. JR. & MARIE P. LANE under Section 18-401 of the Zoning Ordinance to allow subdivision into 6 lots with proposed lot 3 having width of 12 ft. & proposed corner lot having width of 192.88 ft. (200 ft. minimum width for interior lot & 225 ft. width for corner lot required by Sect. 3-E06) on property located at 9210 Jeffrey Road, tax map reference 8-2(1)25, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 11, 1979 and deferred from August 10, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 12.0 acres.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has not satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED.

Ms. Ardis seconded the motion.

The motion passed by a vote of 4 to 0 with 1 abstention (Mr. Barnes).

Page 398, September 11, 1979,,Executive Session

At 1:50 P.M., the Board recessed for an Executive Session to discuss legal matters. At 2:05 P.M., the Board reconvened to take up the after agenda items.

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Page 398, September 11, 1979, After Agenda Items

W. Morgan & Lilia S. Delaney, V-135-79: Chairman Smith informed the Board the application of W. Morgan & Lilia S. Delaney heard on July 24, 1979 had resulted in a split vote which did not resolve the issue. The vote ended in a vote of 2 members in favor of the request and one no vote with one abstention. Chairman Smith stated that in view of the split vote, the applicants had requested that the absent Board member be allowed to review the record and participate in the vote.

Ms. Ardis moved that the Board reconsider its decision. Mr. Barnes seconded the motion. Chairman Smith opened the record for discussion purposes. Mr. DiGiulian informed the Board he had listened to the tapes of the July 24th hearing and was ready to participate in the decision.

Ms. Ardis moved that the Board offer the same resolution as was previously worded.

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Board of Zoning Appeals

W. MORGAN & LILIA S. DELANEY

R E S O L U T I O N

Ms. Ardis moved that the Board of Zoning Appeals reconsider its decision in the W. Morgan & Lilia S. Delaney application, V-135-79.

Mr. Barnes seconded the motion.

Mr. DiGiulian informed the Board that he had listened to the tapes of the hearing and reviewed the file and was prepared to vote in the matter.

In Application No. V-135-79 by W. MORGAN & LILIA S. DELANEY under Section 18-401 of the Zoning Ordinance to allow existing 6 ft. high chain link fence to remain in front yard (4 ft. maximum fence height in front yard required by Sect. 10-105) on property located at 1224 Tudor Place, tax map reference 93-4((4))(2)7, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 24, 1979; and a request for reconsideration on September 11, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 16,091 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

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Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith) with 1 abstention (Mr. Yaremchuk).

Page 399, September 11, 1979, After Agenda Items

60 Day Hearing Requirement: Chairman Smith advised the Clerk to call and schedule a meeting with the Planning Commission to discuss the 60 day hearing requirement. He suggested that the meeting take place at the next scheduled BZA meeting.

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Page 399, September 11, 1979, After Agenda Items

Cardinal Hill Swim & Racquet Club: The Board was in receipt of a letter from Mr. Wilson B. Hawkins regarding problems at the Cardinal Hill Swim and Racquet Club. The complaints had been investigated by Mr. Claude Kennedy of the Zoning Enforcement Division and a report of his findings was given to the BZA for review. It was the consensus of the Board to have the Clerk write a reply to Mr. Hawkins and enclose a copy of Mr. Kennedy's report.

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Page 399, September 11, 1979, After Agenda Items

St. Andrews Lutheran Church: The Board was in receipt of a letter from Pastor James Sorenson requesting an out-of-turn hearing for the special permit application of St. Andrews Lutheran Church. The Board scheduled the hearing for October 23, 1979.

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Page 399, September 11, 1979, After Agenda Items

The Learning Center, S-223-78: The Board was in receipt of a request for a six month extension of the special permit granted October 24, 1978. It was the consensus of the Board to grant the request.

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Page 399, September 11, 1979, After Agenda Items

C. O. North: The Board was in receipt of revised site plans for the development of property of C. O. North. After review of the plats, the Board moved to accept the revised plats as a minor engineering change.

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Page 399, September 11, 1979, After Agenda Items

Burgundy Farm Country Day School, Inc.: The Board was in receipt of a request for an out-of-turn hearing for the Burgunday Farm Country Day School, Inc. The request was denied.

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Page 399, September 11, 1979, After Agenda Items

Neil R. and Catherine R. McDonald, S-156-79: The Board was in receipt of a memorandum from O. S. Hendrickson, Preliminary Engineering Branch Chief, regarding the special permit granted to the McDonalds. The plats showed a 9 ft. strip between the driveway and the property line. Accordingly, the 35 ft. transitional yard could not be complied with. Mr. Hendrickson was seeking a clarification of the Board's intent when granting the special permit. After review of the plats, Mr. DiGiulian stated that it was the intent of the Board to provide additional supplemental plantings and that they be confined to that strip between the garage and the property line.

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Page 400, September 11, 1979, After Agenda Items

The Board was in receipt of plats from Mr. & Mrs. Hoyt with respect to a variance that was granted in part subject to submission of revised plats. After reviewing the plats to determine that they met with the conditions set forth in the Board's resolution, Chairman Smith signed off on the plats.

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There being no further business, the Board adjourned at 2:25 P.M. without lunch.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: _____
Date

Submitted to the Board on _____.
Submitted to the other departments,
Board of Supervisors and Planning
Commission on _____.

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The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, September 18, 1979. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman (arriving at 10:50 A.M.); George Barnes; John Yaremchuk and Barbara Ardis.

The Chairman opened the meeting at 10:10 A.M. led with a prayer by Mr. Barnes.

The Chairman called the scheduled 10 o'clock case:

10:00 - VICTORIA J. PRICE, appl. under Sect. 18-401 of the Ord. to allow four dogs on lot of 12,364 sq. ft. (12,500 sq. ft. min. required for four dogs by Sect. 2-512), located 6101 Vista Drive, Parkhaven Subd., 61-2(15)28, Mason Dist., 12,364 sq. ft., R-3, V-142-79. (Deferred from July 24, 1979 for notices.)

The required notices were in order. Mr. Mike Tulin of 6708 Arlington Blvd. in Falls Church represented the applicant. He stated that Mrs. Price came to his office and provided him with a synopsis of the facts surrounding this matter. He stated that her letter explained the case very well and he stated that he hoped the Board would take the time to review the letter. Mr. Tulin stated he would summarize the facts for the benefit of the Board members. The problem began in September of 1977 when a zoning inspector approached the Prices when they were living across the street at the time. The lot across the street had the required minimum size. The Zoning Inspector looked at the property across the street and informed the Prices it was sufficient to take care of the problem. This was an oral statement to the Prices.

Mr. Tulin stated that the problem was that the Prices have four dogs. They are mixed Scot terriers. They moved into the house across the street and lived there peacefully until May of 1979 when another zoning inspector approached them and determined that the lot size was approximately 150 sq. ft. too small to accommodate four dogs.

Mr. Tulin stated that in granting this variance, the Board must find certain facts. He stated that they must find an undue hardship. To the Prices, the loss of the four dogs would be an undue hardship. They have lived as a family with the four dogs for a two year period. The Prices feel it would be very cruel and an unloving act to have to get rid of the dogs at this time. Mr. Tulin stated that it was his understanding that the Prices were the only household in the neighborhood with four dogs. If the variance were authorized, it would not be detrimental to the neighborhood as there would not be any specific visual structural change to the neighborhood. He stated that his clients have a petition signed by 24 of their neighbors asking that the variance be granted.

Mr. Yaremchuk inquired if Mr. Tulin had looked at the property. Mr. Tulin stated that he had not because what a property owner does with his back yard does not matter. Mr. Yaremchuk informed him that you just can't do what you want as there were Ordinances in Fairfax County. Mr. Yaremchuk stated that he was concerned about the pictures. He stated that since Mr. Tulin did not look at the property, he was not aware whether it would be a detriment to the area.

Mr. Tulin stated that there was another reason for requesting this change. He stated he had read the Ordinance in question a number of times. He stated he was not exactly clear as to whether this falls under the Ordinance or not. He stated that the definition of the word kept in paragraph 4 of the Ordinance states "any enclosure or structure used to house, shelter or confine the dogs but not a fence used to demark the property line." Mr. Tulin informed the Board that the four dogs are kept inside the house. There is a fence that surrounds the property line. The front fence does not exactly show where the property line is but three sides of the fence follow the property line. For this reason, Mr. Tulin stated he was not sure whether the Prices fall under this provision of the Code. He stated that he hoped that the Board reads this section of the Code before making its decision. The dogs do run and exercise in this fenced in area. They are not housed or sheltered there. That's the reason for requesting this variance. Mr. Tulin stated that the dogs are in the house more than they are outside.

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Chairman Smith stated that the house was part of the property and it was the property that was in question. The question was whether there was sufficient square footage for the housing of the animals. Ms. Ardis inquired if Mr. Tulin could demonstrate whether the surrounding lots were in excess of the 12,500 sq. ft. Mr. Tulin stated that the Prices lot was pretty much an average lot in the neighborhood. Chairman Smith inquired as to the square footage of the three lots that touch the Prices property. Mr. Covington stated that the average lot size for the neighborhood under the R-5 category was 11,100 sq. ft. Mr. Yaremchuk stated that the neighborhood has to average out to 12,500 sq. ft. and that the lots could go down as far as 10,500 sq. ft. Chairman Smith stated that the Ordinance has the specific provision of a minimum of 12,500 sq. ft. for the keeping of four dogs. Mr. Covington stated that the provision was a 12,500 sq. ft. minimum and the shelter not less than 25 ft. from all lot lines. He stated that the applicant lacks 150 sq. ft. Mr. Yaremchuk stated that when a plat is submitted, Subdivision won't approve it unless the whole neighborhood averages out.

Chairman Smith inquired as to the reason for having four dogs. Mr. Tulin stated that the four dogs are all related and are pets for the family. Mrs. Price stated she has two males and two females. Mr. Tulin stated that there is not any problem of reproduction.

There was no one to speak in favor of the application. Mr. Ed Rothman of 3331 Freedom Place stated that the corner of his property joins the corner of the Prices property. He stated Mr. Tulin gave a very good picture of the situation. He stated he was surprised that Mr. Tulin did not apologize for not appearing before the Board three months ago. He stated that he thought it was unfortunate and unnecessary for the taxpayers to have to come out again and that it was a dual expense. He stated he did not relish coming here. He stated that he believed a man's home was his castle provided it does not infringe on others. He stated his lot borders on the back corner of the lot in question. He stated he purchased his property about 18 years ago. It is a quiet neighborhood. This was changed by the four little black scotties. He stated that he felt when the Prices first moved in that some of the dogs would be sold or given away. He stated he had a dog for about 9 years. His dog stayed on the screened in back porch. When he was in the yard, they were with the dog. Mr. Rothman stated he used to enjoy his back porch for meals and coffee. Mr. Yaremchuk stated that the attorney indicated that the dogs were in the Prices home most of the time. Mr. Rothman stated that was not true. He stated that the dogs are kept in at night. They are in the back yard most of the day even when it is sunny because of the shade. He stated that Mr. and Mrs. Price work. He stated that no one even pets or trains or even sees to the dogs except for the filling of their waterdish. Mr. Rothman stated that the dogs bark and are not corrected. They are not trained. He stated that on the past Sunday there was a slight accident on Vista Drive. He indicated that for 45 minutes during the confusion of the accident, the dogs were barking. Mr. Rothman stated that no one appeared to correct the dogs or quiet them. He stated that the dogs bark a great deal of the time. Four dogs make a considerable amount of noise. He stated that he did not think four dogs could be penned together without a disagreement. The dogs bite and fight among themselves. No one comes to stop the fighting. He stated that there is never any attempt to train or correct these dogs which adds to the problem. He stated there is another dog behind him who barks at everything. Mr. Rothman stated he has never complained about that dog because it is only one dog. Mr. Rothman stated that the Prices dogs were born in the house across the street from where they are now living. It was their grandmother's house. He stated that these pups still remember the grandmother and go all out to show her they remember whenever she appears. He stated they howl and groan the whole time.

With respect to the Ordinance requirements, Mr. Rothman stated he was not familiar with it but stated that the enclosure for the four dogs was quite small. The petition signed by 25 families presented by Mr. Tulin, Mr. Rothman stated he doubted if any of the families next to the Prices had signed it. Mr. Rothman stated that there is a high school nearby. When the children walk by, the dogs bark. He stated that they don't bark all of the time but most of the time. He stated that the Prices stated they have had the dogs for two years with no problems. Mr. Rothman stated that over a year ago he called the Environmental Office and was told the problem was taken of. He stated he did not think anyone showed up. He stated that the Prices have not lived in the area without considerable distraction. Mr. Rothman stated it was his opinion that the number of dogs should be reduced rather than reducing the size of the square footage.

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There was no one else to speak in opposition.

During rebuttal, Mr. Tulin stated that Mrs. Prices does work. She leaves at 2:30 in the afternoon. The dogs are in the house from 10 in the morning until night. With respect to the petition, the two next door neighbors directly behind the Prices did sign the petition. Mr. Yaremchuk inquired as to the work hours of Mrs. Price. Mrs. Price stated she works at Arlington Hospital from 3 to 11 but was home every day until 2:30.

Chairman Smith closed the public hearing and asked the Board for a decision in the matter. He reminded the Board that the question here was whether or not the four dogs do have any detrimental effect on the adjacent properties. He stated that the Board does not have the right to vary it if it does. Ms. Ardis inquired as to the working hours of Mr. Price. Mr. Tulin stated Mr. Price works from 7 in the morning until 3 in the afternoon. Ms. Ardis stated that Mr. Rothman indicated that the dogs are not corrected. Mrs. Price informed the Board that she does correct the dogs and plays with them. She indicated that Mr. Rothman might not be able to see her from his yard.

R E S O L U T I O N

Ms. Ardis moved the Board to adopt the standard resolution whereas the applicant's property is smaller than the subdivision average and that the variance be granted with the two standard limitations on the form; and (3) that this variance is limited to the four dogs on the property now and no other dogs to be acquired in the future are to be included in this application.

Mr. Barnes seconded the motion.

The motion failed by a vote of 2 to 2 (Mr. Smith & Mr. Yaremchuk)(Mr. DiGiulian being absent.)

Chairman Smith stated that he was hesitant to vote against the variance but he did not feel he could support the variance when there is any objection by any property owner. He stated that made it very difficult to vary the square footage. Chairman Smith informed the applicant she may request the absent Board member to listen to the tapes and review the file and participate in the vote if she desired. Mr. Tulin inquired as to how long they had to respond. Chairman Smith stated they could have until Friday of this week. Mr. Tulin stated that they would like to have the absent Board member vote in the matter. Chairman Smith informed the applicants they would be advised of the decision within two weeks.

At 10:50 A.M., Mr. DiGiulian arrived at the meeting and heard the remaining scheduled agenda cases.

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10310 - BRUCE D. SLACK, appl. under Sect. 18-401 of the Ord. to allow enlargement and enclosure of carport to 4.3 ft. from side lot line (10 ft. min. side yard required by Sect. 3-407), located 6605 Buckskin St., Springfield Estates Subd., 80-4((5))(1)509, Lee Dist., 8,400 sq. ft., R-4, V-149-79. (Deferred from July 24, 1979 for notices.)

Mr. Bruce Slack of the above address informed the Board the carport had been built prior to the purchase of the property. He stated that he had already enclosed the carport when the Zoning Inspector approached him. He stated that he did not realize he needed a building permit in order to ^{put} up one wall. Chairman Smith noted that the required notices were in order. He inquired when the carport was enclosed. Mr. Slack stated he began last May. In response to questions from the Board, Mr. Slack stated he has owned the property for one year. Mr. Barnes inquired if he even made application for the building permit and was turned down. Mr. Slack stated he only applied after the Zoning Inspector came out. Chairman Smith inquired if there were other carports in the neighborhood that close to the property line. Mr. Slack stated there were but he did not have the exact address.

Page 404, September 18, 1979
 BRUCE D. SLACK
 (continued)

Board of Zoning Appeals

There was no one to speak in favor of the application and no one to speak in opposition. However, the Board was in receipt of a petition in opposition to the variance. They made it a part of the record.

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Page 404, September 18, 1979
 BRUCE D. SLACK

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-149-79 by BRUCE D. SLACK under Section 18-401 of the Zoning Ordinance to allow enlargement and enclosure of carport 4.3 ft. from side lot line (10 ft. minimum side yard required by Sect. 3-407) on property located at 6605 Buckskin Street, tax map reference 80-4((5))(1)509, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 18, 1979; and deferred from July 24, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-4.
3. The area of the lot is 8,400 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow and has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 404, September 18, 1979, Scheduled case for

10:20 - FRANZ & NICOLE ZENZ, appl. under Sect. 18-401 of the Ord. to allow construction of an addition to a dwelling to 6.3 ft. from a side lot line and 28.5 ft. from the front lot line, (15 ft. min. side yard & 35 ft. min. front yard req. by Sect. 3-207), located 1859 Massachusetts Ave., Franklin Park Subd., 41-1((13))(1)B, Dranesville Dist., 11,500 sq. ft., R-2, V-163-79.
 (Deferred from August 10, 1979 at request of applicant's attorney.)

Mr. Charles Shumate, an attorney in Fairfax, informed the Board that his clients want to enlarge the porch. He stated that the house was built in 1940 as part of the Franklin Park subdivision. It has always been in non-conformance of the Ordinance. The lot is rather narrow. The plat shows the structure 6.3 ft. from the side yard and some 28.5 ft. from the front yard. He stated that there would no further encroachment on the setback area. The construction of the porch would extend the enclosure up to the chimney line. He stated that the Zenz family is growing and they need the additional living space. A variance is necessary in order to begin construction as this is an old subdivision. The flatboard would be replaced by brick for a more pleasing

look to the property. Mr. Shumate presented the Board with a petition signed by the surrounding property owners who were in favor of this variance. It was signed by 10 families.

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There was no one to speak in favor of the application and no one to speak in opposition.

R E S O L U T I O N

In Application No. V-163-79 by FRANZ & NICOLE ZENZ under Section 18-401 of the Zoning Ordinance to allow construction of an addition to a dwelling to 6.3 ft. from a side lot line & 28.5 ft. ^{from} the front lot line (15 ft. minimum side yard & 35 ft. minimum front yard required by Sect. 3-207), on property located at 1859 Massachusetts Avenue, tax map reference 41-1((13))(1)B, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 18, 1979 and deferred from August 10, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 11,500 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow and has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 5 to 0.

Page 405, September 18, 1979, Scheduled case for

10:30 - WOODROOF FITZHUGH, appl. under Sect. 3-103 of the Ord. to permit A.M. golf driving range, located 11811 Leesburg Pike, 6-3((1))33, Dranesville Dist., 21.5618 acres, R-1, S-176-79. (Deferred from August 10, 1979 for continuation of hearing and decision.)

Mr. Charles E. Runyon of 152 Hillwood Avenue in Falls Church represented the applicant. Mr. Runyon stated that the Board has held a public hearing in this matter. Basically, it was deferred for the absent Board member. Another problem was the historical district. They have moved the driving range out of the historical district. The use is in conformity with the Ordinance. This use is only on an interim basis. Residential use of the land cannot be made of the property at this time because of the sewer availability. Mr. Fitzhugh lives a mile from the property. He plans to teach as well as have the driving range.

Chairman Smith inquired if the driving range had been removed from the Dranesville Historic District. Mr. Runyon stated it had. He stated that the Historic Commission did not want any part of the parking or the buildings in the historical district. Chairman Smith stated that the Board has no way of knowing where the historical district line is located. Mr. Runyon stated that the facility may have to be rearranged somewhat. He doubted if it would have to be relocated. Chairman Smith stated that this was a commercial driving range and would not be permitted on any part of the historical district property. Chairman Smith stated that the applicant does have a right to the use but not on the 22 acre site. The 22 acre site contains some of the land of the historical district. Chairman Smith suggested that it should have been removed from the special permit. Mr. Runyon stated that that area would remain an open field. The site would have a building to house a tractor. The rest of the site would be clear with a few cedar trees. The trees along the perimeter of the property would remain.

Chairman Smith stated that the 30 x 15 ft. pro shop was a commercial use. Mr. Runyon informed the Board that the special permit was filed under the outdoor recreation use, Group VI of the Special Permits. He stated that they would be selling from the pro shop so it was commercial in a sense. Jane Kelsey informed the Board that the Zoning Administrator had determined that this was a commercial use even though it was located outdoors. However, Liz David from the Historic District Society has no objection to the revised plats.

Mr. Yaremchuk recognized the Director of the Park Authority in the audience. Mr. Joseph Downs stated he was concerned about the aspects of this special permit but that he did not come to testify.

Chairman Smith inquired as to the type of sign that would be placed on the site. Mr. Runyon stated it would say, "Woody's Driving Range." Chairman Smith asked what size the sign would be. Mr. Runyon replied it would be smaller than allowed by the Ordinance. Mr. Covington stated that the Ordinance allows 4 sq. ft. of sign. Chairman Smith asked how high. Mr. Covington stated that he thought the maximum height allowed by the Ordinance was 8 ft. Mr. Runyon stated that it would be a wood sign and would be very attractive. Mr. Covington informed the Board that the applicant would have to apply for a sign permit. Mr. Runyon stated that they have a lot of work to do on this driving range. They have to get a sign permit, health department permits, and occupancy permits.

There was no one to speak in favor of the application. There were people from Holly Knolls to speak in opposition. Mrs. Nancy Thomas stated that her main concern was that once this property was rezoned commercial, all of the property down to Loudoun would be rezoned commercial and they would have a junction like Herndon Junction.

Chairman Smith inquired as to what hours the driving range would operate. Mr. Runyon stated it would be open from 9 A.M. to 10 P.M.

Another speaker from Holly Knolls stated she was opposed to the change in the zoning from residential to commercial. She stated that they are already faced with the Springfield by-pass. She stated that there is a sewerage treatment plant located there. She stated that they do not want the commercial zoning coming in and would like to see the residential zoning maintained.

Mr. Steve Columby stated that his firm owns lots 39 & 40 on the same tax map as the driving range. They had obtained approval for a subdivision of one acre cluster lots. He stated that the driving range was counter to the intent of the zoning in this area and would be detrimental to the community. He stated that his firm planned to bring sewer to Sugarland Run and it would be available in this area in a very short time. Chairman Smith inquired as to how much land was available in their subdivision and was informed it contained 51 acres. Mr. Yaremchuk inquired as to how much open space would be provided in the cluster development. Mr. Columby stated that about half was open space. Mr. Yaremchuk inquired as to what they were going to do with the open space. Mr. Columby stated it would be left in its natural state. Mr. Yaremchuk inquired if they were going to provide any recreation and Mr. Columby stated they would have some facilities.

The next speaker in opposition was Mr. Ed White of 1151 Clinch Road in Herndon. He stated he owned property to the south of the subject property. He asked that if the special permit was approved, that it have limited access from Rt. 7 and not from Sugarland Run. Chairman Smith stated that the plat did show the access from Rt. 7.

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During rebuttal, Mr. Runyon stated that four months have passed since they began this project. He stated that they are not rezoning the property. He stated that there was development across the road and stated that whenever there is development, there is always opposition to anything that someone wants to do. Mr. Runyon stated that the driving range was a recreational use that is permitted and meets all of the requirements of the Ordinance. He stated that they have even moved it out of the historic district boundary lines. He stated they only want to go in there and if sewerage comes in sooner that it would limit the life of the special permit that much shorter. The person running the driving range lives only one mile from the site. The entire 22 acre parcel was being put under the special permit. Mr. Runyon urged the Board to approve the permit based on the facts and not on the speculation as to what the future development of the area would be.

Chairman Smith stated that the life of the permit would be for five years. He indicated that the original request contained 31 acres and now Mr. Runyon was only talking about 22 acres. Mr. DiGiulian stated that the plat showed 31.5 acres. He suggested that since nobody seems to know where the historic district is that the whole property be under the use permit and that all development be outside of the historic district. Chairman Smith stated that would be okay and indicated that Mr. Covington had stated that the limit of the permit would be three years with three one year renewals.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-176-79 by WOODROOF FITZHUGH under Section 3-103 of the Fairfax County Zoning Ordinance to permit golf driving range on property located at 11811 Leesburg Pike, tax map reference 6-3((1))33, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on August 2, 1979, August 10, 1979 and September 18, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the subject property is Albert Dwoskin, Tr. and that the applicant is the contract purchaser.
2. That the present zoning is R-1.
3. That the area of the lot is 31.535 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.

R E S O L U T I O N

5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. Landscaping and screening may be required in accordance with Article 13 of of the Zoning Ordinance at the discretion of the Director of Environmental Management.

7. The hours of operation shall be 9 A.M. to 10 P.M. daily.

8. The number of parking spaces shall be 20.

9. Effects of all lighting shall be confined to the site.

10. All development and use shall be confined to the area outside of the Dranesville Tavern Historic District.

11. This permit is granted for a period of three (3) years with three (3) one year extensions.

Mr. Barnes seconded the motion.

The motion passed by a vote of 5 to 0.

 Page 408, September 18, 1979, Scheduled case of

10:40 - LUCIELLE M. WENZEL, appl. under Sect. 18-401 of the Ord. to
 A.M. allow construction of garage addition to dwelling to 8.1 ft.
 from side lot line (12 ft. min. side yard req. by Sect. 3-307),
 located 4700 Tipton Lane, Sunny Ridge Estates Subd., 82-3((17))
 (B)23, Lee Dist., 13,035 sq. ft., R-3, V-208-79.

Mrs. Lucielle Marie Wenzel of 4700 Tipton Lane in Alexandria stated she wanted to build a garage in order to house all of her garden equipment. She stated that the shed she has now should come down. She informed the Board that one of her cars has been damaged. She stated she would like to have a place to house her car so it would not be damaged again. She stated that there is a door on the other side of her house. It was where the original driveway and garage was placed for the house. She stated that she would use the whole back end of the garage for storage which was why it was so large. In response to questions from the Board, Mr. Wenzel stated she has owned the property for three years.

There was no one to speak in favor of the application and no one to speak in opposition.

 Page 408, September 18, 1979
 LUCIELLE M. WENZEL

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-208-79 by LUCIELLE M. WENZEL under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 8.1 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307) on property located at 4700 Tipton Lane, tax map reference 82-3((17))(B)23, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 18, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 13,035 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including long and narrow and has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

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~~LUCILLE M. MENZEL~~
(continued)

R E S O L U T I O N

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NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 409, September 18, 1979, Scheduled case of

10:50 - JAMES B. VELTRI, appl. under Sect. 18-401 of the Ord. to allow A.M. construction of garage addition to dwelling to 5.1 ft. from side lot line such that total side yards would be 27.7 ft. (12 ft. minimum side yard but a total min. of 40 ft. req. by Sect. 3-107) located 3507 Willow Green Ct., Waplesmill Estates Subd., 46-1((13)) 32, Centreville Dist., 21,673 sq. ft., R-1(C), V-209-79.

Mr. James Veltri of the above address stated that the basic reason he wanted a garage was because he has two cars. He stated that his cars have been damaged by vandals in the past. The reason for locating the garage in such a manner was because of the location of the septic tanks. In response to questions from the Board, he stated he has owned his property for three years. He further informed the Board that this was a cluster development. He stated he was the original owner of the home.

There was no one to speak in favor of the application and no one to speak in opposition.

JAMES B. VELTRI
(continued)

R E S O L U T I O N

In Application No. V-209-79 by JAMES B. & CAROLYN H. VELTRI under Section 18-401 of the Zoning Ordinance to allow construction of a garage addition to dwelling to 5.1 ft. from side lot line such that total side yards would be 27.7 ft. (12 ft. min. side yard but a total minimum of 40 ft. required by Sect. 3-107) on property located at 3507 Willow Green Ct., tax map reference 46-1((13))32, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 18, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-1(C).
3. The area of the lot is 21,673 sq. ft.
4. That the applicant's property is exceptionally irregular in shape including narrow and has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

R E S O L U T I O N

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1. This approval is granted for the location and the specific structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

 Page 410, September 18, 1979, EXECUTIVE SESSION

At 11:40 A.M., Ms. Ardis moved that the Board go into Executive Session to discuss a legal matter. Mr. Barnes seconded the motion and it was unanimously approved. At 12:00 noon, the Board reconvened into public session.

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Page 410, September 18, 1979, Scheduled case of

11:00 - MARGARET E. STOPLET, appl. under Sect. 18-401 of the Ord. to allow construction of commercial building to 25 ft. from lot line along Richmond Highway, (32 ft. min. front yard req. by Sect. 4-807) and Sect. 2-418), located 7226 Richmond Highway, 92-4((1))79, Lee Dist., 49,445 sq. ft., C-8, V-210-79.

Mr. George Cronin, an attorney, represented the applicant. He stated that the property owner was being deprived of the reasonable use of her ~~property~~ because of the 40 ft. minimum front yard requirement. The additional dedication would prevent them from ~~meeting~~ the setback. He stated that the building would be used as a restaurant. He indicated that they could not reduce the size of the building or parking because of the nature of the commercial use that they propose. He stated that the hardship was that the Ordinance was changed subsequent to the resubdivision.

Mr. DiGiulian inquired if the applicant resubdivided the property and was informed she did. Mr. Cronin stated that at the time, the building could have been constructed 15 ft. from the service road. Mr. DiGiulian asked if the 40 ft. was dedicated at the time of resubdivision and was told it had been. Mr. Yaremchuk inquired if the Ordinance would not allow the building to come 10 ft. from the service drive since the applicant had dedicated some of her property. Mr. Covington informed the Board he had questioned Mr. Knowlton regarding this application. It was his interpretation that since the dedication and development of the property did not take place at the same time, that the building would have to meet the current setback. The applicant has double front setbacks because it is a corner lot. Mr. Covington stated that they meet the setback from the other lot line.

In response to questions from the Board, Mr. Cronin stated Mrs. Stoplet has owned the property since 1959. Chairman Smith inquired if the applicant owned any of the land surrounding this property at the time of resubdivision. Mr. Cronin stated he did not have any information about the surrounding parcels.

There was no one to speak in favor of the application and no one to speak in opposition.

 Page 410, September 18, 1979
 MARGARET E. STOPLET

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-210-79 by MARGARET E. STOPHLET under Section 18-401 of the Zoning Ordinance to allow construction of commercial building to 25 ft. from lot line along Richmond Highway (32 ft. minimum front yard required by Sect. 4-807 & Sect. 2-418) on property located at 7226 Richmond Highway, tax map reference 92-4((1))79, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

R E S O L U T I O N

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 18, 1979; and

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WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is C-8.
3. The area of the lot is 49,445 sq. ft.
4. That the applicant's property has an unusual condition in the requirements for setback from two streets and the fact that the owner dedicated 46 ft. to future service road.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

Page 411, September 18, 1979, Scheduled case for

11:10 - PETER B. SMITH, appl. under Sect. 18-401 of the Ord. to allow enclosure of carport to 7.6 ft. from side lot line and total side yard of 16.5 ft. (8 ft. min. and 20 ft. total min. side yard req. by Sect. 3-307), located 9014 Lake Braddock Dr., 78-2((14))155, Annandale Dist., 9,000 sq. ft., R-3(C), V-211-79.

Mr. Peter B. Smith of the above address informed the Board that his house was one year old. He was the original owner. The house has an existing carport with roof and foundation. He stated that he proposes to enclose it and make a garage that would be consistent with the building code and similar dwellings in the area. He indicated that most of the other homes in the area have garages. Only two homes have carports. Mr. Smith stated that the construction would enhance the line of the house and the aesthetics of the neighborhood. It would hide the storage of lawnmower, bicycles and cars. Mr. Smith stated that they were asking for a minimum variance of 4 ft.

There was no one to speak in favor of the application and no to speak in opposition.

R E S O L U T I O N

In Application No. V-211-79 by PETER B. SMITH under Section 18-401 of the Zoning Ordinance to allow enclosure of carport to 7.6 ft. from side lot line and total side yard of 16.5 ft. (8 ft. minimum & 20 ft. total minimum side yard required by Sect. 3-307) on property located at 9014 Lake Braddock Drive, tax map reference 78-2((14))155, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 18, 1979; and

R E S O L U T I O N

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WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-3(C).
3. The area of the lot is 9,000 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow and has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0 with 1 abstention (Mr. Smith).

 Page 412, September 18, 1979, Scheduled case for

11:20 - DAVID C. MOLUMBY, appl. under Sect. 18-401 of the Ord. to allow
 A.M. subd. into 5 lots with proposed lots 4 and 5 each having width of
 10 ft. (150 ft. min. lot width required by Sect. 3-106) located
 4151 Beulah Rd., 19-3((1))33, Dranesville Dist., 10,084 sq. ft.,
 R-1, V-212-79.

Mr. William Donnelly, counselor for the applicant, informed the Board that there was a deficiency in the legal advertising for the hearing. The wrong address was listed and the wrong lot size was given on the application. The application was deferred until October 16, 1979 at 12:00 noon for readvertisement of the application.

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Page 412, September 18, 1979, Scheduled case for

11:30 - MARCIA M. MADDOX, appl. under Sect. 18-401 of the Ord. to allow
 A.M. construction of garage addition to dwelling to 15 ft. from side lot
 line (20 ft. min. side yard req. by Sect. 3-307), located 6109
 Ramshorn Pl., Clearview Subd., 31-2((5))7, Dranesville Dist.,
 21,781 sq. ft., R-1, V-214-79.

Mr. Richard Malesardi of N. Wakefield Street in Arlington represented the applicant. He informed the Board that there was an error in the notice. The property was listed as R-1 when it is really R-2 zoning. Chairman Smith stated he was concerned over the ownership of the property. The staff report showed a Mrs. Dorothy McCaudle as owner of the property. Mr. Malesardi said Mrs. Maddox was the daughter of Mrs. McCaudle. Mrs. Maddox was handling the estate.

Chairman Smith stated that the pending application would have to be readvertised. Mr. Covington stated he discovered the problem when he did the staff report. It was advertised incorrectly as to the zoning and the request. Mr. Malesardi informed the Board that the proposed swimming pool was no longer a part of the application. Chairman Smith stated that it should be removed from the plats and the application readvertised.

The Board deferred the application until October 16, 1979 at 12:10 P.M. for readvertisement and submission of revised plats showing the outlet road and the removal of the swimming pool.

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Page 413, September 18, 1979, Scheduled case for

11:40 - RICHARD A. FALLS, appl. under Sect. 18-401 of the Ord. to allow addition to dwelling to 17 ft. from rear lot line (19 ft. min. rear yard req. by Sect. 3-107 and Sect. 2-412), located 8029 Old Falls Rd., Cedars McLean Subd., 20-4((11))34, Dranesville Dist., 21,042 sq. ft., R-1, V-215-79.

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Mr. John Connor, an attorney in Fairfax, represented the applicant. He stated that the purpose of this request was to allow a deck to the rear of the dwelling. He indicated that the applicant needs 17 ft. from the deck to the rear lot line because of the location of the house on the lot. Mr. Connor indicated that this was the only feasible location to construct the deck. The applicant needs a 2 ft. variance. The house was constructed in 1977. The Falls are the original owners. They are requesting a minimum amount of a variance and still be able to have a servicable deck. Mr. Connor stated that the deck would not be a detriment to the property behind as there was a park.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 413, September 18, 1979
RICHARD A. FALLS

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-215-79 by RICHARD A. FALLS under Section 18-401 of the Zoning Ordinance to allow addition to dwelling to 17 ft. from rear lot line (19 ft. minimum rear yard required by Sect. 3-107 and Sect. 2-412), on property located at 8029 Old Falls Road, tax map reference 20-4((11))34, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 18, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 21,042 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including shallow and has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 413, September 18, 1979, Scheduled case of

11:50 - JAMES M. LEWIS, appl. under Sect. 18-401 of the Ord. to allow construction of addition to a house to 20.98 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-407), located 6049 Woodmont Rd., Bell Haven Subd., 83-3((14))(1)23, Mt. Vernon Dist., 11,645 sq. ft., R-4, V-216-79.

The Board was in receipt of a letter requesting deferral in this application. The Board took action to defer the application until October 16, 1979 at 12:20 P.M.

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Page 414, September 18, 1979, Scheduled case of

12:00 - GARY DONALD HETRICK, appl. under Sect. 18-401 of the Ord. to allow
 NOON subd. into two lots, one of which has a width of 22 ft. (100 ft.
 min. lot width req. by Sect. 3-206), located 8162 Mt. Vernon Highway
 101-2(1)pt. 29, Mt. Vernon Dist., 1.11134 acres, R-2, V-217-79.

Mr. John Kephart, an engineer from Alexandria, represented the applicant. He informed the Board that this same piece of property was before the Board in June a year ago. He stated that the variance expired before he could get an approved site plan from Design Review. This is only a resubmission of the variance previously approved.

Chairman Smith stated that as this was a new application, the Board would need to hear the justification for the variance. Mr. Kephart informed the Board that the variance was a resubdivision. Mr. DiGiulian inquired if this was the only way the property could be divided and save the buildings. Mr. Kephart stated that was correct. In addition, this would reduce the elimination of trees. This way, it would not be necessary to clear off that many trees. Chairman Smith inquired if this resubdivision meets all of the other requirements of the Ordinance under the new Ordinance other than the frontage. Mr. Covington stated it did meet all other requirements.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 414, September 18, 1979
 GARY DONALD HETRICK

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-217-79 by GARY DONALD HETRICK under Section 18-401 of the Zoning Ordinance to allow subdivision into two lots, one of which would have a width of 22 ft. (100 ft. minimum lot width required by Sect. 3-206), on property located at 8162 Mt. Vernon Highway, tax map reference 101-2((1)pt. 29, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 18, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 1.11134 acres.
4. That the applicant's property is exceptionally irregular in shape and has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

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R E S O L U T I O N

Mr. Yaremchuk seconded the motion.

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The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 415, September 18, 1979, Scheduled case for

12:10 - DAVID C. MOLUMBY, appl. under Sect. 18-401 of the Ord. to allow
P.M. subd. into two lots, one of which would have a width of 97.28 ft.
(100 ft. min. lot width req. by Sect. 3-206), located 2919 Hibbard
Street, Grays Oakton, 47-2((7))2, Providence Dist., 1.132 ac.,
R-2, V-218-79.

Mr. William Donnelly of 4069 Chain Bridge Road, an attorney in Fairfax, repre-
sented the applicant. The application is for a 2.7 ft. variance from the
minimum lot width requirements. Mr. Donnelly stated they would like to
develop the existing lot with a house on it into two lots. One of the lots
would be 100 ft. wide and the other one 97.28 ft. wide. The Zoning Ordinance
requires a minimum of 100 ft. for the R-2 zoning category. Mr. Donnelly
indicated that this was a minimum variance request. He stated that the
subdivision would be in accordance with the Ordinance requirements and the
master plan.

There was no one to speak in favor of the application and no one to speak in
opposition.

R E S O L U T I O N

In Application No. V-218-79 by DAVID C. MOLUMBY under Section 18-401 of the
Zoning Ordinance to allow subdivision into two lots, one of which would have
a width of 97.28 ft. (100 ft. minimum lot width required by Sect. 3-206), on
property located at 2919 Hibbard Street, tax map reference 47-2((7))2, County
of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals
adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with
the requirements of all applicable State and County Codes and with the by-laws
of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by
the Board on September 18, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 1.132 acres.
4. That the applicant's property is exceptionally irregular in shape,
including narrow.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclu-
sions of law:

THAT the applicant has satisfied the Board that physical conditions as
listed above exist which under a strict interpretation of the Zoning Ordinance
would result in practical difficulty or unnecessary hardship that would
deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with
the following limitations:

1. This approval is granted for the location indicated in the plats
included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this sub-
division has been recorded among the land records of Fairfax County.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 416, September 18, 1979, Scheduled case for

12:20 - MICHAEL F. REVERE, appl. under Sect. 18-401 of the Ord. to allow enclosure of existing carport to 9 ft. from side lot line such that total side yard would be 23.1 ft. (8 ft. min. but a total min. of 24 ft. side yard req. by Sect. 3-307), located 7408 Calico Ct., Orange Hunt Estates, 88-4((5))328, Springfield Dist., 10,800 sq. ft. R-2(C), V-219-79. 416

Mr. Michael Revere of the above address informed the Board that his request meets the minimum side yard restriction of 8 ft. but does not comply with the total overall side yard of 24 ft. for cluster development. He stated that the existing house is situated at an angle on the lot. Approximately, four of the houses on the cul-de-sac have garages and others have carports. Mr. Revere stated he wanted to enclose his carport to provide security for his property that needs to be stored outside. This enclosure would add to the appearance and the value of the property.

There was no one to speak in favor of the application and one to speak in opposition.

Page 416, September 18, 1979
MICHAEL F. REVERE

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-219-79 by MICHAEL F. REVERE under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport to 9 ft. from side lot line such that total side yard would be 23.1 ft. (8 ft. minimum but total minimum of 24 ft. required by Sect. 3-207) on property located at 7408 Calico Court, tax map reference 88-4((5))328, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 18, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-2(C).
3. The area of the lot is 10,800 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 416, September 18, 1979, Scheduled case for

12:30 - HOWARD & WANDA FRASER, appl. under Sect. 18-401 of the Ord. to allow construction of 12 ft. high garage to 3 ft. from side and rear yards req. by Sect. 3-307 & Sect. 10-105), located 7306 Jarvis St., Crestwood Park, 71-3((4))(37)21, Annandale Dist., 10,500 sq. ft., R-3, V-220-79.

Mr. Howard Fraser of the address listed stated that the variance he is requesting would allow the garage to be located in-line with the extension of the driveway. He indicated that his yard is really not too large. There is a deck in the rear of the house. It would be difficult to get around the deck if the garage were located in the rear of the property. He stated that he would like to keep the garage tucked back where it is located to preserve space in the yard and to keep from removing any large trees.

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Chairman Smith indicated that the applicant was talking about a 12 ft. setback. He stated that the Ordinance requires a 12 ft. setback and the applicant wanted to build only 3 ft. from the property line. Mr. Covington informed the Chairman that before the Ordinance changed, the applicant could have built the garage 2 ft. from all property lines if it were masonry constructed and 4 ft. from all property lines if it was frame structure. Chairman Smith inquired what type of structure the applicant was proposing. Mr. Fraser stated it would be a brick structure.

There was no one to speak in favor of the application and no one to speak in opposition.

R E S O L U T I O N

In Application No. V-220-79 by HOWARD & WANDA FRASER under Section 18-401 of the Zoning Ordinance to allow construction of 12 ft. high garage to 3 ft. from side and rear lot lines (12 ft. minimum side and rear yards required by Sect. 3-307 and Sect. 10-105) on property located at 7306 Jarvis Street, tax map reference 71-3((4))(37)21, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 18, 1979; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the owner of the subject property is the applicant.
- 2. The present zoning is R-3.
- 3. The area of the lot is 10,500 sq. ft.
- 4. That the applicant's property is exceptionally irregular in shape and has an unusual condition in that the lot has frontage on two streets.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

- 1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
- 2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Mr. DiGiulian stated that he thought this previous variance application was a good indication as to what the new Ordinance required for accessory structures. He stated that he thought the Board needed to request a modification of the

Page 418, September 18, 1979, Accessory Structures
(continued)

setback requirements for accessory structures. If the applicant has to meet the same setback for accessory structures as they do for a dwelling, it would in most cases totally wipe out the rear yards.

Chairman Smith suggested that the Board have a workshop session with someone from the Zoning Administrator's Office to discuss the matter. He stated that they must feel it's a good requirement.

Mr. Yaremchuk stated that this requirement for accessory structures has only swamped the Board with a lot of variances. In 99% of the cases, the Board grants the variances so what good is the Ordinance. He suggested that the Board notify the Board of Supervisors about a modification.

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Page 418, September 18, 1979, After Agenda Items

Commonwealth Swim Club: The attorney representing Commonwealth Swim Club questioned the Board regarding notification procedures for a reconsideration hearing. After discussion of the matter, the Board moved to reconsider its action of scheduling the reconsideration hearing. Ms. Ardis moved that the public hearing was not in order since the Ordinance states that this action must be taken by the Zoning Administrator. Mr. DiGiulian seconded the motion and the Board stated that this matter be referred to the Zoning Administrator.

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Page 418, September 18, 1979, After Agenda Items

Request for out-of-turn hearing: The Board was in receipt of a request for an out-of-hearing for Mr. and Mrs. Foster Carter. The Board granted the request and scheduled the hearing for October 23, 1979.

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Page 418, September 18, 1979, After Agenda Items

Request for out-of-turn hearing: The Board was in receipt of a request for an out-of-turn hearing for Dr. and Mrs. Salvatore Bellomo. The Board denied the request.

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Page 418, September 18, 1979, After Agenda Items

Request for an out-of-turn hearing: The Board was in receipt of a request for an out-of-turn hearing for a home professional office for Mr. Judkins. The Board granted the request and scheduled the hearing for October 30, 1979.

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Page 418, September 18, 1979, After Agenda Items

Request for an out-of-turn hearing: The Board was in receipt of a request for an out-of-turn hearing for a home professional office for Dr. Snir. The Board granted the request and scheduled the hearing for November 13, 1979.

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Page 418, September 18, 1979, After Agenda Items

Mt. Pleasant Baptist Church: The Board was in receipt of a request for a six month extension on the Mt. Pleasant Baptist Church. The Board denied the six month extension but did grant a two week extension.

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Page 418, September 18, 1979, After Agenda Items

Soonson Regina Oh: The Board was in receipt of a complaint from Mrs. Ethel Buckhout regarding a home beauty parlor operated by Soonson Regina Oh. The complaint was with respect to a sign and the number of customers frequenting the establishment. The Board suggested that a zoning inspector investigate the complaints and report to the Board with his findings.

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Page 419, September 18, 1979, After Agenda Items

Accessory Structures: Mr. DiGiulian requested the Board to hold a workshop session to discuss side and rear setback requirements for accessory structures. He suggested that the Board hold this workshop at the same time they discuss the 60 day hearing requirement with the Planning Commission and the Zoning Administrator's staff.

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Page 419, September 18, 1979, After Agenda Items

Mr. Yaremchuk informed the Board that it had spent approximately one hour on the after agenda items at its meeting and suggested that the Board package include the after agenda items for review prior to the hearing.

// There being no further business, the Board adjourned at 1:55 P.M. without lunch.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: _____

Submitted to the Board on _____.
Submitted to the other departments,
Board of Supervisors and Planning
Commission on _____.

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday Night, September 25, 1979. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes; John Yaremchuk and Barbara Ardis.

The Chairman opened the meeting at 8:25 P.M. led with a prayer by Mr. Barnes.

The Chairman called the scheduled 8 o'clock case:

8:00 - REEVALUATION HEARING: COMMONWEALTH SWIM CLUB, INC., appl. under P.M. Sect. 3-202 of the Ord. to amend existing permit to permit addition of 2 lighted tennis courts, reduction of required parking to 80 spaces & change in hours of operation to 6:00 A.M. to 10:00 P.M., located 9818 Commonwealth Blvd., Kings Park West Subd., 69-3((5))B, Annandale Dist., 5.48539 acres, R-2, S-75-79.

Chairman Smith announced that the reevaluation hearing would not take place as the matter had been referred to the Zoning Administrator.

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Page 420, September 25, 1979, After Agenda Items

Kenneth Moreland: The Board was in receipt of a request for an out-of-turn hearing on a variance application of Kenneth Moreland. The Board granted the request and scheduled the hearing for November 6, 1979.

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Page 420, September 25, 1979, After Agenda Items

Howard Steele: The Board was in receipt of a request for an out-of-turn hearing on a variance application for Mr. Howard Steele who has a handicapped daughter. The Board granted the out-of-turn hearing and scheduled it for November 6, 1979.

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Page 420, September 25, 1979, After Agenda Items

The Board was in receipt of a memorandum from Philip Yates addressed to Oscar Hendrickson regarding BZA Variance of the provisions of Article 13, Land-scaping and Screening. The essence of the memo related to whether the BZA could approve a variance of the specific requirements of Article 13, and if so, could they do so absent a advertised application for a variance. It was the judgment of the Zoning Administrator that the provisions of par. 6 of Sect. 13-108 do give both the BZA and the Board of Supervisors the latitude to vary the specific requirements of Article 13 in their review and approval of a special/permit/special exception; however, he suggested that it would be advisable to recognize and enunciate the specific "variance(s)" in the conditions associated with the special permit/special exception.

Chairman Smith indicated that the variance should be made a part of the application as he did not think the Board should approve them as a spur of the moment thing. Mr. Covington stated that if a citizen came in and looked at an application and depended on it and the Board later varied it in some way without a public hearing, it would be very upsetting to the citizen. Chairman Smith stated that if an applicant for a special permit or a special exception intended to ask for a waiver or a variance, then it should be noted in the application and advertised. The Board agreed with that statement. Mr. DiGiulian stated that he felt the Board would be allowed to set the screening requirements in special permit applications and reminded the Board of the McDonald antique shop where the Board clarified its motion with respect to the transitional screening requirements. Mr. DiGiulian stated that it was not considered a change; only a clarification. Mr. DiGiulian stated that he did not see a need for any variance. Chairman Smith suggested that the Board give some thought to this over the next few weeks.

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30 Day Hearing Requirement: The Clerk informed the Board that Mr. Wyckoff had requested a memorandum from the Board outlining what was to be discussed at the joint meeting of the Board and the Planning Commission regarding the 30 day hearing requirement. Mr. Wyckoff stated that he would need to prepare a response before the discussion. Chairman Smith stated that the basic discussion would concern the Ordinance and the 30 day notice to the Planning Commission. He further indicated that the Board would like some indication as to what was taking the Planning Commission so long in pulling some of the BZA cases. He suggested that the Planning Commission review the cases at their earliest meeting instead of waiting 35 days after the application was filed and then deciding to pull the case for public hearing. He stated that he would suggest that after the end of the 30 day period, that the Planning Commission not be allowed to pull any BZA case.

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Workshop Session for Accessory Structures: The Clerk informed the Board that the workshop session to discuss side and rear setbacks for accessory structures had been scheduled for October 2, 1979.

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8:45 - THE GREAT FALLS CHRISTIAN MONTESSORI SCHOOL, INC., appl. under P.M. Sect. 3-103 of the Ord. to amend Special Permit for school to permit increase in number of students from 25 to 40, ages 3 to 6, located 11500 Leesburg Pike, 11-2((1))20, Centreville Dist., 1.181 acres, R-1, S-213-79.

Mr. Glenn McGhee of 806 Alvin Court in Great Falls represented the school. He stated that the essence of the application was to increase the number of students from 25 which was approved last year to 40. They have the approval of the Health Department to increase up to 40 students. Chairman Smith inquired if all of the changes were just to increase the students by 15 and to change the ages of students from 3 to 6. Mr. McGhee stated that was correct. In response to further questions from the Board, he indicated that the school was located in a church and operates from 9 A.M. to 12 P.M. and on two days a week from 9 A.M. until 2:30 P.M.

There was no one to speak in favor of the application and no one to speak in opposition.

THE GREAT FALLS CHRISTIAN MONTESSORI SCHOOL, INC.
R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-213-79 by THE GREAT FALLS CHRISTIAN MONTESSORI SCHOOL, INC. under Section 3-103 of the Fairfax County Zoning Ordinance to amend special permit for school to permit increase in number of students from 25 to 40, ages 3 to 6, on property located at 11500 Leesburg Pike, tax map reference 11-2((1))20, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on September 25, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the subject property is the Church of the Bethren and that the applicant is the lessee.
2. That the present zoning is R-1.
3. That the area of the lot is 1.181 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the appliaant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the building and uses indicated on the plans submitted with this application. Any additional structures of any kind changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL ANON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all department of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The number of students shall be 40.
8. The hours of operation shall be 9 A.M. to 2:30 P.M., five days a week.
9. All other requirements of Permit S-191-77 shall remain in effect.

Mr. Yaremchuk seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 422, September 25, 1979.

The Chairman asked if the Board would continue to discuss the scheduled 8 o'clock item regarding a reconsideration hearing of the Commonwealth Swim Club. He asked Ms. Kelsey to go over the case again and clear up some of the points in the matter. Mrs. Kelsey stated that the Zoning Administrator was notified that the Board was not going to be able to hear the case because of improper advertising and notification. She stated that the Board can consider the condition with respect to after hours parties. She indicated that there was a problem as to whether the complaints were substantiated. She informed the Board that the Zoning Administrator did not feel that he had enough evidence to revoke the special permit nor to wait until next season to revoke any further parties. She stated that if the Board waited until next season and then held a hearing, it would be unreasonable. She stated that he felt it should be brought up while it was still fresh in everyone's mind.

The original special permit was granted back in 1968 for three special parties a month. In 1972, the Board passed a policy stating that all pools could have six parties a summer with approval from the Zoning Administrator. This particular pool could have three parties a month without coming back in and getting permission from the Zoning Administrator. Chairman Smith asked why not notify the permittee of the Board's policy that it does affect their after hours parties and if they want, let them challenge the policy. Mrs. Kelsey inquired if the Board was saying that the 1972 policy overrides any conditions of the special permit granted in 1968. Chairman Smith stated that it does override as the 1972 policy was a uniform policy for all swimming pools and recreation associations. He stated that if the club wished, it could request a public hearing on the matter. He stated that all special permit for recreation uses should be allowed six after hour parties with the permission from the Zoning Administrator. Chairman Smith stated that the 1972 policy puts everybody under that provision. Mrs. Kelsey stated that there were only two or three special permits that have conditions relating to after hours parties that are different from everyone else. Mr. Covington stated it was more like six or eight throughout the County. He stated that the 1972 policy was a result of the Board's desire to create some uniformity. Chairman Smith stated that the club should be reminded of the Board's policy. If they wanted to challenge it, the Board could hold a public hearing.

Page 423, September 25, 1979, After Hours Parties
(continued)

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Chairman Smith indicated that if the Zoning Administrator could revoke a special permit then he should be able to revoke a condition of the special permit. The Chairman stated that since the Board has some time in the matter that it should take it under advisement for awhile. He suggested that the Board discuss some of the finer points with the County Attorney.

The Chairman directed the Clerk to notify the permittee of the Board's policy and new direction they have taken. He stated that the Board wants to bring the after hours parties under the supervision of the Zoning Administrator's office. Mr. DiGiulian stated that he agreed with what the Chairman was saying but did not think the Board could use the 1972 policy as a blanket policy and then use it to revoke a permit. However, he agreed with bringing the after hours parties under the control of the enforcement division.

Mr. Covington informed the Board that the zoning office had sent out letters with respect to the after hours parties to all of the pools and recreation centers under a special permit. They were notified in July and to date no one has disputed the policy at all. He stated that the time to come back to the Board was at the time they received the letter.

Chairman Smith suggested that maybe the Board should renotify Commonwealth Swim Club and bring out that the 1972 policy was a new policy with respect to after hours parties and that they are no longer allowed the other three parties. He stated that the Board would try that direction as it does want to bring the after hours parties under the supervision of the enforcement division and have them aware of when the parties are taking place.

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Page 423, September 25, 1979, Scheduled case for

9:00 B & N EDUCATORS, INC. T/A THE FAIRFAX ACADEMY OF EARLY LEARNING,
P.M. appl. under Sect. 3-303 of the Ord. to amend S-4-77 to permit
change of permittee and building and parking additions to existing
school facilities, located 820 S. Carlyn Springs Road, 62-1((2))6,
Mason Dist., 1 acre, R-3, S-145-79.
(Deferred from July 31, 1979 for submission of variance).

9:00 B & N EDUCATORS, INC. T/A THE FAIRFAX ACADEMY OF EARLY LEARNING,
.M. appl. under Sect. 18-401 of the Ord. to allow changes to existing
Special Permit (S-4-77) for a school with a resultant floor area
ratio of 0.33 (0.25 max. F.A.R. required by Sect. 3-307), located
820 S. Carlyn Springs Road, Joseph L. Klein Subd., 62-1((2))6,
Mason District, 1 acre, R-3, V-247-79.

Mr. William H. Hansbarger, an attorney in Fairfax, represented the applicant. He informed the Board that this location has been used for a school under a special permit for some time. The present operators want to expand the school by increasing the parking and adding some classrooms. The classrooms will be 24' x 34'. In addition, the applicant wishes to change the hours of operation. They wished to increase the number of students from 195 to 275 students at any one time. There would not be any change in the ages of the students for the regular school year but the applicant wishes to increase the ages limits from 10 to 12 for the summer months.

Chairman Smith stated that the applicant did not state any change in the hours of operation in the application form. Mr. Hansbarger stated that those matters would be waived by the BZA. Chairman Smith stated that the last permit was granted for 225 children, ages 2 to 8, for hours of 7 A.M. to 6 P.M. He inquired as to what the Health Department would now allow. Mr. Hansbarger stated that at present, they have 195 maximum at any one time. Mr. DiGiulian stated that the advertising did not show a change of hours or an increase in the number of students. Chairman Smith stated that the applicant could amend the special permit and that the Board could defer the case until it was amended. He further stated that the Board would not hear the variance application until hearing the special permit.

The Board moved to defer the applications until all items not mentioned in the advertising were amended. The motion passed unanimously.

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Page 424, September 25, 1979, Scheduled case for

9:15 - DIANE SMALLEY, appl. under Sect. 3-304 of the Ord. to permit
P.M. child care center, located 3915 Annandale Road, Beverly Manor
Subd., 60-3((25))13 & 14, Mason Dist., 37,195 sq. ft., R-4,
S-222-79.

Mr. Robert Daniel Smalley represented his wife, Diane, before the Board. He informed the Board that he had the Health Department report which was not included in the staff finding of fact. Mr. Smalley stated that the proposed day care center was on Annandale Road and Beverly Drive. It is within $\frac{1}{4}$ mile of a private school. The property was formerly used by Dr. Provenzano as a doctor's office and has been used in that fashion since 1957. He used it for both his residence and his office until 1967 when he received permission from the Board to use the entire building for a clinic. In 1974, the Board gave Mrs. Provenzano permission to have other doctors use the building provided she continued to own the property. Since that time, Mrs. Provenzano has been endeavoring to sell the property.

Mr. Smalley informed the Board that since the property has been used continuously for 20 years as a doctor's office, it is difficult now to use the property for anything other than a group three use under the special permit category. There is not a kitchen in the structure. The building would be large enough to accommodate 75 children; however, the applicant only wished to have 60 children. No more than 30 children would be using the play area at any one time. He stated that they planned to relocate the play area in order to keep the grass up. The only outside addition would be some fencing around the playground equipment. Mr. Smalley stated that they would not have any more than six employees.

With respect to traffic, Mr. Smalley stated that he has discussed the safety aspects with the planning staff. The child would be let off on the sidewalk area and would not be in the way of any traffic. The 60 children would be comprised of preschool children, ages 2 to 5 and after school care for children ages 5 to 10. He stated that they might also have a summer program. The program would be an educational one with reading and arithmetic, arts and crafts, etc. Mr. Smalley informed the Board that his wife is a teacher and has had experience in teaching.

Chairman Smith asked for some clarification and inquired if the applicant intended to have a summer program. Mrs. Smalley stated that this would be a year round program. Ms. Ardis inquired if Mr. Smalley had read the staff report with respect to the parking spaces and the setback requirements. Mr. Smalley stated that he would provide 13 parking spaces. Chairman Smith inquired if the applicant had ever operated a facility such as this. He was informed that the applicant had not operated a child care center before but she has worked at one. Mr. Smalley informed the Board that they could screen the property if the Board desired. He stated that he has talked to some of the people in the area and they do not have any objections to the use.

Mr. Tom Davis of the Mason District Council stated that he represented some of the citizens in the area who were in opposition to the day care center. He presented the Board with a signed petition from citizens on each of the streets nearby. Most of the people signing the petition have no children and are of retirement age. Mr. Davis stated that this was a unique neighborhood. All of the mothers of young children stay home and do not work. This proposed center would not benefit the community and was not needed in this area. In addition, there was a safety problem as far as traffic. Mr. Davis stated that two cars have gone into the yard at this corner. Two paperboys have been hit by a car on this same corner. Even the Fire Chief was involved in an accident on that corner and ended up in the yard. He informed the Board that this was not the place to have a child care center.

The next speaker in opposition was Mr. Thomas B. White of the Broyhill Crest Civic Association. He stated that they were in opposition to the day care center as most of their members were all older and could not put up with the yelling and screaming of children. If the Board were to place 60 children in a yard next to these people, they would lose their serenity and privacy. Mr. White stated that the center would not be harmonious with the neighborhood.

Mr. Barry Wilson stated that he recognized the need for day care centers because of the family situation. He stated that day care center facilities are needed and deserve community support. However, he felt strongly that this center would not serve a useful purpose as most of the youngsters in the area were either grown or in school. He reminded the Board of the closing of the Annandale Elementary school and stated that there was a diminishing need for child care in this particular area. Mr. Wilson stated

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that he had called ten day care centers in the area to try to establish a need. There was a total enrollment of 689 children. Only two of the centers had a waiting list. In addition, there were two locations already existing for taking care of children after school hours. These were the Grasshopper Green School and the Hope Lutheran Church. To establish another day care center would decrease the enrollment in the other schools. Mr. Wilson stated that to use a building originally erected as a residence would be inappropriate. He reminded the Board that most of the existing child care centers are located in churches. He urged the Board to deny the use.

Mr. Gilbert Richard of the Annandale Road Defense Association stated that he was a property owner and a member of the Board of Directors. He informed the Board that this location was a hostile environment in which to bring up children. He stated that traffic was a real concern in this area. The area needs more traffic lights. He informed the Board that he had presented Richmond a petition for extra lights. According to Mr. Richard, some 60% of the traffic exceeds the speed limits. Parents bringing children there for day care would create additional traffic in the area. Captain Downy of the Police Department had logged 126 traffic incidents for Rt. 236 and Annandale Road. Mr. Richard urged the Board to deny the day care center.

Mr. Robert Lyons informed the Board that he lived two lots away from the proposed day care center. He stated that he has a quiet single family home. He informed the Board that he was of retirement age. In addition, there are widows on both sides of his home. He indicated that his real concern was that the R-4 zoning remain. He reminded the Board of the additional traffic impact. There are no sidewalks in this area. At present, there are 58 children walking to school. The extra traffic would be a real safety problem. He asked the Board to keep the property zoned R-4.

During rebuttal, Mrs. Provenzano stated that she almost doesn't recognize the property from the descriptions given by the neighbors. She informed the Board that she has lived there with her five children for 15 years. The property has been empty for over a year. Over 50 people have come to see the place. No one would accept it for a single family residence. She informed the Board that when they were given permission to use the property for doctor's offices, they had removed the kitchen. She stated that she has 5 children with 3 of them in collage. She stated that she has not had any offers to buy the property as a private residence. She stated that she was sure the Smalleys would do everything in their power to keep the property attractive. Mrs. Provenzano stated her reason for selling the property was financial.

Mr. Smalley stated that he was not familiar with the County proceedings. He stated that it was his understanding that the BZA was an impartial Board. He objected to the political opinions expressed at the hearing. He stated that a number of people who had presented themselves at the hearing were irrelevant to the request. He told the Board that there was a need for day care. He stated that this facility would be a private facility and would not be church sponsored. He stated that he has looked at similar facilities and did not see any problem with respect to traffic. He further stated that the only opinion provided by the County with respect to traffic was that the Office of Transportation has no objection to the day care center. In addition, Mr. Smalley stated that they have contacted the Office of Children and they have wished him luck. He stated that there was a need for child care here and the property is well suited for that need. He concluded by stating that people are in favor of religion but they don't want churches in their area either.

R E S O L U T I O N

Ms. Ardis made the following motion:

WHEREAS, Application No. S-222-79 by DIANE SMALLEY under Section 3-304 of the Fairfax County Zoning Ordinance to permit child care center on property located at 3915 Annandale Road, tax map reference 60-3((25))13 & 14, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on September 25, 1979; and

R E S O L U T I O N

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WHEREAS, the Board has made the following findings of fact:

1. That the owner of the subject property is Stella L. Provenzano and that the applicant is the contract purchaser.
2. That the present zoning is R-4.
3. That the area of the lot is 37,195 sq. ft.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has not presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED.

Mr. DiGiulian seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

There being no further business, the Board adjourned at 10:15 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: _____
DATE

Submitted to the Board on _____.
Submitted to the other departments,
Board of Supervisors and Planning
Commission on _____.

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, October 2, 1979. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes; John Yaremchuk and Barbara Ardis.

The Chairman opened the meeting at 10:15 A.M. led with a prayer by Mr. Barnes.

The Chairman called the scheduled 10 o'clock case:

10:00 A.M. MT. TABOR SOCIETY, INC. co/appl. REV. ARTHUR F. VERSTRAETE, PRESIDENT, appl. under Sect. 3-103 of the Ord. to permit monastery/seminary, located 2363 Hunter Mill Road, pt. of Hunter Mill Estates & Kemper Park Subd., 37-2((1))29 & ((1))43 & 44, Centreville Dist., 97,630 sq. ft., R-1, S-171-79. (Deferred from August 7, 1979 for continuation of hearing and decision).

&

10:00 A.M. MT. TABOR SOCIETY, INC., co/appl. REV. ARTHUR F. VERSTRAETE, PRESIDENT, appl. under Sect. 18-401 of the Ord. to allow gravel driveway for monastery/seminary (dustless surface required by Sect. 11-102, located 2363 Hunter Mill Road, pt. of Hunter Mill Estates & Kemper Park Subd., 37-2((1))29 & ((1))43 & 44, Centreville Dist., 97,630 sq. ft., R-1, V-172-79. (Deferred from August 7, 1979 for continuation of hearing and decision).

Ms. Marilyn Moore represented the applicant. She informed the Board that several occurrences have taken place since the Board's last meeting. Chairman Smith stated that the Board has the staff report on the applications and informed the applicant that discussion would be limited to new evidence. Ms. Moore stated that since the last hearing, she is no longer representing the church. She stated that Father Verstraete had held a trans-atlantic conference and was made aware of the restrictions. He cabled his concurrences with the staff report. Ms. Moore stated that they cannot have an all day prayer meeting but could hold an open house for Catholics in the area. In addition, she informed the Board that the Planning Commission had rescinded its motion.

Chairman Smith announced that the Board had received several letters in opposition to this application. He called for additional testimony in opposition from anyone not present at the previous hearing. Mr. DiGiulian asked Ms. Moore for clarification on the number of hours being requested for the use. She stated that ten to twelve hours should be adequate for their needs.

At this point in the meeting, the audio broke down. Chairman Smith recessed the meeting at 10:30 A.M. to call the technician to fix the audio system. He stated the Board would continue with the hearing when the system was restored.

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Page 427, October 2, 1979, After Agenda Items

Marian Campbell, V-219-78: The Board was in receipt of a letter requesting an extension of time on the variance application granted. Mr. Barnes moved that the Board grant a 180 day extension. Mr. DiGiulian seconded the motion. The motion passed by a vote of 5 to 0.

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Page 427, October 27, 1979, After Agenda Items

Llewelyn Williams: The Board was in receipt of a letter from Mr. Williams requesting an out-of-turn hearing on his variance application in order to rebuild after his property was damaged by the tornado. Mr. Yaremchuk moved that the Board grant the request. Mr. Barnes seconded the motion. The motion passed by a vote of 5 to 0. The Board scheduled the hearing for November 13, 1979.

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Page 428, October 2, 1979, After Agenda Items

Martin Jarvis: The Board was in receipt of a letter from Mr. and Mrs. E. R. Heiberg regarding hearing procedures on the Martin Jarvis application heard on July 10, 1979. The Chairman requested the Clerk to check the record to determine if Mr. Heiberg had spoken at the hearing.

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Page 428, October 2, 1979, After Agenda Items

The Board was in receipt of a letter from Francis C. Soges of 7714 Georgetown Pike in McLean regarding land development in the Boyle Lane area. Chairman Smith asked the Clerk to investigate the matter and report findings back to the Board.

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Page 428, October 2, 1979, Executive Session

The Board convened into Executive Session to discuss legal matters. At 11:15 A.M., the Board reconvened into public session.

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Page 428, October 2, 1979, Continuation of Mt. Tabor Society applications:

Chairman Smith thanked the audience for their patience while the audio system was being repaired. Ms. Katherine Woods of the Mt. Tabor community informed the Board that she has had the opportunity of working with Father Verstraete and stated that he always stayed within the rules and regulations of any permit that he was operating under at all times. There was no one else to speak either in support or in opposition.

Page 428, October 2, 1979, MT. TABOR SOCIETY, INC.

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-171-79 by MT. TABOR SOCIETY, INC. co/appl. REV. ARTHUR F. BERSTRAETE, PRESIDENT, under Section 3-103 of the Fairfax County Zoning Ordinance to permit monastery/seminary on property located at 2363 Hunter Mill Road, tax map reference 37-2((1))29, and 37-2((1))43 & 44, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on August 7, 1979 and deferred until October 2, 1979 for continuation of hearing and decision; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-1.
3. That the area of the lot is 97,630 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.

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- 5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
- 6. Existing landscaping and screening shall be preserved.
- 7. The maximum number of residents shall be eight (8).
- 8. The meetings and services shall be limited to 10 hours per week.
- 9. The number of parking spaces shall be eighteen (18).
- 10. This permit is granted for one (1) year with the Zoning Administrator empowered to grant four (4) one-year extensions.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

R E S O L U T I O N

In Application No. V-172-79 by MT. TABOR SOCIETY, INC. co/appl. REV. ARTHUR F. VERSTRAETE, PRESIDENT, under Section 18-401 of the Zoning Ordinance to allow gravel driveway for monastery/seminary (dustless surface required by Sect. 11-102) on property located at 2363 Hunter Mill Road, tax map reference 37-2((1))29, and 37-2((11))43 & 44, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 7, 1979 and deferred for continuation of hearing and decision until October 2, 1979; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the owner of the property is the applicant.
- 2. The present zoning is R-1.
- 3. The area of the lot is 97,630 sq. ft.
- 4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED IN PART * with the following limitations:

- 1. This approval is granted for the location and the specific structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
- 2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
- *3. That the first 25 ft. of driveway be paved in a dustless surface.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

10:20 A.M. H. C. HAYNES, appl. under Sect. 18-401 of the Ord. to allow a tennis court fence which exceeds 7 ft. in height to be located 38 ft. from the front lot line & 15 ft. from the side lot line (50 ft. min. front yard and 20 ft. min. side yard req. by Sect. 3-E07), located 9200 Deer Park Road, Deer Park Subd., 8-4((7))7, Dranesville Dist., 2.00 acres, R-E, V-167-79. (Deferred from August 10, 1979 for final decision of full Board).

&

10:20 H. C. HAYNES, appl. under Sect. 3-E03 of the Ord. to permit home
A.M. professional (physician) office, located 9200 Deer Park Road,
Deer Park Subd., 8-4((7))7, Dranesville Dist., 2.00 acres,
R-E, S-168-79.
(Deferred from August 10, 1979 for final decision of full Board).

Mr. Robert Lawrence, an attorney in Fairfax, represented the applicants. Mr. Lawrence stated that the Board should have a letter in the file from the applicant requesting withdrawal of the special permit application for a home professional office.

With respect to the variance, the applicants are still requesting a variance to allow a tennis court fence 38 ft. from the front lot line. Mr. Lawrence informed the Board that 50 ft. was the minimum front yard requirement. Also, the fence requires a variance to be located 15 ft. from the side lot line as the Ordinance requires a minimum of 20 ft. The hardship for the variance was the landscape limited the location of the tennis court on the side. There is a drainfield located on the north side of the property which further limits where the tennis court can be located. In order to comply with the Code requirements, it would necessitate a relocation of the drainfields. Mr. Lawrence submitted some additional photographs showing the topography of the property and the drainfield. Mr. Lawrence informed the Board that the property is wooded and some of the woods had to be cleared out when the drainfields were put in. To relocate them would require more destruction of the trees left on the property. Mr. Lawrence stated that a neighbor, Mr. James Eller, has no objection to the variance being granted. Mr. Lawrence stated that the existing trees would provide a natural cover for screening of the courts. In addition, the fence would not be visible from the road. The closest property owner is over 400 ft. away from the tennis courts. Mr. Lawrence stated that this was a minimum variance request.

Ms. Ardis inquired as to the property directly next door and asked if there was a house on the property. Mr. Lawrence stated that the property was owned by Mr. Gibson. It is a much larger parcel than the 2 acre parcel of Dr. Haynes. Mr. Lawrence stated he thought it was a five acre parcel. He informed the Board that Mr. Gibson was present at the hearing.

There were no more questions from the Board. Mr. Albert Gibson spoke in support of the variance. He informed the Board that he owned the property they were speaking of. He indicated that he has plans to build on the property within the next year and stated he has no objection to the variance. There was no one to speak in opposition.

R E S O L U T I O N

In Application No. V-167-79 by H. C. HAYNES under Section 18-401 of the Zoning Ordinance to allow a tennis court fence which exceeds 7 ft. in height to be located 38 ft. from the front lot line and 15 ft. from the side lot line, (50 ft. minimum front yard & 20 ft. minimum side yard required by Sect. 3-E07) on property located at 9200 Deer Park Road, tax map reference 8-4((7))7, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been property filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 2, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 2.0 acres.
4. That the applicant's property has an unusual condition in the location of the existing drainfield on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

R E S O L U T I O N

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THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 with 1 abstention (Mr. Yaremchuk).

In response to the letter from Dr. Haynes requesting withdrawal of the special permit application for home professional office, Mr. DiGiulian moved that the Board allow the withdrawal without prejudice. Mr. Richard Bliss, a resident of Deer Park, spoke in opposition to the request for withdrawal without prejudice. He stated that if it was withdrawn, it should be with prejudice as this was the second time the citizens had had to appear before the Board with respect to this matter. He stated that he had letters from Supervisor Shacochis and from the Great Falls Civic Association about the withdrawal. He reminded the Board that Deer Park Road was a private road. He stated that he did not want to have to take another day off from work in the near future if this matter came up again. Mr. Lawrence informed the Board that this matter would not come before them again unless the covenants were changed. Ms. Ardis inquired if Mr. Lawrence had given Mr. Bliss notice that this matter was being withdrawn. Mr. Lawrence stated he personally contacted Mr. Bliss about the matter.

Mr. DiGiulian again moved that the Board allow the withdrawal of the H. C. Haynes special permit application for a home professional office to be withdrawn without prejudice. Mr. Barnes seconded the motion. The motion passed by a vote of 3 to 1 (Mr. Smith) with 1 abstention (Mr. Yaremchuk).

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Page 431, October 2, 1979, Scheduled case for

10:40 THOMAS D. RAY, ET. AL, appl. under Sect. 18-301 of the Ord. to
A.M. appeal Zoning Administrator's decision to issue Group Residential
facility permit 9-M-79 for property located at 3476 Pence Court,
Holmes Run Village Subd., 59-4((17))19, Mason Dist., 10,369 sq. ft.
3 R-3(C), A-229-79.

Mr. Thomas D. Ray of 3190 Pence Court of Annandale, Virginia stated that he understood that the staff was limited to ten minutes. Mr. Ray requested an additional ten minutes as they had three homeowners associations to speak. Chairman Smith informed the applicant that there were only three questions the Board would discuss with respect to this appeal. He indicated that they would not discuss the Ordinance or the State Law or the County Code or any action by the Board of Supervisors as to the constitutionality of this facility. Chairman Smith stated that all remarks would be confined to these three questions raised in the appeal application. Chairman Smith informed the applicant the Board would hear first from the Zoning Administrator, Mr. Yates.

Mr. Yates stated that this appeal was from an administrative decision of his relating to a group residential facility. He indicated that what was at issue was approval of a group facility permit which he approved under the provisions of paragraph 3 - 503 of the Zoning Ordinance. The appeal was filed by six individuals as listed on the application form. Mr. Yates stated that he was a man of few words. He stated he had presented his case in the staff report which was before the Board. Mr. Yates stated that this appeal concerned three issues. He agreed with the Chairman that the appeal should be limited

to those three issues. Mr. Yates stated that he did not have any further comments. He informed the Board that his office had received several letters in response to the appeal. He presented the letters to the Board.

Chairman Smith inquired if Mr. Ray had received a copy of Mr. Yates memo dated September 26th. Mr. Ray stated he was interested in the letters presented by Mr. Yates and indicated he would like a copy of them. Mr. Yates stated that the letters were in support of the appeal. Chairman Smith asked Mr. Yates if he had anyone else to speak on his behalf. Mr. Yates stated that his position was well presented in the memo.

Mr. Ray informed the Board that the first question of the appeal was one of dispersion. He provided the Board with a letter showing where these group homes were located. According to their statistics, Mason District has the smallest population in the County but it also has the most group facilities. Mr. Yates' decision took the group home from Centreville District to the Mason District. The second question was of compatibility. Mr. Ray informed the Board that this subdivision was a cluster development and has narrow streets. The group home is considered to be a commercial venture. He stated that Mr. Lee owns a chain of motels and is planning to operate a lot of these group home facilities. The property is serviced by Shenandoah Dairy, the coke man and other trucks which come to the property. This makes the home a commercial venture according to Mr. Ray.

Chairman Smith stated that he was not going to allow any conversation with connection with the residents of the home. He indicated that was a question for the people who advise and consent and offer to serve and are responsible for protection of these young people. He stated that the Board would not go into the background or the behavior of the residents of the facility. Mr. Ray stated that Mr. Yates' memo did address those issues. Chairman Smith stated it was addressed in a broad sense the Board would allow it. He stated that there are residents living at the group home now and if Mr. Ray had specific background to be discussed, the Board would hear it but only in an Executive Session or it could be considered if presented in writing to the Board. Mr. Ray stated that his point was that there is no problem with the girls. Chairman Smith inquired if he had any problem with the occupants. Mr. Ray stated he had not. Chairman Smith inquired if he had any problems with the Facility and Mr. Ray replied he had. Chairman Smith indicated that it would have to be presented in writing and it would have to be substantiated. Mr. Yaremchuk objected to the Chairman's procedure. He stated that the applicant was allowed to present it and now the Chairman was bringing in some new rules. Mr. Yaremchuk strongly objected to the procedure. Chairman Smith stated that as long as he was Chairman, no discussion would take place about the individuals or occupants of the facility or any other facility in the County. He stated that he would listen to the appeal only as far as the three points were concerned. Mr. DiGiullian stated that the Board could accept written evidence about the present individuals. Chairman Smith stated that the Board would accept it but it would go back to the Zoning Enforcement Div. for investigation. Chairman Smith stated that the question was not whether this was a proper facility but was an appeal to hear the three issues raised by the applicant. Mr. DiGiullian stated that one of the issues was compatibility and if the residents were having problems with the property owners then it was germane to the appeal. Mr. Yaremchuk indicated that the applicant should be allowed to present his case as he sees it. Chairman Smith stated that it would only be discussed in executive session and asked the applicant to proceed with his appeal.

Mr. Ray inquired if the traffic would need to be discussed in an executive session. Chairman Smith indicated that traffic was not related to the appeal. He stated that he realized that there was a certain amount of traffic generated by this facility but indicated that the applicant was not sticking to the aspects of the appeal. He stated that the State Code allows these facilities in residential areas and again urged the applicant to proceed with the appeal.

Mr. Ray stated that the law says these facilities would be allowed in appropriate residential areas. Chairman Smith questioned Mr. Ray as to what he thought "appropriate" means in the way of zoning. Mr. Ray stated that it was more for a multiple family type zoning. Chairman Smith inquired as to why Mr. Ray felt that this type of facility would stick out. Mr. Ray stated that it stuck out because of the coke truck deliveries, the milk deliveries, and he stated that no other single family dwelling would have eight teenage girls living there that were not related. Chairman Smith stated that these points were recognized in the mandate by the County. He indicated that the legislators were aware that these individuals would not be related by blood. He stated

that he did not believe that this particular type of facility would stick out more than any other use. Mr. Ray stated that the people would stick out and that was his point. Chairman Smith stated that they were people like anyone else and indicated that he was not going to argue the point any more.

Mr. Ray stated that another concern was the health and well being of the residents. He indicated that the majority of the people in the area were against the group home facility. He indicated that the development was still being built and would continue for about another year. He indicated that Mr. Yates was wrong for ~~allowing~~ eight girls in this facility with a construction site nearby. In addition, Mr. Ray stated there were various discrepancies, one being the parking. It was indicated that there were never more than three cars there. He stated that there are more than that parked there. On some occasions, neighbors have had to call an ambulance. He was concerned about whether emergency vehicles could reach anyone with all the cars parked in the street.

Mr. Ray informed the Board he had filed the appeal with some of his neighbors and presented Mr. Ed Bartko of 3491 Pence Court. Mr. Bartko stated he was the spokesman for the Holmes Run Village Homeowners Association. He presented the Board with a signed petition by 13 of the 16 homes that are occupied who were in opposition to the group home facility. Chairman Smith inquired if the petition addressed the three points of the appeal and reviewed it. After review, Chairman Smith indicated that the petition was just a statement of opposition ~~about~~ the facility which was not a question before the Board. Mr. Bartko stated that the group home was in direct violation of the covenants of the Holmes Run Village. He stated that no lot was to be used for other than residential purposes. He indicated that it was appalling that the Group Home Committee would accept Lynn Rolland's word in a closed session. He indicated that there were numerous misrepresentations made at that meeting. It was stated that none of the girls had a history of drug use yet on two occasions, the police had to be called to the facility for misuse of drugs. Mr. Bartko stated that the meeting on July 11, 1979 had been closed to the citizens. It was stated by one of the commissioners that the group home facility was tight and noise free. Mr. Bartko stated that the closest home is only 8 ft. away from the group home. He indicated that harm might come to the girls in the home and he could not understand how the Group Home Commission felt this facility would be fine for the area. Mr. Bartko stated that it was the homeowners association's feeling that Mr. Yates had approved the permit for the group home without giving due consideration to the issues. He did not believe the Holmes Run subdivision was an appropriate district for the home. Mr. Bartko stated that the rent for the home was \$1,000 a month for the eight girls. He stated that these girls were referred to a group home because they could not live in a family setting. He could not understand how the Commission could feel the girls belonged here when they could not live in a family setting.

At the meeting held with the Group Home Commission, the question of safety was never addressed according to Mr. Bartko. He stated that he could provide the Board with written evidence about a guest of the group home who had left the facility in anger with alcohol on his breath. This guest had run a woman and her baby off the road. Mr. Bartko stated that he was appealing to the Board members to revoke the permit issued by Mr. Yates.

Chairman Smith asked for other speakers. Mr. Ray informed the Board that he had just reviewed the letters referred to by Mr. Yates earlier in the meeting and two of the people signing the letters did not live in the neighborhood. Mr. and Mrs. Reedy reside in Ridgewood. The only person signing the letter known to Mr. Ray was Mr. Boggs. Chairman Smith indicated that Ridgewood was in the vicinity. Mr. Ray stated that it was not adjoining Holmes Run Village.

The next speaker was Cynthia Winter who was a member of the Ravenwood Park community and the Mason District Council. She indicated that this appeal had just come to their attention and that the Mason District Council had not had a chance to talk to their people about it yet. The Executive Committee was planning to meet in November about the group home situation as they did not feel that they have had any responses to their questions. She stated that she wished they had more time to go into this because it was a very important issue. Chairman Smith stated that this was not the proper forum to discuss the question of group homes. Mrs. Winter stated that one issue was safety. She indicated that the girls are not taken care of and are not safe. One girl had gotten locked out of the house. Chairman Smith stated that was a question that should be addressed to the authorities who control the facility. He indicated that it was not a question for this Board.

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Mrs. Winter was concerned because the home was to provide for 24 hour care. Mr. Yaremchuk stated that what Mrs. Winter was trying to state was that there is no criteria in the County for these homes. He indicated that this was a judgment thing. Mrs. Winter stated that the state set up this Code and intended it for the mentally retarded or the disabled. She indicated that it was not intended for anyone else.

Chairman Smith stated that he got a different view of the Code. He informed the citizens that these were not delinquent children. He indicated that just because a family cannot take care of a child does not mean that the child is delinquent. Mrs. Winter stated that her concern was the people who are getting into the group home business are not taking care of the children. Chairman Smith stated that was not a question before this Board. Mr. Ray interrupted the speaker to inform the Chairman that the Board was believing the information from Mr. Yates without even listening to their appeal.

The next speaker was Rebecca Barr of 3486 Pence Court. She stated that she was concerned about the safety of the children. She stated that Police Officer Brown had been called to the home on September 18, 1979. Mrs. Barr informed the Board that she lived alone and was concerned about her own safety. She indicated that everything that has happened at the hearing has gestapo tactics. She indicated that she just could not believe that the citizens could not be believed. She stated that the ladies running the home are well qualified but that they turn everything around. She stated that Dixon Boggs had signed the petition in support of the group home as he was of the opinion that it was a church affiliated thing and that the ladies running it were volunteers.

An unidentified lady speaker addressed the Board and stated she was concerned about the 8 girls. She indicated that she has a girl in the community and she was interested in knowing what went on in the home. She stated that there were so many things that the citizens are concerned about. She indicated that this was underhanded. She informed the Board that she has worked a long time for her home and that it was all she can do to make her payments on it. She indicated that someone who could not control their children would be interrupting her lifestyle. Chairman Smith stated that he lived next door to a lady who raised 14 children and that she never had any trouble at all. The speaker stated that they already have a foster home next door in this area. She indicated that there was a man on the Group Home Commission who was so rude that someone should buy a home next door to him only 8 ft. away and keep 8 children.

Chairman Smith asked Mr. Yates if he had anything else to add to the appeal or if he could answer some of the questions raised. Mr. Yates allowed Lynn Rolland, the Director of the Youth Group Homes for the Fairfax/Falls Church Community Services Board to speak in response to some of the questions. She informed the Board that she did not live in Holmes Run. She indicated that she was only the program director. She stated she wished to address some of the concerns brought up by the neighbors. First, she wished to address the fact that they have tried to keep the neighbors informed at all times about this program. With respect to the individual who came to the home intoxicated, she indicated he came without permission and was asked to leave. She indicated that they did not have any control over who comes to the home only over who the girls see. The second concern was over the coke machine in the home. She indicated that it was put in so that the children would not be making a lot of trips throughout the neighborhood. She stated that if it was causing a lot of concern, then it could be removed. She indicated that she would be happy to answer any other questions the Board might have. She indicated that it was difficult to respond to some of the generalities.

Ms. Ardis inquired about the policy of accepting children who might have been before the juvenile courts and asked if they tried to distinguish the categories before placement. Ms. Rolland said that anyone before the courts was not brought up on criminal charges as such. She indicated that mostly they are there because of truancy, runaways or the fact they are incorrigible. Ms. Ardis inquired about individuals who have criminal records with the courts. Ms. Rolland stated that they have always tried to screen the individuals and determine who could fit in with a family setting. They pick individuals without a record. If an individual did have a record but it was of some other concern they might accept the person into the program.

Mr. Ray asked Ms. Rolland who was responsible for keeping in touch with the community. It was indicated that Ms. Gladys Overlie was the spokesperson.

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Ms. Overlie informed the Board that she has been in contact with the citizens. However, the Advisory Board has not officially been set up yet. She informed the Board that on two occasions that she has been on duty at the home and taking children to the doctor, the van had broken down. She stated that on both instances she had called Mrs. Rolland to come and pick them up rather than wait. The home was left unsupervised for a very brief period. Mr. DiGiulian stated that he had read somewhere in the staff report where the supervision consisted of three shifts with two staff persons present at all times.

The next speaker was John Callahan who stated he would respond to the staff report. He indicated that in his notes to prepare the staff report, he had stated that there is always more than one person in a shift. There is a shift overlap. He indicated that perhaps it was not clear in his notes. He reported that Mrs. Overlie did not mislead the citizens. He stated that perhaps he did not make it clear in his notes.

Mr. Yates made two observations to the Board. He stated that there was a lot of commentary that this type of facility would be more appropriate in an R-12 district and not a cluster subdivision. Also, the citizens indicated that this was not a family. He informed the Board that this issue would be more appropriately addressed to the Board of Supervisors. He indicated that he was operating under the adoption of the Code by the Board of Supervisors. In making his decision, he stated that he had reviewed and looked at it in that context. He indicated that the Board of Supervisors had enacted provisions to the Zoning Ordinance that this type of use was in keeping with the State Code.

The Board recessed to read a statement prepared by Mr. Ray. When the Board reconvened, they were prepared to vote in the matter.

Ms. Ardis moved that the Board of Zoning Appeals support the decision of the Zoning Administrator based on the limited criteria of whether the permit should have been granted. Mr. Barnes seconded the motion. The motion passed by a vote of 3 to 2 (Messrs. Yaremchuk and DiGiulian). The appeal was denied.

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Page 435, October 2, 1979, Scheduled case for

11:00 BRUCE MYERS, appl. under Sect. 18-401 of the Ord. to allow 6 ft. A.M. high fence in front yard (4 ft. max. fence height in front yard req. by Sect. 10-105), located 9915 Oleander Ave., Edgelea Woods Subd., 48-1((7))61, Providence Dist., 14,972 sq. ft., R-3, V-223-79.

Mr. Bruce Myers of 9915 Oleander Avenue informed the Board that the 6 ft. fence was mistakenly erected. He stated he was not aware of the height limitations. Mr. Myers stated he would suffer a financial hardship if the fence had to be removed. In mid-1976, Mr. Myers purchased his first home. He indicated that he wanted to build a swimming pool in the back yard and wished to start a family. He and his wife selected a corner lot for their home. In early 1987, he got a building permit to finish off the family room and to construct a deck. At that time, Mr. Myers stated he inquired about fences and was told that a fence could be 6 ft. in the back yard and 4 ft. in the front yard. At that time, he purchased the materials for the fence and applied to the Edgelea Community Woods Homeowners association for permission to construct a fence. The front yard was to be unfenced. He stated that he submitted the design sketch and it was approved by their executive board. On May 18th, he started to construct the fence. Prior to purchasing the materials for the fence, Mr. Myers indicated that he had consulted his neighbors to determine if they wanted to share in the survey costs and the fencing materials. They declined. After the fence was erected, one of the neighbors contacted the County with regard to the fence. After the County inspector made his investigation, Mr. Myers was apprised of the Code restriction for fences in a front yard over 4 ft. in height. He stated that he was not aware that corner lots were different from other lots.

Mr. Myers stated that he spent \$1,350 on the fencing materials from Hechingers. He purchased a 6 ft. fence because he had checked with the County and was told that it was allowed. He indicated that he felt he had taken reasonable steps to comply with Code requirements. No one had informed him that corner lots have two front setbacks to comply with.

Mr. Myers stated that he studied his lot from an automobile point of view. He showed the Board a sketch of the location of his house. In addition, he presented photographs of the fence. A petition in support of the fence was submitted by Mr. Myers. Ms. Ardis inquired as to how many of the people signed the petition were adjacent property owners that would abut the fence. Mr. Myers stated two of the people. There are only three lots abutting and he indicated that he did not approach the third person about the fence. Mr. Barnes inquired if Mr. Myers had researched the Ordinance regarding fences. Mr. Myers stated that he had contacted the building permit department and talked to a building inspector. He indicated that he was informed of the 4 ft. and 6 ft. limitations but no one mentioned anything about corner lots being different. He stated that he did seek out building permits for the building constructed on his property. He indicated that he had even talked to engineers but was never made aware of the requirement for fences on corner lots. Mr. Barnes inquired if Mr. Myers had told the engineer the fence was going to be 6 ft. Mr. Myers replied all he had been told was that fences could be 4 ft. in front and 6 ft. in the back.

Mr. Covington stated that a corner lot since it fronts on two streets has to meet a front setback from each of the street lines. He stated that was where the misunderstanding came in.

There was no one to speak in favor of the application. Mr. Gerald Markee of 2839 Edgelea Road spoke in opposition. He stated that he was a member of the Edgelea Wood Community Association. Mr. Markee informed the Board that his property adjoined Mr. Myers' property. Mr. Myer's back property line was the side line for Mr. Markee. The 6 ft. fence goes all the way to the street blocking the view from Mr. Markee's property. Mr. Markee indicated that the fence was illegal. He stated that he contested it. He indicated that Mr. Myers had approached him about the 6 ft. fence. At that time, Mr. Markee informed Mr. Myers that he did not want a 6 ft. fence. Mr. Markee informed the Board that he had referred Mr. Myers to the Architectural Review Board of their homeowners association. Mr. Markee stated that he was not aware whether Mr. Myers had consulted the County with regard to the fence but doubted that he had. Mr. Markee stated that all discussion took place prior to the purchase of the fence materials.

Mr. Yaremchuk inquired if the fence was a safety hazard for Mr. Markee's property. Mr. Markee replied that it was everytime he tried to back out his driveway. He presented the Board with photographs showing the location of the fence with respect to his driveway. The fence goes all the way to the sidewalk. Mr. Markee stated that he had talked to Mr. Myers about the fence and the safety factor. Mr. Myers had prepared some charts based on the speed limit of 25 m.p.h. Mr. Markee stated that the local high school is close by and that the high school students do not observe the 25 m.p.h. limit. He indicated that it was dangerous everytime he had to back out his driveway. Mr. Markee stated that he had two letters from the architectural review board where they refused 6 ft. fences for other families. He stated that Mr. Myers built the fence without permission from the County. He stated that the architectural review board had approved the fence for Mr. Myers but they did not understand about the situation for corner lots either. In addition, Mr. Markee stated the board had given Mr. Myers to construct the fence without even contacting him. He contacted the board about the safety aspects of the fence and was informed that it was the homeowners responsibility to get all the necessary approvals from Fairfax County before building. Mr. Markee stated that he protested the fence after the first portion was started on a Sunday. He stated that he contacted the zoning officials and that Mr. Myers was supposed to get a zoning violation. None was ever given to Mr. Myers. It went to the wrong address.

During rebuttal, Mr. Myers reminded the Board that the fence was constructed unintentionally in violation of the Ordinance. He stated that he did build in accordance with all of the codes he was aware of. He stated that his neighbors down the street were not aware of the code restriction either. With respect to Mr. Markee not being able to back out his driveway, Mr. Myers stated a lot of that was his own doing. There are two cars parked along the fence. Mr. Myers stated that he would appreciate a favorable response from the Board.

Mr. DiGiulian inquired if Mr. Myers knew at any time during the construction of the fence that he was in violation of the Ordinance. Mr. Myers stated he was not aware of it. An unidentified speaker from the audience questioned who a recreational trailer parked in the street belonged to. The response was that it belonged to a travelling evangelist and that it was there very

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BRUCE D. MYERS
(continued)

seldon. Mr. Yaremchuk informed the citizen that anyone could have one commercial vehicle parked in the street. Mr. Covington stated that the trailer was not a commercial vehicle but a recreational vehicle. Mr. Yaremchuk inquired if it could be parked in the street. Mr. Covington stated it could be parked there as long as it were properly tagged. Mr. Yaremchuk inquired of Mr. Myers if the reason he had put the fence up was because of the trailer parked in the street. Mr. Myers stated the fence was constructed because of the pool that he intended to build.

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Ms. Ardis stated she was prepared to make a motion to deny the variance because Mr. Myers had not demonstrated any hardship other than having to remove a section of the fence.

Page 437, October 2, 1979 Board of Zoning Appeals
BRUCE D. MYERS

R E S O L U T I O N

In Application No. V-223-79 by BRUCE MYERS under Section 18-401 of the Zoning Ordinance to allow 6 ft. high fence in front yard (4 ft. maximum fence in front yard required by Sect. 10-105) on property located at 9915 Oleander Avenue, tax map reference 48-1((7))61, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolutions:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable ~~State~~ and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 2, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 14,972 sq. ft.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has not satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED.

Mr. Barnes seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 437, October 2, 1979, Executive Session

The Board adjourned into Executive Session to discuss legal matters with the Zoning Administrator and the County Attorney. At 2:20 P.M., the Board reconvened to continue with the scheduled agenda.

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Page 437, October 2, 1979

11:20 - CALVIN O. & LINDA S. COX, appl. under Sect. 18-401 of the Ord. to allow subd. into two lots, one of which would have width of 10 ft. and the other a width of 140.02 ft. (150 ft. min. lot width req. by Sect. 3-106), located 11273 Waples Mill Rd., 46-4((1))18, Centreville Dist., 2.7577 acres, R-1, V-226-79.

At the request of the applicant's agent, the application was deferred until October 23, 1979 at 12:30 P.M.

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Page 438, October 2, 1979, Scheduled case for

11:30 - ROBERT W. PETZOLD, appl. under Sect. 18-401 of the Ord. to allow
A.M. subd. into 2 lots, each having lot width of 80 ft. (100 ft. min.
lot width req. by Sect. 3-206), located 4612 Manor Dr., 101-3((1))44
Lee Dist., 48,316 sq. ft., R-2, V-227-79.

There was no one in the Board room when Chairman Smith called the application so the Board passed over it to be recalled later in the meeting.

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Page 438, October 2, 1979, Scheduled case for

11:40 - PETER BLOOM, appl. under Sect. 18-401 of the Ord. to allow con-
A.M. struction of addition to dwelling to 32 ft. from front lot line,
(32 ft. min. front yard req. by Sect. 3-207), located 2205 Glasgow
Rd., Hollin Hills Subd., 93-3((4))230, Mt. Vernon Dist., 17,929
sq. ft., R-2, V-228-79.

Mr. Peter Bloom of 2205 Glasgow Road in Alexandria informed the Board he was planning to build an addition to be used as an extra bedroom in the front of the house. The architect drew up the plans which called for the structure to be located 3 ft. into the required 35 ft. front setback. Mr. Bloom stated that his justification for the variance was that there wasn't any room in the rear of the property in which to build. He indicated that he was planning a family room to be constructed in the back yard. There is a workshop on the other side of the house. Mr. Bloom stated that his lot was irregularly shaped. His house is only 43 ft. from the front property line. The house is up on a hill so the addition should not impact on anyone. Mr. Bloom stated that he was seeking only a 3 ft. variance and asked the Board to grant the application.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 438, October 2, 1979

Board of Zoning Appeals

PETER BLOOM

R E S O L U T I O N

In Application No. V-228-79 by PETER BLOOM under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 32 ft. from front lot line (32 ft. minimum front yard required by Sect. 3-207) on property located at 2205 Glasgow Road, tax map reference 93-3((4))230, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 2, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 17,929 sq. ft.
4. That the applicant's property is exceptionally irregular in shape including pie-shaped and has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 439, October 2, 1979, Scheduled case for

11:50 - DANCE WORLD, appl. under Sect. 4-603 of the Ord. to permit private A.M. school of special education, located 7686 Richmond Highway, Mt. Vernon Plaza, 101-2((1))12A, Lee Dist., 23.65 acres, C-6, S-236-79.

Mr. William Naylor of 7761 Clifton Road in Fairfax represented the applicant. He stated that the application was for a school to teach ballroom dancing in a facility on the second floor of the Mt. Vernon Plaza Shopping Center. Chairman Smith inquired as to the size of the room involved. Mr. Naylor stated it would be 2,000 sq. ft. The hours of operation would be 10 A.M. to 10 P.M., six days a week. He indicated that there would not be any dancing on Sunday. Chairman Smith inquired as to the ages of the students or participants. Mr. Naylor stated they would be adults between the ages of 32 to 55 years. The school has a three year lease. When questioned by the Chairman as to the time limitations, Mr. Covington stated that as this was a heavy commercial area he did not see any reason to place a time limitation on the permit. Chairman Smith asked the applicant to provide the Board with a copy of the signed lease for the file.

There was no one to speak in favor of the application and no one to speak in opposition.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-236-79 by DANCE WORLD under Section 4-603 of the Fairfax County Zoning Ordinance to permit private school of special education on property located at 7686 Richmond Highway, tax map reference 101-2((1))12A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on October 2, 1979; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the applicant is the leasee.
- 2. That the present zoning is C-6.
- 3. That the area of occupancy is 4,800 sq. ft. within 23.65 acres.
- 4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in C Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
- 2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
- 3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without

this Board's approval, shall constitute a violation of the conditions of this Special Permit.

4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.

5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.

7. The hours of operation shall be 10 A.M. to 10 P.M., Monday through Saturday.

Mr. Yaremchuk seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 440, October 2, 1979, After Agenda Items

Elsie Leigh: Mr. Claibourne Leigh of 9601 Fernlee Drive in Richmond, Va. requested the Board to extend the expiration date for a variance granted to Elsie Leigh, V-6-78. After discussion, Mr. Yaremchuk moved that the Board extend V-6-78 for a period of one year. Mr. DiGiulian seconded the motion. The motion passed by a vote of 4 to 1 (Chairman Smith).

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Page 440, October 2, 1979, Scheduled case for

12:30 P.M. VICTORIA J. PRICE, appl. under Sect. 18-401 of the Ord. to allow four dogs on lot of 12,364 sq. ft. (12,500 sq. ft. min. req. for four dogs by Sect. 2-512), located 6101 Vista Dr., Parkhaven Subd., 61-2((15))28, Mason Dist., 12,364 sq. ft., R-3, V-142-79.

This application was deferred from September 18, 1979 because of a split vote of 2 to 2. The applicant had requested the absent Board member to listen to the tapes and review the file to participate in the decision.

Mr. DiGiulian informed the Board that he had listened to the tapes and was prepared to vote in the matter.

Page 440, October 2, 1979
VICTORIA J. PRICE

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-142-79 by VICTORIA J. PRICE under Section 18-401 of the Zoning Ordinance to permit four dogs on lot of 12,364 sq. ft. on property located at 6101 Vista Drive, tax map reference 61-2((15))28, County of Fairfax Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 18, 1979, and deferred for decision until October 2, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 12,364 sq. ft.
4. That the applicant's property is 136 sq. ft. smaller than the subdivision average.

AND, WHEREAS, the Board of Zoning Appeals had reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

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R E S O L U T I O N

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NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This variance is limited to the four dogs on the subject property at the present time. No dogs acquired in the future are to be included in this variance.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 2 (Mr. Smith & Mr. Yaremchuk).

Page 441, October 2, 1979, After Agenda Items

Temple Baptist Church: Pastor David Barton appeared before the Board to present revised site plans changing the design of the proposed structure. After review of the plans, Mr. DiGiulian moved the Board to ~~accept the revised~~ site plans in substitution for the originally approved plats. Mr. Yaremchuk seconded the motion. The motion passed by a unanimous vote of 5 to 0.

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Page 441, October 2, 1979, After Agenda Items

Mt. Pleasant Baptist Church: The Board requested the status of the two week emergency extension for the Mt. Pleasant Baptist Church. The Clerk informed the Chairman that a written report had not been received from the church. She was instructed to contact them.

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Page 441, October 2, 1979, Recessed case of

11:30 P.M. ROBERT W. PETZOLD, appl. under Sect. 18-401 of the Ord. to allow subd. into 2 lots, each having lot width of 180 ft. (100 ft. min. lot width req. by Sect. 3-206), located 4612 Manor Dr., 101-3(1)44 Lee Dist., 48,316 sq. ft., R-2, V-227-79.

AT 3:00 P.M., the Chairman called the recessed case of Robert Petzold. There was no one in the room to present the application. The Board deferred the application until October 30, 1979 at 8:50 P.M. and instructed the Clerk to inform the applicant to be present or the case would be dismissed for lack of interest.

// There being no further business, the Board ajourned at 3:05 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: _____
Date

Submitted to the Board on _____
Submitted to the other departments,
Board of Supervisors and Planning
Commission on _____

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, October 16, 1979. The following Board Members were present: Daniel Smith, Chairman; George Barnes and Barbara Ardis. (Mr. John DiGiulian and Mr. John Yaremchuk were absent.)

The Chairman opened the meeting at 10:30 A.M. led with a prayer by Mr. Barnes. He then informed all applicants that the Board was operating with only three members and that it would take a unanimous vote in order to affirm any motion. He stated that if anyone wished to have their case deferred until a later date, they could request it of the Chairman. He further informed the applicants that should a vote result in a 2 to 1 vote, the Board would try to have the absent members participate in the vote.

The Chairman called the scheduled 10 o'clock case of:

10:00 RICHARD L. & MARY M. WEAVER, appl. under Sect. 18-401 of the Ord.
A.M. to allow construction of porch addition to dwelling to 22 ft. from front lot line (25 ft. front yard req. by Sect. 3-207), located 1358 Macbeth St., McLean Hamlet Subd., 29-2((3))375, Dranesville Dist., 12,272 sq. ft., R-2(C), V-221-79.

Mrs. Mary Weaver of 1358 Macbeth Street appeared before the Board to request a variance in order to build a screened porch onto the end of her house. She stated that it was compatible with the neighborhood because the other houses have porches. The builder had not constructed a porch onto her house. She stated her house would be more compatible if the porch were built. She informed the Board that her house was constructed in the federal style and that the porch would be the same size and shape as the garage which would make the structure symmetrical. The porch would extend into the front corner of the setback requirement. Mrs. Weaver stated that she has a corner lot. The house is situated diagonally so that the corners are closer to the sides than the front door. She indicated that there was no other location on the lot to add the porch that would still keep within the setback. She reminded the Board that only a corner of the porch would extend into the setback and not the entire wall. It would be a maximum of 3 ft. into the setback. She stated that her house sits up on a hill and would not be noticeable that much. It would be a screened porch and would be an open structure. She indicated that the porch would improve the house and improve the liveability of the house and would increase the value of the property. Mrs. Weaver stated that the addition would be an asset to the community.

Chairman Smith inquired as to why the porch was 13 ft. wide. Mrs. Weaver stated that the garage was 13 ft. on the other end of the house and that the other porches in the area are 13 ft. wide. Chairman Smith stated that in seeking a variance, only a minimum amount could be given. He stated that a 12 ft. porch would be a good size. Mr. Barnes stated that the plat indicated the garage was 12.5 ft. wide.

There was no one to speak in support of the application and no one to speak in opposition.

Page #42, October 16, 1979 Board of Zoning Appeals
RICHARD L. & MARY M. WEAVER

R E S O L U T I O N

Ms. Ardis moved the Board to adopt the standard resolution granting the variance as requested. Mr. Barnes seconded the motion. Chairman Smith indicated that he could not support the motion for a 13 ft. porch but could support a 12 ft. porch in order to balance out the house. He indicated that the absent Board members could participate in the decision if the applicant desired. Mrs. Weaver inquired if it was possible to compromise and have a 12.5 ft. porch since the garage was actually 12. ft. wide. This way the addition would be exactly the same dimension. Chairman Smith stated that he would support the compromise against his better judgment.

Ms. Ardis moved to amend her motion as follows:

A M E N D E D R E S O L U T I O N

In Application No. V-221-79 by RICHARD L. & MARY M. WEAVER under Section 18-401 of the Zoning Ordinance to allow construction of porch addition to dwelling to 22 ft. from front lot line on property located at 1358 Macbeth

A M E N D E D R E S O L U T I O N

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Street, tax map reference 29-2((3))375, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 16, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-2(C).
3. The area of the lot is 12,272 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED IN PART *(to allow construction of porch addition to dwelling to 22.5 ft. from front lot line) with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 0 (Messrs. DiGiulian and Yaremchuk being absent).

Page 443, October 16, 1979, Scheduled case of

10:10 A.M. LOUIS L. ODDENINO, appl. under Sect. 18-401 of the Ord. to allow subd. into two lots of which one has a proposed width of 11 ft. and the other a width of 65.26 ft. (80 ft. min. lot width req. by Sect. 30-306), located 6058 Munson Hill, Munson Hill Subd., 51-4((3))45, Mason Dist., 33,290 sq. ft., R-3, V-225-79.

Mr. Michael Oddenino of 2198 White Corner Lane in Reston represented Mr. Louis Oddenino, his father. He indicated that this was a variance to the lot width requirements. His parents reside at 6059 Munson Hill Road. Mr. Oddenino stated that this was the only method in which the lot could be subdivided. The property is irregular shaped. It is very long and becomes wider as it stretches away from the road. It is for that reason that the variance was being requested.

Mr. Oddenino stated that the variance would not affect the character of the neighborhood. He stated that his parents had no immediate plans either to build or sell the land. They are only attempting to get the variance granted so at such time in the future they could do something with the property. He indicated that this would not set a precedent in the area as this was the only lot in the area that could accomodate a subdivision. Mr. Oddenino stated that he believed some of the neighbors were in opposition to the variance request but he did not know what their concerns were. Chairman Smith advised him he would have an opportunity to rebutt any statements made in opposition. Chairman Smith inquired as to how long Mr. Oddenino's parents had lived there. He stated that they have lived in the same house for 25 years.

There was no one to speak in favor of the application. The following persons spoke in opposition. Mr. Thomas B. Rogers of 6051 Munson Hill Road stated he had a petition signed by 18 property owners in the area. Mr. Rogers was con-

cerned about the Board granting a variance when the applicant was not sure about the future of the property. He indicated that based on that remark, the Board should recommend that the applicant come back when he had determined exactly what he planned to do with the property.

Mr. Barnes inquired as to where Mr. Rogers lived. He indicated that he lived one lot away from the Oddenino property. Mr. Rogers stated that he was concerned about a density problem in the future. He stated that this variance would border on neighbors who were quite elderly and that it would cause an undue hardship. There would be traffic and driveways adjoining the present driveways. He indicated that he was speaking on their behalf. He stated that they were not able to appear at the hearing because they were elderly and that it would cause a hardship on them. Mr. Rogers informed the Board that they were not unneighborly. Most of the neighbors know that this is the only lot in the area that could accommodate a subdivision. The property is zoned R-3 and they could put three houses there if there was enough property to do so. However, they are in opposition. He indicated that in all fairness when the applicants decided exactly what to do with the property, they should file an application at that time.

Ms. Ardis inquired as to how large Mr. Rogers' property was. He stated that he did not bring any statistics with him to the hearing. Chairman Smith stated that it appeared from the map that Mr. Rogers had about 12 to 18,000 sq. ft. The minimum for the zone was 10,500 sq. ft. Chairman Smith stated that the applicant's property did appear to be the only lot large enough to accommodate a subdivision into two lots. Mr. Rogers stated that the only thing that bothered him was that the applicants did not have a plan for the property at this time.

There was no one else to speak in opposition.

During rebuttal, Mr. Oddenino stated that he was not sure what the opposition was. He stated that he believed Mr. Rogers had initiated the petition in opposition. He stated that none of the adjoining property owners had shown up at the hearing to oppose the variance. He indicated that he did not believe opposition to a variance was sufficient to deny it when the application meets all other zoning requirements. He asked the Board for their favorable consideration.

Chairman Smith stated that one adjoining property had signed the petition in opposition. Owners of 6060 and 6062 signed the petition. They were property owners on both sides of the subject property. Mr. Oddenino stated that any opposition was just based on imagination.

Ms. Ardis stated that the question arises as to what exactly is the hardship that exists now if the applicants do not have any immediate plans. Mr. Oddenino stated that if the variance were granted then his parents would have the option of building another house. He indicated that this property was their financial security for the future. They would have an additional lot at their disposal should they desire to sell it in the future. Mr. Oddenino stated that his father was self-employed and did not have a healthy pension to look forward to in the future. The only thing they have is the land which is their pension. He stated that his parents can't make any plans for the future until the variance is granted. That's the reason they did not have any concrete plans at the moment.

Chairman Smith inquired if the applicant would like to have this matter deferred until the other Board members were present. Mr. Oddenino indicated that he would. Ms. Ardis stated that it might be helpful to the Board if there were some specific plan offered to the Board as to the use of the land. Mr. Oddenino stated that the plan for the future would be to subdivide it or sell the land to someone else to build or build a new house and rent the one in the rear or to build a new house and sell both houses. Ms. Ardis stated that the application seemed to be premature. She indicated that she did not believe there was any hardship if there was no specific plan to use the lot. Mr. Oddenino stated that the hardship was that his parents could not formulate any plans until they got the variance granted. Chairman Smith reminded the applicant that if the variance were granted, the subdivision must be recorded within one year. Mr. Oddenino stated that the plan would be to build a house or to sell the land within that year. Chairman Smith stated that what they do with the property once they formulate plans was up to the applicant and his parents.

The Board deferred this matter until November 13, 1979 at 11:40 A.M. for decision and any written testimony.

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Page 445, October 16, 1979, Scheduled case for

10:20 MAURICE P. BART, appl. under Sect. 18-401 of the Ord. to allow
A.M. subd. into 5 lots having widths ranging from 62.76 ft. to 75.43 ft.
(100 ft. min. lot width req. by Sect. 3-206), located at 5000
Bellerive Terrace, 110-4((1))11, Mt. Vernon Dist., 5.9909 acres,
R-2, V-230-79.

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Mr. Robert Needham of Rt. 1, Box 149B in Warrenton, Va. represented the applicant. He stated that they were requesting a variance of the lot width for 5 lots as they wish to subdivide the land. There is an existing street called Bellerive Terrace. They were proposing a cul-de-sac at the present time. Mr. Needham stated that there was a temporary cul-de-sac in front of lot 26. He indicated that they were trying to preserve the land without doing extensive grading or landscaping. He indicated that this could be accomplished by pulling the cul-de-sac back. If the cul-de-sac were extended, the applicant could get the required frontage but then it would be 10 ft. up above ground and would require extensive grading. The lots all have well over the minimum zoning requirement for lot area. The property is zoned R-2 and requires a minimum of 15,000 sq. ft. All of the proposed lots are about 30,000 sq. ft. The lot lines are also positioned in such a manner as to preserve trees.

Mr. Needham stated that there were excellent building sites here without having to do a lot of grading. The houses would be well back on the lots. Chairman Smith inquired as to how long the applicant had owned the property. It was stated that Mr. Bart had owned the property for 14 years. Chairman Smith inquired if Mr. Needham had a contract to purchase the property and he replied he did not. Chairman Smith inquired if Mr. Bart had a contract to sell the property and Mr. Needham stated he did not.

There was no one to speak in favor of the application and no one to speak in opposition. Chairman Smith stated that this application might be one that the Board wished to defer for decision of the full Board. Mr. Bart informed the Board that he was trying to put this property into shape to preserve the natural environment to the maximum extent possible. He indicated that he had lived here for many years. He stated that he felt it was his duty not to let any land go without preserving it. He informed the Board that the deferral would not pose any problem for him. He stated that his engineers have tried to shift the cul-de-sac but any shift would be a severe intrusion and it would cause severe drainage problems.

This matter was deferred until November 20, 1979 at 10:00 A.M. for decision of the full Board.

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Page 445, October 16, 1979, Scheduled case for

10:30 LUIS GUINOT, JR., appl. under Sect. 18-401 of the Ord. to allow
A.M. construction of detached garage 7 ft. from side lot line (20 ft.
min. side yard req. by Sect. 3-107), located 7366 Clifton Rd.,
86-1((5))8, Springfield Dist., 1.886 acres, R-2, V-231-79.

Mr. Luis Guinot, Jr. of 7366 Clifton Road stated he had applied for a variance to allow him to build a garage on his property. He indicated that the area around him where he lived was rural in nature. The lots are all 2 acres in size and as such, the houses are not too close together. There is no density as such. Mr. Guinot stated that his property was irregularly shaped being trapezoid. He indicated that his house was placed in such a manner that it was located in the narrowest part of the property. Therefore, it would not allow him any room to the left or right of the house. Mr. Guinot stated that he had a need for a garage and that there was no other location available on his lot. He indicated that the garage that he was proposing to build would be identical to the house architectually. He further stated that the garage would not be too close to his house or to his neighbors. It would be placed along his neighbor's long driveway but it would not be too close to his house. Mr. Guinot stated that the hardship that he has is that he needs a garage. Strict adherence of the Code would deprive him of reasonable use of his land. He stated that his property was unusually configured. He indicated that the granting of the variance would not have an adverse effect on the land or his neighbors and that it would increase the property value.

Chairman Smith informed the Board that there was a problem on the notification letters as the applicant did not notify one property owner. Ms. Ardis stated that Mr. Guinot had presented a signed statement from that property owner waiving his notification right. Chairman Smith stated that the statement was not notarized and he could not accept it. Mr. Guinot stated that he had no knowledge that he needed a notarized statement. Chairman Smith stated that he

Page 446, October 16, 1979
 LUIS GUINOT, JR.
 (continued)

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would not accept the statement unless it was notarized. He further indicated that perhaps the Board should defer this application for decision of the full Board and also have the applicant provide a notarized statement. Chairman Smith stated he could not support the variance request because the applicant was seeking a 13 ft. variance.

There was no one to speak in favor of the application and no one to speak in opposition. The Board deferred decision until November 13, 1979 at 11:50 A.M. and for a notarized statement and any additional written testimony.

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Page 446, October 16, 1979, Scheduled case for

10:50 A.M. ARTHUR T. & BETTY McCLINTON, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 33.6 ft. from front lot line (40 ft. min. front yard req. by Sect. 3-107), located 3808 Woodburn Rd., 59-3((5))4, Providence Dist., 22,025 sq. ft., R-1, V-232-79.

Mr. Arthur McClinton of 3808 Woodburn Road in Annandale stated he was requesting a zoning variance based upon hardship due to the shape of his lot and the location of the house and the extreme slope from the front of the property to the back of the lot. He indicated that the only feasible location for the garage would be to place it in the front of the lot. Mr. McClinton stated that his home was a rambler. The back of the house was an additional 8 ft. down from the front. The property is zoned R-1. The land is pie-shaped. He stated that his property was 350 ft. deep but was only 23 ft. wide at the back. Mr. McClinton stated that he had drawn plans for building the garage at the back of the house. The garage would have to be offset and would cause him to lose the orchard in his back yard. In addition, the 20 ft. grading would make it very difficult in winter months to drive back there. Therefore, Mr. McClinton stated he decided to extend the l-shaped house towards the road. The property across the street is zoned R-2. He stated that he contacted his neighbors and they did not have any complaints about his plans. Mr. McClinton showed the Board pictures of the lay of his land.

Ms. Ardis inquired as to the material the garage would be made of. Mr. McClinton stated he would use the same brick and the same windows as the house. The entrance would be from the left side as you face the house. It would be left of the patio. The garage would have two windows. Chairman Smith inquired as to why the garage could not be placed to the left of the house. Mr. McClinton stated at that location it would block the picture window to the kitchen and the layout of the land would prevent it. He indicated that the only level spot was in the front yard where he decided to place the garage. In addition, if the garage was placed next to the house, it would block the entrance to the house.

There was no one to speak in favor of the application and no one to speak in opposition.

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 ARTHUR T. & BETTY McCLINTON

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-232-79 by ARTHUR T. & BETTY McCLINTON under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 33.6 ft. from front lot line (40 ft. minimum front yard required by Sect. 3-107) on property located at 3808 Woodburn Road, tax map reference 59-3((5))4, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 16, 1979; and

WHEREAS, the Board has made the following findings of fact:

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1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 22,025 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow and has topographic problems.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 0 (Messrs. DiGiulian and Yaremchuk being absent).

Page 447, October 16, 1979, Scheduled case for

11:00 FREDERICK H. MENNING, JR., appl. under Sect. 18-401 of the Ord. to
A.M. allow construction of a garage storage building to 6 ft. from a side lot line (12 ft. min. side yard req. by Sect. 3-307), located 1213 Falster Ct., Collingwood Estates Subd., 102-4((10))12, Mt. Vernon Dist., 17,310 sq. ft., R-3, V-235-79.

The Board was in receipt of a letter from the applicant asking for withdrawal of the application. Mr. Barnes moved that the Board allow the application to be withdrawn without prejudice. Ms. Ardis seconded the motion. The motion passed by a vote of 3 to 0 (Messrs. DiGiulian and Yaremchuk being absent).

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Page 447, October 16, 1979, Scheduled case for

11:10 WINIFRED W. MAUSER & MARY L. SEIBERT, appl. under Sect. 18-401 of
A.M. the Ord. to allow 6 ft. high fence to remain in front yard (4 ft. max. height req. by Sect. 10-105), located 7625 Webbwood Ct., North Springfield Subd., 79-2((2))(65)10G, Annandale Dist., 13,282 sq. ft., R-3, V-239-79.

Ms. Mary Seibert of 7625 Webbwood Court informed the Board that a fence had been erected around their property and along the side of the property next to the street. She stated that they erected a 6 ft. wooden stockade fence in order to enhance the property and to protect the neighbors. Ms. Seibert told the Board that they have three dogs and had just moved into the neighborhood three months ago. She stated that the dogs can jump over a 4 ft. fence. There is a dog door on the house since they work long and irregular hours and the dogs need to get out. Ms. Seibert informed the Board that they checked with several of the neighbors before constructing the fence and they received a favorable response. Ms. Seibert stated that when they bought the house, they were not aware of the covenants. They received them from the neighbors after moving in. She stated that they were told from the neighbors that the fence was pleasing. The property had been overgrown and you could not walk down the sidewalk when they first purchased the house. Ms. Seibert stated that their lot was a corner lot and was the bus stop for the local children. She stated that she was concerned about the children and the dogs and that was a reason for constructing the fence. Ms. Seibert stated that the file contained a letter from the North Springfield Civic Association which they were not aware of. Ms. Seibert stated that she had contacted Steve Reynolds from Design Review to determine a formula for site distance for traffic. She stated that it was determined that if the fence were moved back

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 WINIFRED W. MAUSER & MARY L. SEIBERT
 (continued)

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8 ft., the problem with site distance would be removed. She stated that she wants to be good neighbors and stated that this was the first home she has ever owned in her life. She indicated that she was not aware that corner lots have two front yards. She stated that to remove the fence entirely would be bad for the neighbors. She indicated that she needs a closed fence and a 6 ft. fence to insure that children are not hurt by the dogs or that they do not hurt the dogs. She stated that they do not have any exit from their house except the back door located on the side of the house. The fence has to be located in this area.

Chairman Smith inquired as to who erected the fence. Ms. Seibert stated that the Quality Way Fence Co. put up the fence. Chairman Smith stated that he would like to determine if the company had a home improvement license. Mr. Covington informed the Board that since a fence is not a structure, no building permit was required. Chairman Smith stated that there should be some thought about the home improvement contractor's license. He indicated that it was the thought originally that some type of bonding be required so that a homeowner would have some kind of recourse. He indicated that these fence companies have to know that they are in violation of the County. Mr. Barnes stated that the average homeowner would not know the County Ordinance. Chairman Smith stated that the Board would like to have a copy of the contract with the fence company and asked the staff to check to see if the fence company had a home improvement license. Chairman Smith stated that the Board has to stop this as there have been several variances applied for which were not the fault of the applicant.

There was no one to speak in favor of the application. The following persons spoke in opposition to the variance. Ms. Betty Sear stated that she lived on the street behind the subject property. She indicated that she had several points about the fence. First, the fence was illegal. It was against the covenants and the County Ordinance. It was an eyesore. It destroys the character of the neighborhood. She stated that it was a traffic hazard and a health hazard. She indicated that she had almost hit a boy on a bicycle because of the fence. Ms. Sear stated that the fence was a public nuisance and a hardship. She informed the Board that this corner was the local bus-stop and that parents could not see their children standing there because of the fence. She stated that if an accident occurred there, there would be lawsuits involving the community. She stated that it was hard for the civic association to inform anyone of restrictions when they were not aware of when anyone was planning to build. She presented the Board with pictures of the fence and a letter from another woman who had almost hit cars a number of times because of the fence. She stated that the pictures were taken from Long Pine Drive which was the main drive through the community. She stated that the pictures show very clearly that you cannot see at that intersection. In addition, she presented the Board with the covenants of the community.

Chairman Smith informed Ms. Sear that the covenants were a civil matter and not a part of the Board's decision. He stated that they would be taken into consideration but that they were not a major factor.

Mr. Ron Sear, the husband of the previous speaker, read a letter to the Board from the civic association. The next speaker was Mr. Nicholas Gregorio of 7629 Long Pine Drive. He stated that he was speaking on behalf of his wife and a number of other residents in the area. He stated that he was sympathetic with the problem of the animals. He further indicated that he agreed with all of the points raised in opposition up to this point. He informed the Board that there have been three minor accidents at this intersection. He stated that perhaps the erection of the fence was not a contributing factor but anything that could create a hazard could impact on the traffic. He indicated that he did not want any recurrence of the accidents. The second concern was one of the appearance of the fence. He stated that the fence could not be considered an attractive addition. He indicated that it belongs in a rustic setting and was totally inappropriate for this area. He stated that prior to the erection of the fence, there was a nice view. He stated that the stockade fence was not attractive. He stated that Ms. Seibert had remarked that no one had approached them about the fence. Mr. Gregorio stated the fence was erected in a hurry. He indicated that he saw it being constructed when he was on his way to work and that when he came home that night, the fence was up. He stated that had he known it was going to be a 6 ft. fence, he would have advised her it was not allowed.

The next speaker in opposition was James E. Bruns of 7629 Webbwood Court. He stated he had lived there for 17 years. He stated that no one to his knowledge had ever violated the covenants before. He stated that if the Board looked at the fence from his front door, they would see it was definitely a traffic hazard. Mr. Bruns stated that this fence was setting a precedent and indicated that the Board should not allow the covenants to be violated. Chairman Smith reminded Mr. Bruns that the covenants were a civil matter and indicated that the Board was only concerned with the hardship of the variance. He stated that any civil action would have to be handled by the community civic association or the homeowners in the area. Chairman Smith stated that the Board has received letters in opposition from Mr. Gould and Mr. Barthol.

During rebuttal, Ms. Seibert stated that Mr. Sear had brought up the question as to why there was a chain link fence around part of the property and not all the way around. She stated that they had decided to only take care of the street side. She further stated that as she read the covenants, they were not in violation of the covenants because the fence was a solid fence. She stated that they have measured the fence and if it were moved back 8 ft. it would eliminate the site distance problem. Ms. Seibert stated that they were concerned about cutting off the fence 2 ft. because of the safety of the children. Chairman Smith suggested then that perhaps the dogs should not be so close to the sidewalk. Ms. Seibert stated that the fence could be moved back 8 ft. Chairman Smith stated that even moving the fence back 8 ft., the fence would still require a variance. He stated that he had not seen any hardship for granting the variance. He indicated that he would like to see the contract with the fence company and felt that the fence company should move the fence. Chairman Smith stated that he did not question the applicant's wisdom as to a chain link fence or a solid fence. He indicated that the Board was only concerned about the violation of the County Code. He indicated that he would like to see something happen to correct the hazard that now exists. He stated that he had no problem with acting on the application but wanted to bring about some corrections so as not to have the problems in the future.

This matter was deferred until November 6, 1979 at 12:30 P.M. for decision of the full Board and for a copy of the contract with the fence company.

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Page 449, October 16, 1979, Subpoena

Chairman Smith requested the staff to subpoena Quality Way Fence Company and have them appear on November 6, 1979 to discuss the problem of Ms. Seibert's fence.

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Page 449, October 16, 1979, Scheduled case for

11:20 A.M. SCANLIN FARMS, INC., appl. under Sect. 3-103 of the Ord. to permit continuation of previously granted special permit for riding school and boarding stables with change in name of permittee, change in hours of operation to 7 A.M. to 10:00 P.M., seven days a week, and for a new term of years as allowed by Ord., located 8907 Richmond Highway, 109-2((1))2, Mt. Vernon Dist., 54+ acres, R-1, S-234-79.

As the required notices were not in order, the Board deferred the application until November 20, 1979 at 10:10 A.M.

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Page 449, October 16, 1979, Scheduled case for

11:30 A.M. MT. VERNON-LEE ENTERPRISES, INC., appl. under Sect. 3-202 of the Ord. to permit school of special education, located 5614 Old Mill Rd., 110-1((1))4B, Mt. Vernon Dist., 5.0029 acres, R-2, S-237-79.

As the required notices were not in order, the Board deferred this application until November 13, 1979 at 12:00 P.M.

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Page 450, October 16, 1979, Scheduled case for

11:40 MOUNT VERNON-LEE ENTERPRISES, INC., appl. under Sect. 3-403 of the
A.M. Ord. to permit renewal of special permit for school of special
education with increase in maximum number of students to 40,
located 6120 North Kings Highway, Penn-Daw Subd., 83-3((4))1, 2 & 3,
Lee Dist., 27,906 sq. ft., R-4, S-240-79.

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Mr. Joseph Hemelings, Director of Mount Vernon-Lee Enterprises, informed the Board that this was an application for a renewal of the special permit. He stated that this was the third year at the Calvary Presbyterian Church. The only change is the request for an increase in the number of students from 30 to 40. Mr. Hemelings stated that the school has plans to open another school and once it is open, they would split the enrollment. He indicated that they have about 28 people on the waiting list but that the school can't accept any new students until they get a new budget from the Services Board.

Chairman Smith inquired if the hours would be the same. Mr. Hemelings stated that the school operates from 8 A.M. to 4:30 P.M., Monday through Friday. Chairman Smith inquired if the school was still using the parking on the Mt. Eagle School. Mr. Hemelings stated that they were. Chairman Smith inquired if more parking was needed. Mr. Hemelings stated that they would need two additional parking spaces. Chairman Smith inquired if they had a letter from the school allowing the use of two extra parking spaces. Mr. Hemelings stated that they had a continual parking arrangement with the school. Ms. Ardis inquired if the additional parking spaces would be on the property of the Mt. Eagle School and was told they would be. Ms. Ardis inquired if there would be additional employees. Mr. Hemelings stated they would have two additional employees which was why they needed two additional spaces.

There was no one to speak in favor of the application. Mr. Jim Lang of California represented his parents who lived next door to the subject property. He stated that two years ago at the Board hearing, the applicants had stated they would put up a privacy fence between the church and his parents property. Mr. Lang stated that a fence has never been constructed. In addition, they were asked not to unload students from School Street but on the property next door. Mr. Lang stated that the buses are unloading students on School Street. Chairman Smith stated there had been a lot of discussion at the last hearing about disembarking passengers in the street. He stated that the school had indicated at that hearing that the students would be let off the bus at the Mt. Eagle School. Chairman Smith inquired if these students were severely handicapped or retarded. Mr. Hemelings stated that most of the students are handicapped and need help to walk. He stated that the students can't walk by themselves. Chairman Smith inquired about the fence. Mr. Hemelings stated that there had been a discussion about the fence between the church and the people in the house; however, nothing had ever been resolved. Mr. Hemelings stated that he had never had any objection from the people about the fence. Chairman Smith inquired as to how much time the students spent outside. Mr. Hemelings stated that the students only pass by the house in the morning and in the afternoon. They are always under supervision both times.

Chairman Smith inquired of Mr. Lang if he was aware of any occurrences where the students destroyed the normal lifestyle of the community. Mr. Lang replied that before the school was there, there had been a day care center on the property which was very noisy. He stated that when the children were in the school singing, his parents' bedroom was only 20 ft. away. He indicated that when he was living at home, he had to sleep days and he was not able to sleep because of the children. Chairman Smith suggested that if Mr. Lang's parents have a problem with the noise, that they call the Zoning Enforcement Division and have the noise monitored. Chairman Smith further stated that until such time as there was a specific problem with the existing operation, the Board would allow the continued use since there has never been any problem.

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Board of Zoning Appeals

MOUNT VERNON-LEE ENTERPRISES, INC.

R E S O L U T I O N

Ms. Ardis made the following motion:

WHEREAS, Application No. S-240-79 by MOUNT VERNON-LEE ENTERPRISES, INC. under Section 3-403 of the Fairfax County Zoning Ordinance to permit renewal of special permit for school of special education with increase in maximum number of students to 40 on property located at 6120 North Kings Highway, tax map reference 83-3((4))1, 2 & 3, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

R E S O L U T I O N

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WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on October 16, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the lessee.
2. That the present zoning is R-4.
3. That the area of the lot is 27,906 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor-engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The number of memberships shall be 40.
8. The hours of operation shall be 8 A.M. to 4:30 P.M., Monday through Friday.
9. The number of parking spaces shall be ten (10) located on the Mt. Eagle School parking lot.
10. This permit is granted for a period of one (1) year with the Zoning Administrator authorized to grant two (2) one year extensions upon applicant presenting evidence of current lease on an annual basis to the Zoning Administrator prior to termination of the existing lease.
11. The number of employees shall be eleven (11).
12. This permit is subject to all provisions of S-228-78 not altered by this resolution.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 0 (Messrs. DiGiulian and Yaremchuk being absent).

Page 451, October 16, 1979, Scheduled case for

11:50 A.M. MICHAEL D. ROSEN, D.V.M., appl. under Sect. 4-803 of the Ord. to amend previously granted special permit for veterinary clinic (S-233-76) by eliminating limitation no. 6 which imposes a term of 5 years on the permit, located 7187 Lee Highway, 50-2((5))3& 4, Providence Dist., 3,085 sq. ft., C-8, S-238-79.

Mr. Michael Rosen of 9904 Hemlock Woods Lane in Burke informed the Board that he was requesting that the five year limitation on his special permit be removed. He stated that he desired to keep his practice at this location. He stated that he had proven that he could conduct his practice without any

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 MICHAEL D. ROSEN, D.V.M.
 (continued)

disturbance to the deli next door. He stated that he wanted to purchase the property and make some improvements. Mr. Rosen stated that he could not invest in the property if he could not continue to have his practice at this location.

Chairman Smith inquired about the lease. Mr. Rosen stated that he had two renewals with 5 year terms. Mr. Barnes stated that Mr. Rosen wanted to buy the property now. Chairman Smith stated that the Board would only be able to grant the use for a 15 year period and would have to consider any other action at a later date in time.

There was no one to speak in favor of the application and no one to speak in opposition. Chairman Smith informed the Board that there was a letter in the file from the owner of the deli. He stated that he was glad that Dr. Rosen had made a friend of the deliman and that they had become good neighbors.

Ms. Ardis suggested that the Board amend the original special permit to eliminate the condition no. 6 by adding the 15 year provision and by adding the stipulation that if Mr. Rosen purchases the property that the Board would consider an elimination of time after the 15 year period. She inquired as to the date of the lease. Mr. Rosen stated that it was dated October 1976. He stated that there was a copy of it in the file. Mr. Rosen had a question about the time limitation. Chairman Smith stated that if the applicant failed to pick up on one of his five year options, then the special permit was void. If he renewed the lease, the special permit was good for 15 years. If Dr. Rosen purchased the property, he could come back to the Board and ask for a removal of term at that time.

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 MICHAEL D. ROSEN, D.V.M.

Board of Zoning Appeals

R E S O L U T I O N

Ms. Ardis made the following motion:

WHEREAS, Application No. S-238-79 by MICHAEL D. ROSEN, D.V.M. under Section 4-803 of the Fairfax County Zoning Ordinance to amend previously granted special permit for veterinary clinic (S-233-76) by eliminating limitation no. 6 which imposes a term of 5 years on the permit, on property located at 7187 Lee Highway, tax map reference 50-2((5))3 & 4, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on October 16, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the lessee.
2. That the present zoning is C-8.
3. That the area of the lot is 3,085 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in C Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the Board of Zoning Appeals amend condition no. 6 of S-213-76 by imposing a new condition no. 6 that the use permit shall expire 15 years from the date of the original lease (expiration date to be September 30, 1991) and, further, that should the applicant purchase the property that the Board will reconsider the conditions upon application. All provisions of S-213-76 not altered by this resolution shall remain in effect.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 0 (Messrs. DiGiulian and Yaremchuk being absent).

12:00 P.M. DAVID C. MOLUMBY, appl. under Sect. 18-401 of the Ord. to allow subd. into 5 lots with proposed lots 4 & 5 each having width of 10 ft. (150 ft. min. lot width req. by Sect. 3-106), located 1451 Beulah Rd., 19-3(1)33, Dranesville Dist., 10.084 acres, R-1, V-212-79. (Deferred from September 18, 1979 for readvertisement).

Mr. William Donnelly of 4069 University Drive in Fairfax represented the applicant. He stated that this application was for a variance for a 5 lot subdivision with 2 pipestem lots. The property is located between Browns Mill Road and Beulah Road next to the Dulles Access Road. Mr. Donnelly informed the Board that the property had been deeded to Mr. Molumby in June. The staff report showed a different property owner.

Mr. Donnelly stated that the applicant was only proposing 5 lots and that all but one of the 5 lots would have at least 2 acres. He stated that they wanted the lots over 2 acres to allow the keeping of horses. Mr. Donnelly stated that the land does have a good deal of floodplain on it. He stated that in order to come up with a creative plan and to preserve the property, it was necessary to ask for two pipestem lots. He stated that the pipestem lots have to meet all other requirements of the Zoning Ordinance and fall under the Public Facilities Manual. Since it was subject to the Public Facilities Manual, the actual design and development of the lots would be subject to a later review by the subdivision process. Mr. Donnelly stated that this was a good use of the land as the property was only being developed at half the allowed density.

There was no one to speak in favor of the application. The following persons spoke in opposition. Mrs. Tomlinson of 1341 Beulah Road informed the Board she bought her house which was over 13 years old and spent over \$100,000 on it. She stated that when she purchased the house, she had been told that the lot next door could not be developed because of the floodplain. She stated that the creek that runs through the property has trees in there well over 100 years old. She stated she purchased her house because of this unique setting. She stated that an investigation into the pipestem lots would show them to be unsafe. Mrs. Tomlinson stated that the road is dangerous. She stated that there have been many accidents on the curves. She stated that 16 accidents had occurred in a one year period with over \$250 property damage. She stated that there had been many more accidents which were never reported. There have been accidents with personal injury. A lot of the cars have hit fixed objects such as the trees which are close to the road. She stated that she was aware that ice and snow contributed to these accidents but reminded the Board that the curve is dangerous.

The next speaker in opposition was Mr. Price Dole of 1459 Beulah Road. He stated that his property was adjacent to the subject property. He informed the Board that variances were allowed under the Ordinance for hardship cases. He stated that it was very hard for him to understand the hardship in this case when the applicant had just purchased the property and was aware of the lay of the land and the floodplain problems. He stated that the property could not be developed into 10 lots because there was not 1500 ft. of frontage on Beulah Road. Mr. Dole informed the Board he had purchased his property in 1968 when there was no lighting and no gutter or landscaping. He stated that he purchased his property with the understanding that the floodplain and frontage would be governed by the Ordinance. He stated that he was reluctant to see the Ordinance varied for commercial purposes. Mr. Dole stated that if the applicant was going to live on the property himself, the neighbors would welcome him. However, this was purely an investment idea. Mr. Dole stated that where the pipestem driveway are located on Beulah Road, there is a dangerous curve. In addition, there is a school bus stop located there. He stated that people have hit trees in the curve several times. He stated that this was a very dangerous place to have a pipestem driveway. Mr. Dole informed the Board that the Master Plan called for the subject property to be parkland which was really floodplain. He stated that when the last heavy storms came along, the property had been under water.

The next speaker in opposition was Pete Moran, a land surveyor. He stated that his opposition was strictly from an engineering standpoint. He stated that he had spoken to the applicant's engineer, Ken White to inquire as to how he could propose this development without having a true floodplain study conducted. Mr. Moran stated that he lived in this area and has been using Browns Mill Road for 15 years. He stated that the property could not be developed into 10 lots because of the floodplain.

The next speaker in opposition was Mr. Freemont Day. He stated that his address was 1550 Beulah Road. He informed the Board that he was now a farmer and has been a farmer all his life. He stated that he had farmed all of the adjacent land to the west of the property and to the south. He indicated that his forefathers had farmed this same land. He indicated that the big oak tree had 63 of his kinfolk buried there. He stated that his son farms with him and is the fifth generation to farm this land. He stated that he was a part of this community and has been so for many years. He stated that he was not against subdivisions as such. He stated that several years ago after the heavy burden of taxes, he had to sell half of his land in order to pay the taxes before the County forced the sale. He stated that he sold his land and had to pay \$235,000 in taxes. He stated that he was against this subdivision as he was very strongly involved in that land. He stated that he owned half of the land and owned half of the 10 acre subdivision. He indicated that there was an incorrect survey done of the property. Chairman Smith informed Mr. Day that any dispute on the boundaries was a civil matter. He indicated that the property had been surveyed by Ken White and that it was considered correct. Chairman Smith stated that the staff and the Board have accepted the plat. He stated if there was a question on the boundary lines that it was a civil matter. He indicated that the Board could not take that under consideration. Chairman Smith stated that if Mr. Day had information pertaining to the development, the Board would listen to that testimony.

During rebuttal, Mr. Donnelly stated that the applicant would be preserving the trees and the natural features of the property along Wolftrap Run. He indicated that they had not decided what form that would take. He did state that they had no intention of doing anything to the trees on the area. As far as aesthetics, when the neighbors look out their windows, they will see horses there as they do now. From a site distance standpoint, the engineer and the Department of Environment Management would be very much concerned with that aspect. He stated that they would have to get approval from the County staff. He indicated that he felt the site distance could be solved. He stated that they would not go into a lot of detail on it at this point. With respect to Mr. Day's comments about the driveway, Mr. Donnelly stated that Mr. Day lives next door and uses a driveway adjacent to the subject property so he could not understand the comments about the dangerous road problems. With respect to Mr. Moran's comments, Mr. Donnelly stated that if anyone should be familiar with the subdivision process it would be Mr. Moran. Mr. Donnelly stated that these details would have to be worked out later on. He stated that if there were an engineering problem that it was something to be worked out by DEM and the engineer later on. Mr. Donnelly stated that the real question was whether or not the pipestem lots should be granted. Mr. Donnelly stated that he did not want to get into a debate with Mr. Day as to who has title to the property.

Mr. Barnes stated that this application might be a good one to hold over for decision of the full Board. The Board deferred the application until November 20, 1979 at 10:20 A.M. for decision.

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Page 454, October 16, 1979, Recess

At 1:30 P.M., the Board recessed for a short break. At 1:55 P.M., the Board reconvened to continue with the scheduled agenda.

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Page 454, October 16, 1979, Scheduled case for

12:10 P.M. MARCIA M. MADDOX, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 15 ft. from front property line, (35 ft. min. front yard req. by Sect. 3-207), located 6109 Ramshorn Pl., Clearfield Manor Subd., 31-2((5))7, Dranesville Dist., 21,781 sq. ft., R-2, V-214-79. (Deferred from September 18, 1979 for readvertisement).

Mr. Nalassadi of N. Wakefield Street in Arlington represented the applicant. He informed the Board that the original application had indicated that the property was zoned R-1 when it was really zoned R-2. He stated that this application was to allow construction into the front setback. Mr. Nalassadi stated that the property was irregularly shaped being very narrow and very deep. There was an outlot along the side of the property.

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He indicated that he had designed the addition with the understanding that the side was a side yard rather than a front yard. He indicated that this was a corner lot. The rear yard has a large septic field which will not allow construction in the rear. ~~Mr. Nalassadi stated that the property slopes which creates another problem.~~ He stated that Mrs. Maddox was the only adult living in the house with her two daughters. She wants to be able to walk from her garage into the house for security reasons.

Mr. Barnes inquired as to the construction of the garage. Mr. Nalassadi stated it would be concrete block on a concrete slab. It would have a mansard roof with cedar shingles. Chairman Smith inquired as to the owner of the property. Mr. Nalassadi stated that Mrs. Maddox owns the property. He stated that the title was listed in the name of Mrs. McCaudle, Mrs. Maddox's mother. Chairman Smith inquired as to the outlet. Mr. Covington stated that the Zoning Administrator had ruled that since the outlet road served more than five lots, it would ~~make this a corner lot~~ making it have two front setbacks. Mr. Nalassadi stated that Mrs. Maddox had no other place on her property in which to construct the garage. Chairman Smith inquired if she had a garage at the present time. Mr. Nalassadi stated she did not. He stated that she had contacted all of the property owners and that one was at the hearing. Chairman Smith stated that 15 ft. away from the property line was not even one car length. He inquired if Mrs. Maddox lived on the property. Mrs. Maddox informed the Board that she did not live on the property at the present time. She stated that it would be impossible to live there during construction. She stated that she had lived on the property until the age of 15. When she married, she moved out of the house. Mrs. Maddox stated that she and her parents have fallen a number of times on the slope. She stated that she would like to put up a garage on the same level. She stated that at the moment, her family only consisted of herself and her two daughters. She indicated that she wanted the garage for safety reasons. Mr. Barnes inquired if the variance was only for a corner of the garage into the setback area. Chairman Smith stated that the whole garage needed a variance as it did not meet the 32 ft. setback.

Mr. Joe Gerling spoke in support of the application. He indicated that he lived next door to Mrs. Maddox's property. He stated that he did not see any problem with the construction of the garage. He stated that his lot was quite similar and has the same problems. Chairman Smith inquired if he lived on the outlet side or the other side and was told the other side. Chairman Smith informed Mr. Gerling that this would not affect him since he did not live on the outlet side.

There was no one else to speak in support and no one to speak in opposition to the application.

R E S O L U T I O N

In Application No. V-214-79 by MARCIA MADDOX under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 15 ft. from front property line (35 ft. minimum front yard required by Sect. 3-207) on property located at 6109 Ramshorn Place, tax map reference 31-2((5)) 7, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 21,781 sq. ft.
4. That the applicant's property is exceptionally irregular in shape including narrow and has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

R E S O L U T I O N

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THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 0 (Messrs. DiGiulian and Yaremchuk being absent).

Page 456, October 16, 1979, Scheduled case for

12:20 P.M. JAMES M. LEWIS, appl. under Sect. 18-401 of the Ord. to allow construction of addition to a house to 20.98 ft. from rear lot line & 8 ft. from side lot line (25 ft. min. rear & 10 ft. min. side yard req. by Sect. 3-407), located 6049 Woodmont Rd., Belle Haven Subd., 83-3((14))(1)23, Mt. Vernon Dist., 11,645 sq. ft., R-4, V-216-79.
(Deferred from 9/18/79 for readvertisement).

Mr. Robert Hallaman, an architect, represented the applicant. He stated that this application was to allow construction of a family room addition to the existing house. The house is already located 20.98 ft. from the rear lot line. The addition would be lined up with the rear wall of the existing house. This addition would allow the kitchen next to the proposed family room.

Mr. Hallaman stated that the variance was applied for only after numerous designs were made which did not require a variance. However, none of the designs would meet the owners requirements in joining the kitchen to the family room. The side yard variance is necessary because of two features: (1) to get the size room required on that side of the house, and (2) because the plans were in progress prior to the change in the Ordinance which increased the side yard setbacks. Mr. Hallaman informed the Board that the Lewises also own the lot adjacent to the lot line in which they are requesting the variance. The adjacent lot contains the play equipment for the children. Mr. Hallaman presented the Board with a letter in support of the application for a neighbor down the street from the Lewises.

There was no one to speak in support of the application and no one to speak in opposition.

Page 456, October 16, 1979
JAMES M. LEWIS

R E S O L U T I O N

In Application No. V-216-79 by JAMES M. & ELIZABETH L. LEWIS under Section 18-401 of the Zoning Ordinance to allow construction of addition to house to 20.98 ft. from rear lot line and 8 ft. from side lot line (25 ft. minimum rear yard and 10 ft. minimum side yard required by Sect. 3-407) on property located at 6049 Woodmont Road, tax map reference 83-3((14))(1)23, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 16, 1979, and deferred from September 18, 1979; and

R E S O L U T I O N

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WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-4.
3. The area of the lot is 11,645 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following climitations:

1. This approval is granted for the location and the specific structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 0 (Messrs. DiGiulian and Yaremchuk being absent).

Page 457, October 16, 1979, After Agenda Items

Ralph J. Reinecke: The Board was in receipt of a letter from Pacifulli, Simmons and Associates, requesting an extension of time on the variance granted to Ralph J. Reinecke, V-162-78. Ms. Ardis moved that the Board allow a six month extension. Mr. Barnes seconded the motion and the motion passed by a unanimous vote of 3 to 0 (Messrs. DiGiulian and Yaremchuk being absent).

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Page 457, October 16, 1979, After Agenda Items

Loyola Federal Savings & Loan, V-242-78 through V-254-78: The Board was in receipt of a letter from Mr. George F. Wirth, President of the 3-E Development Corp. requesting an extension on the variances granted to Loyola Federal Savings and Loan. It was the consensus of the Board members present that since the property had changed ownership, a request for extension would have to be considered by the full Board.

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Page 457, October 16, 1979, After Agenda Items

Mt. Pleasant Baptist Church: The Board was in receipt of a letter requesting another extension on the special permit granted to the Mt. Pleasant Baptist Church. Ms. Ardis moved that the Board grant a 60 day extension from the expiration date to allow the church the opportunity to get site plan approval. Mr. Barnes seconded the motion. The motion passed by a vote of 3 to 0 (Messrs. DiGiulian and Yaremchuk being absent).

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Page 457, October 16, 1979, After Agenda Items

The Board was in receipt of a letter from Mr. and Mrs. Herbert requesting an out-of-turn hearing on their variance application. The Board granted the request and scheduled the hearing for November 20, 1979 at 10:30 A.M.

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Page 458, October 16, 1979, After Agenda Items

Gerald Waldman: The Board was in receipt of a court order forwarded by Ed Finnegan of the County Attorney's Office regarding a reconsideration hearing of the Gerald Waldman variance. After review of the order, the Board scheduled the reconsideration hearing for November 20, 1979.

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Page 458, October 16, 1979, After Agenda Items

Martin Jarvis: The Board reviewed the Heiberg letter regarding the Martin Jarvis variance. The Board stated that the County Attorney's office should review the letter.

// There being no further business, the Board adjourned at 2:45 P.M. without lunch.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: _____
Date

Submitted to the Board on _____.
Submitted to the other departments,
Board of Supervisors and Planning
Commission on _____.

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The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, October 23, 1979. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes; John Yaremchuk and Barbara Ardis.

The Chairman opened the meeting at 10:20 A.M. led with a prayer by Mr. Barnes.

The Chairman called the scheduled 10:00 A.M. case.

10:00 A.M. ERVINE C. & MARY SILER JOSEPH, appl. under Sect. 18-401 of the Ord. to allow enclosure of existing carport into garage to 7.7 ft. from side lot line (12 ft. min. side yqrd req. by Sect. 3-307), located 5418 Thetford Pl., Bush Hill Woods Subd., 81-2((7))139, Lee Dist., 16,086 sq. ft., R-3, V-243-79.

The required notices were in order. Mr. Ervine Joseph of 5418 Thetford Place in Alexandria stated that his carport was attached to the dwelling. It is only 7.7 ft. from the side property line. Mr. Joseph stated that his property was located on a cul-de-sac and that the front of the property was very narrow which precludes him from building in compliance with the Code. He stated that he could not build the garage in any other location on the property because of the topography. Mr. Joseph stated he was only asking for permission to put up two walls and put up a garage door to make the conversion. He indicated that he did not believe that the conversion of the carport into a garage would change the aesthetics value of the community. In fact, he felt it would add to the community. In addition, the garage would help to conserve energy and heat the house. Mr. Joseph stated that his construction plans have been approved subject to the variance.

In response to questions from the Board, Mr. Joseph stated that he has owned the property for 2 1/2 years.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 459, October 23, 1979
ERVINE C. & MARY SILER JOSEPH

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-243-79 by ERVINE C. AND MARY SILER JOSEPH under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport into garage 7.7 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307) on property located at 5418 Thetford Place, tax map reference 81-2((7))139, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 23, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 16,086 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following findings conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

Page 460, October 23, 1979
 ERVINE C. & MARY SILER JOSEPH
 (continued)

Board of Zoning Appeals

R E S O L U T I O N

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1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Yaremchuk seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

 Page 460, October 23, 1979, Scheduled case for

10:10 KENNETH M. S. & MARY C. GILLESPIE, appl. under Sect. 18-401 of the
 A.M. Ord. to allow construction of free-standing garage to 6 ft. from
 side lot line (15 ft. min. side yard req. by Sect. 3-207), located
 7734 Schelhorn Dr., Hybla Valley Farms Subd., 102-1((7))(7)510,
 Mt. Vernon Dist., 30,316 sq. ft., R-2, V-244-79.

Mr. Kenneth Gillespie informed the Board that his property was zoned R-2. He stated that the photographs he had submitted would show that the property is irregularly shaped being triangular. He indicated that he was asking for a variance since he could not build anywhere else on his property because of flooding. By constructing the garage 6 ft. from the side lot line, it would allow access to the garage.

There was no one to speak in support of the application and no one to speak in opposition.

 Page 460, October 23, 1979

Board of Zoning Appeals

KENNETH M. S. & MARY C. GILLESPIE

R E S O L U T I O N

In Application No. V-244-79 by KENNETH M. S. & MARY C. GILLESPIE under Section 18-401 of the Zoning Ordinance to allow construction of free-standing garage to 6 ft. from side lot line (15 ft. minimum side yard requirement by Sect. 3-207) on property located at 7734 Shelhorn Drive, tax map reference 102-1((7))(7)510, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 23, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 30,316 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including long and narrow and has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

KENNETH M. S. & MARY C. GILLESPIE
(continued)

R E S O L U T I O N

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2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Ms. Ardis seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 461, October 23, 1979, Recess

The Board recessed the hearing at 10:30 and reconvened at 10:45 A.M. to continue with the scheduled agenda.

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Page 461, October 23, 1979, Scheduled case for

10:20 AMARJIT S. AULAKH, appl. under Sect. 18-401 of the Ord. to allow
A.M. resubdivision of 2 lots into 3 lots having a width of 76.08 ft.
each and the third lot having a width of 76.53 ft. (80 ft. min.
lot width req. by Sect. 3-306), located 2813 Mary St., Three M's
Subd., 49-2(11)6 & 7, Providence Dist., 43,907 sq. ft., R-3,
V-245-79.

Mr. Victor Ghent, an engineer in Annandale, represented the applicant. He informed the Board that the subject property was zoned R-3. He indicated that they were asking for a minimum variance to the lot width in order to have a 3 lot subdivision. He indicated that the 3 lots were above the minimum area required for the zone. He stated that this request should be compatible with the area.

In response to questions from the Board, Mr. Ghent stated that the applicant has owned the property only a few months. He indicated that Mr. Aulakh was a builder. Mr. Ghent stated that the lots across the street are part of the original subdivision being approximately 1/2 acre. Under the new Zoning Ordinance, the land was zoned R-3. There are townhouses located nearby.

Mr. Yaremchuk inquired as to the difference between a builder and a speculator. Mr. Ghent stated that in this case, it was a young builder trying to find a few lots to build on. He indicated that he was building for speculation. He stated that Mr. Aulakh was trying to get ahead.

Chairman Smith stated that the applicant could develop this into 2 lots and not need a variance. He stated that he had no quarrel with the builders or the speculators but informed Mr. Ghent that a variance could only be granted if there was a hardship. Chairman Smith stated that he had not heard any hardship other than financial. Mr. Ghent stated that the property is being developed way over the minimum lot area for the zone. He stated that he felt this was the best plan for development because of the surrounding commercial zoning and the townhouses. Mr. Ghent stated that public water and sewer was available.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 461, October 23, 1979
AMARJIT S. AULAKH

R E S O L U T I O N

In Application No. V-245-79 by AMARJIT S. AULAKH under Section 18-401 of the Zoning Ordinance to allow resubdivision of 2 lots into 3 lots having a width of 76.08 ft. each and the third lot having a width of 76.53 ft. (80 ft. minimum lot width required by Sect. 3-306) on property located at 2813 Mary Street, tax map reference 49-2(11)6 & 7, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with requirements of all applicable State and County Codes and with by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 23, 1979; and

R E S O L U T I O N

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WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 43,907 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless subdivision has been recorded among the land records of Fairfax County.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 462, October 23, 1979, Scheduled case for

10:30 A.M. YVONNE D. & EDWIN G. TAYLOR, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling to 9 ft. from one side lot line & 10 ft. from the other (15 ft. min. side yard req. by Sect. 3-207), located Braddock Avenue, Mt. Vernon Estates, 110-2((6))40 & 41, Mt. Vernon Dist., 7,810 sq. ft., R-2, V-248-79.

Mr. Edwin Taylor of Alexandria stated his property was only 71 ft. wide by 110 ft. deep. He stated that he wanted to build a house 40 ft. wide with a 12 ft. garage. This would locate the house 10 ft. on one side from the property line and 9 ft. on the other. Mr. Taylor stated that the lot was created several years ago before the new Ordinance. It is classified as sub-standard. It does not meet the setback requirements for the new Zoning Ordinance. Mr. Taylor stated that many of the houses in the area come within 10 or 11 ft. from the property line. He stated that he felt his request would be compatible with the area. In fact, he indicated that his house would add to the area.

In response to questions from the Board, Mr. Taylor stated he has owned the property since 1963.

There was no one to speak in support of the application and no one to speak in opposition.

Page 462, October 23, 1979
YVONNE D. & EDWIN G. TAYLOR

R E S O L U T I O N

In Application No. V-248-79 by YVONNE D. AND EDWIN G. TAYLOR under Section 18-401 of the Zoning Ordinance to allow construction of dwelling to 9 ft. from one side lot line and 10 ft. from the other (15 ft. minimum side yard required by Sect. 3-207) on property located at Braddock Avenue, tax map reference 110-2((6))40 & 41, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 23, 1979; and

R E S O L U T I O N

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WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 7,810 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow and is a substandard lot.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Yaremchuk seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 463, October 23, 1979, Scheduled case for

10:40 A.M. VICTOR O. MONDINO, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling 33 ft. from front property line and 15 ft. from side lot line (40 ft. min. front yard & 20 ft. min. side yard req. by Sect. 3-107), located 2159 Chain Bridge Rd., Old Courthouse Subd., 39-1((3))19A, Providence Dist., 21,000 sq. ft., R-1, V-249-79.

Mr. Victor Mondino of Falls Church stated he was requesting a variance of 7 ft. along the side lot line to build a house. He indicated that the topography and the grade of the property prevent compliance with the R-1 zoning.

Chairman Smith inquired as to why the applicant was requesting a variance under the hardship section. Mr. Mondino stated that his property was a corner lot having two front yard setbacks to be complied with under the zoning. He stated that his lot was only 100 ft. wide. In response to questions from the Board, Mr. Mondino stated that he has owned the property for 15 months. Mr. Yaremchuk inquired if the applicant was aware of the corner lot situation when he purchased the property. Mr. Covington told the Board that the lot was a substandard lot in both area and in width. It was created many years ago. Mr. Mondino informed Mr. Yaremchuk that he was not aware of the corner lot restrictions. He further stated that his real estate agent had told him he would be able to build the house. Chairman Smith inquired as to the size of the proposed dwelling. It was stated to be 300,000 sq. ft. Mr. Covington told the Board that it would be an improvement to the neighborhood and indicated that the neighbors might welcome it.

There was no one to speak in support of the application and no one to speak in opposition.

Page 463, October 23, 1979
VICTOR O. MONDINO

R E S O L U T I O N

In Application No. V-249-79 by VICTOR O. MONDINO under Section 18-401 of the Zoning Ordinance to allow construction of dwelling 33 ft. from front property line and 15 ft. from side lot line (40 ft. minimum front yard and 20 ft. minimum side yard required by Sect. 3-107) on property located at 2159 Chain Bridge Road, tax map reference 39-1((3))19A, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

R E S O L U T I O N

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 23, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 21,000 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, being narrow, a corner lot and is a substandard lot.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

 Page 464, October 23, 1979, Scheduled case for

10:50 A.M. MARCEL M. BARBIER, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 12 ft. from side lot line such that total side yard would be 27.9 ft. (12 ft. minimum but total of 40 ft. min. side yard required by Sect. 3-107), located 3003 Rayjohn Lane, Fox Mill Acres, 36-3((2))37, Centreville Dist., 22,581 sq. ft., R-1(C), V-250-79.

Mr. Marcel Barbier of 3003 Rayjohn Lane in Herndon informed the Board that his house does not have a garage. He stated that his cars are usually parked in the street in the front of the house or in the driveway. On two occasions, vandalism has occurred during the night. Mr. Barbier stated that he wished to construct a garage to prevent reoccurrences. He indicated that there was no other convenient location on this property for the construction of the garage. Chairman Smith informed Mr. Barbier that convenience was not a justification for granting a variance. He then inquired as to why it was not possible to build the garage anywhere else on the property. Mr. Barbier stated that his lot was not wide enough to build the garage and meet the 40 ft. setback required under the Ordinance. He indicated that he would need a variance of about 12 ft. in order to build the garage.

Mr. DiGiulian stated that it appeared from the plat that the location of the septic field and the tank and drainfield prevented the applicant from moving the garage back any further from the front property line. Mr. Yaremchuk stated that was the hardship.

There was no one to speak in favor of the application and no one to speak in opposition.

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R E S O L U T I O N

In Application No. V-250-79 by MARCEL M. BARBIER under Section 18-401 of the Zoning Ordinance to allow construction of a garage addition to dwelling to 12 ft. from side lot line such that total side yard would be 27.9 ft. (12 ft. minimum but total of 40 ft. minimum side yard required by Sect. 3-107) on property located at 3003 Rayjohn Lane, tax map reference 36-3((2))37, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-1(C).
3. The area of the lot is 22,581 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow and has an unusual condition in the location of the existing septic field on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith)

Page 465, October 23, 1979, Scheduled case for

11:00 JACK R. CHOCOLA, appl. under Sect. 18-401 of the Ord. to allow
A.M. subd. into 8 lots such that lot 3 would have width of 56 ft.,
lots 4 & 5 would have width of 6 ft. each and lot 6 would have
width of 140 ft. (200 ft. min. lot width req. by Sect. 3-E06),
located 9121 Maria Ave., 8-4((1))14, Dranesville Dist., 16.197
acres, R-E, V-251-79.

Mr. John Kinney, an attorney in Arlington, represented Mr. Chocola. He stated that this was a request for 8 lots located in the Great Falls area. He indicated that the property was very steep and does not go all the way back to the river. It does touch down at the stream bed according to Mr. Kinney. He indicated that the property was heavily wooded. Mr. Kinney stated that this request was not for a change in the number of lots. He stated that they had approval from Preliminary Engineering for the 8 lots. He stated that they were trying to create an atmosphere and save as many of the trees as possible to cut down on the erosion problem and to work out a plan where everything fits in. Mr. Kinney stated that there were a number of homes to the north of the property of a colonial nature and two homes to the north of a wood frame structure. Mr. Kinney stated that Mrs. Thorman lives nearby and plans to build a new home for herself on the property. Mr. Kinney stated that by granting the variance they would be saving the cutting of the right-of-way.

Mr. DiGiulian inquired if the applicant had stated that they had pre - subdivision approval. Mr. Paciulli of Paciulli, Simmons & Associates stated they did. Mr. DiGiulian inquired as to the location of the floodplain. Mr. Paciulli indicated that it was not shown on the plat as all of the lots were out of the floodplain area. Mr. Yaremchuk inquired as to the size of

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 JACK R. CHOCOLA
 (continued)

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the lots. Mr. Covington stated that there was a 2 acre minimum for the zone. Mr. Pacullli stated that the minimum land area required was 75,000 sq. ft. Mr. Covington stated that the lots meet the density for the zone.

Mr. Yaremchuk asked why there was a cul-de-sac rather than joining the road all the way through. Mr. Kinney stated that the County has a park there and that the road was basically a fire road. In response to questions from the Board about the hardship, Mr. Kinney stated that the steepness of the property was a major factor. Mr. Yaremchuk stated there would be environmental problems if they had to cut and fill that area. Mr. Kinney stated that the photographs in the file did not do justice to the beauty of the trees. The variance route would save about $\frac{1}{2}$ of the trees. Hopefully, it would also cut down on erosion.

Mrs. Chocola informed the Board that she had shown her neighbors a copy of the plat and they did not object to the variance. She presented the Board with letters in support of the variance.

There was no one to speak in support of the application. Mrs. Joan Griff of 9100 Deer Park Road spoke in opposition. She stated that she lived adjacent to the property. She stated that she was not an expert on zoning but it was quite clear that the density was close to the river. Mrs. Griff stated that this was a rural area and that it had always been understood that the land would remain 2 acre lots or greater. She stated that if the subdivision were allowed in order to save the trees, she was in favor of it. She stated she was opposed if it resulted in more density than allowed. She stated that if the Chocolas had enough land to put in a road and he put in the required number of lots, she was in favor of it. If not, then she was opposed. She stated that this property was next to a County Park and a State Park.

There was no one else to speak in opposition.

Mr. DiGiulian inquired of Mr. Simmons if he could get 8 lots under a standard subdivision. Mr. Simmons stated that they could. This plan just slightly rearranged the lots.

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 JACK R. CHOCOLA

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-251-79 by JACK R. CHOCOLA under Section 18-401 of the Zoning Ordinance to allow subdivision into 8 lots such that lot 3 would have width of 56 feet; lots 4 and 5 would have width of 6 feet each, lot 6 would have width of 140 feet (200 feet minimum lot width required by Sect. 3-E06) on property located at 9121 Maria Avenue, tax map reference 8-4((1))14, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 23, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 16.197 acres.
4. That the applicant's property has exceptional topographic problems.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is granted with the following limitations:

RESOLUTION

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1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless subdivision has been recorded among the land records of Fairfax County.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 467, October 23, 1979, Scheduled case for

11:10 MATTHEW N. & PATRICIA A. SMITH & ROBERT R. DE LUCA, appl. under
A.M. Sect. 18-401 of the Ord. for resubdivision into 5 lots such that
proposed lots 2, 3 & 4 each have width of 6 ft. (80 ft. min. lot
width req. by Sect. 3-306), located 7510 Masonville Dr., Providence
Dist., 60-1((1))22 & 23, 2.61+ acres, R-3, V-261-79.

Ms. Marilyn Moore of 9411-S Lee Highway in Fairfax represented the applicants. She stated that they were requesting a variance for lots 22 & 23 for property at 7510 Masonville Drive. Ms. Moore stated that the property was zoned R-3. She stated that a variance was needed in order to secure the subdivision of the property into 5 lots, 3 of which would be pipestem lots. The lot width for the pipestem lots would be 6 ft. each in lieu of the required 80 ft. She stated that the property is heavily treed. She indicated that the trees on the perimeter of the property would remain and that the bulk of the oak trees would remain also. Ms. Moore stated that the lots surpass the average minimum lot area required. She stated that the property is presently served by an access entrance. She stated that the entrance was identified as Rt. 917. Ms. Moore informed the Board that several improvements would have to be made to the road in order to meet State requirements. She submitted a letter to the Board from the Department of Transportation. The letter indicated that approval of the pipestem lots would be compatible with the Master Plan of the surrounding community.

Chairman Smith indicated that Mr. Robert DeLuca could not be an applicant to this variance request. Mr. Yaremchuk inquired as to why the applicant could not dedicate the street. Ms. Moore stated that dedication would be bleeding the property. She stated that in order to compensate for the street, they would have to squeeze 2 lots out of the property. Ms. Moore stated that they would like to maintain the property as natural as possible. She stated that in order to achieve a more creative plan, they have applied for pipestem lots. Mr. Yaremchuk stated that it bothered him that in the future, there would be 5 people petitioning the County to take care of the road because they would not want to maintain it any longer. Ms. Moore stated that the maintenance of the road was a contingency of the contract to purchase. Mr. Yaremchuk stated that the first owners would be aware of the contingency but that any other property owners would not be aware of that condition. He stated that would create a problem for the County. Mr. Moore informed the Board that she lived in a townhouse development and that they were responsible for 55 units. Mr. Yaremchuk stated that townhouses take after apartments and that they are not required to take a road into the state system. However, the Ordinance for this type of zoning requires dedication to provide a cul-de-sac. Mrs. Moore stated that there was a 6 ft. easement on either side of the pipestem lots. She indicated that they had met with Steve Reynolds of Preliminary Engineering and he had stated that it would be necessary to have a turn around for lots 2 and 3. She stated that it would be arched. Mr. Yaremchuk inquired as to what would prevent the applicant from building if they dedicated as it appeared they met all of the requirements. Ms. Moore stated that it would not be economically feasible as it would require guttering, etc. Mr. Yaremchuk informed Ms. Moore that economics do not enter into this. He stated that the people would have to pay as much for the lots regardless. Ms. Moore stated that his proposal would make it economically feasible for every lot. Mr. Yaremchuk stated that he could not see the hardship in this case. He stated that it appeared the only hardship was economics on the part of the applicant. He stated that he felt the applicant should dedicate and have access for the emergency vehicles. Ms. Moore stated that this was a private and did not meet the Director's requirements for pipestem development. She asked the Board to examine the photographs to see the natural features of the property that would be maintained by this variance.

The following persons spoke in favor of the application. Mr. Charles H. Mills stated that his property adjoined the subject property. He indicated that

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 MATTHEW N. & PATRICIA A. SMITH
 & ROBERT R. DE LUCA
 (continued)

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the property was wooded more like a wilderness. He stated that years ago when the area was small trees, they could take care of them. Mr. Mills stated that people do not take care of the property. He stated that he could not go out and cut his grass because of the snakes and ticks and gnats. Mr. Mills stated that he was very much in faovr of the development of the property because it would clean up the property. Mr. Mills stated that there were pipestem lots all over the County and he could not see how one more would make any difference.

Another speaker insupport of the application was Albert Rubenstein of 7500 Masonville Road. He stated that he lived on the corner of Arnold Lane and Masonville Road. He stated that the road goes right past his house. He stated that he has 80 ft. coming up this road. The property next to him was not a residence. He stated that was the only remaining property that could possibly be developed.

In summary, Ms. Moore stated that Rt. 971 has never been maintained by the State. She stated that the State would not address maintenance. She stated that they would be happy to upgrade that portion of the road in order to develop the property.

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 MATTHEW N. & PATRICIA A. SMITH
 & ROBERT R. DE LUCA

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-261-79 by MATTHEW N. & PATRICIA A. SMITH AND ROBERT R. DE LUCA, under Section 18-401 of the Zoning Ordinance to allow resubdivision into 5 lots such that the proposed lots 2, 3 & 4 each have width of 6 feet (80 feet minimum lot width required by Sect. 3-306) on property located at 7510 Masonville Drive, tax map reference 60-1((1))22 & 23, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 23, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 2.61+ acres.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has not satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED.

Mr. DiGiulian seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 468, October 23, 1979, Scheduled case for

11:20 MARY E. & FOSTER T. CARTER, appl. under Sect. 18-401 of the Ord.
 A.M. to allow enclosure & enlargement of existing screened porch to
 8 ft. from side lot line (10 ft. min. side yard req. by Sect.
 3-407), located 6831 Custis Pkwy., Greenway Down's Subd.,
 50-4((4))197, Providence Dist., 11,674 sq. ft., R-4, V-266-79.

Ms. Mary Carter of 6831 Custis Parkway in Falls Church told the Board that her home only has two bedrooms. She stated that she has 3 boys, ages 16, 10 & 8. Ms. Carter stated that they need the living space. She stated that plans were drawn up for the enlargement of the porch when the setback was only 8 ft.

When they came in to apply for a building permit, they were informed that the setback had changed from 8 ft. to 10 ft. For this reason, they were requesting a variance.

In response to questions from the Board, Ms. Carter stated that they have owned the property since June of 1978. There were no other questions from the Board.

There was no one to speak in support of the application and no one to speak in opposition.

R E S O L U T I O N

In Application No. V-266-79 by MARY E. & FOSTER T. CARTER under Section 18-401 of the Zoning Ordinance to allow enclosure and enlargement of existing screened porch to 8 ft. from side lot line (10 ft. minimum side yard required by Sect. 3-407) on property located at 6831 Custis Parkway, tax map reference 50-4((4))197, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public and a public hearing was held by the Board on October 23, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-4.
3. The area of the lot is 11,674 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow and has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

11:30 A.M. A & A HOMES, INC./KINGSTON CHASE HOMEOWNERS, ASSOC., appl. under Sect. 3-303 of the Ord. to permit community swimming pool and recreation area, located 10-2((4))C1 & 10-4((14))E1, Kingston Chase Subd., Dranesville Dist., 4.9207 acres, R-3, S-241-79.

There was a question regarding notification and a representation from the homeowners regarding the swimming pool. Mr. Freeland Young, an adjacent property owner informed the Board that he did not oppose the pool but felt there was not adequate screening.

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 A & A HOMES, INC./KINGSTON CHASE HOMEOWNERS, ASSOC.
 (continued)

The Board deferred this application until December 4, 1979 at 10:00 A.M. for notices and for written representation from the homeowners.

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Page 470, October 23, 1979, Scheduled case for

11:40 BURGUNDY FARM COUNTRY DAY SCHOOL, appl. under Sect. 8-301 of the
 A.M. Ord. to amend special permit S-111-79 to permit enclosure of
 lower level of multi-purpose building and increase authorized
 enrollment from 250 to 300 students, located 3700 Burgundy Rd.,
 82-2((1))5, 6 & 8, Lee Dist., 23.235 acres, R-4, S-242-79.

Mr. O. Douglas Adams, an attorney in Fairfax represented the applicant. Mr. Adams informed the Board that several months ago the school had requested a routine extension of their special permit. At that time, they were not aware that they would be coming back asking for an increase in the number of students for the summer program or that they would want to enclose the lower level for additional space. Mr. Adams informed the Board that the school has been operating for 30 years. He stated that the property is largely wooded. The main request is to increase the number of students from 250 to 300. The Director of the school was also present to answer any questions the Board might have.

There was no one to speak in support of the application and no one to speak in opposition.

Page 470, October 23, 1979 Board of Zoning Appeals
 BURGUNDY FARM COUNTRY DAY SCHOOL
 R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-242-79 by BURGUNDY FARM COUNTRY DAY SCHOOL under Section 8-301 of the Fairfax County Zoning Ordinance to amend special permit S-111-79 to permit enclosure of lower level of multi-purpose building and increase authorized enrollment from 250 to 300 students on property located at 3700 Burgundy Road, tax map reference 82-2((1))5, 6 & 8, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on October 23, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-4.
3. That the area of the lot is 23,235 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

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4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.

5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental management.

7. The maximum number of students shall be 300.

8. All other conditions of S-111-79 not affected by this resolution shall remain in effect.

Mr. DiGiulian seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 471, October 23, 1979, Recess

At 12:05 P.M., the Board recessed for lunch and for an executive session. The Board reconvened at 1:00 P.M. to take up the scheduled cases remaining on the agenda.

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Page 471, October 23, 1979, Scheduled case for

11:50 RITA POWELL & MARK A. JOHNSON, appl. under Sect. 3-103 of the Ord.
A.M. to permit kennel, located 33-4((1))9, Springfield Dist., 6.05 acres,
R-1, S-246-79.

Mr. Dan Shaner, an attorney, represented the applicants. He requested that the Board amend the application to reflect the addition of Dulles Gateway Kennels Limited. Chairman Smith inquired as to whether Mr. Shaner had the Articles of Incorporation to be submitted in the file if it were amended to a corporate name. Mr. Shaner submitted the articles and an affidavit prepared by Dr. Powell.

Ms. Ardis moved that the Board amend the application to include the Dulles Gateway Kennels, Ltd. Mr. Barnes seconded the motion and the motion passed by a vote of 5 to 0.

Mr. Shaner showed the Board an aerial photograph of the property. He stated that it would give the Board a full view of the site. He stated that this was an application for a kennel under ~~group six~~ of the special permit uses. Mr. Shaner stated that the applicants are Rita Powell and Mark Johnson as the contract purchasers for lot 9. The lessees are the people who will actually operate the use, that being Dulles Gateway Kennels, Ltd. comprised of Rita Powell, Mark Johnson and David Haygood. At present, Dr. Powell and Dr. Johnson operate the Fender Veterinary Clinic. It has been in operation for several years. The site is located on a 50 ft. private outlet road. It is accessed off of Lee Road. The property to the north of the subject site is within the Cub Run Stream Valley. Cub Run goes down to the back of the property along the western portion of the property. The stream valley is a part of the land belonging to the Park Authority.

Mr. Shaner informed the Board that the property is located near the Upper Cub Run Sewer Treatment Plant. The Dulles Airport noise Impact Study indicated that this property was subject to certain noise exposure because of the Dulles Concord. Residential development is restricted for this area. Mr. Shaner stated that a kennel is allowed in this type of residential zoning. He stated that they were excited about the opportunity to give this type of use to Fairfax County. He stated that there was a real need to have boarding establishments for small animals in Fairfax County. He stated that the applicants can offer the quality and expertise to provide a well run kennel.

Chairman Smith inquired as to the type of small animals. Mr. Shaner stated they would have the usual household pets of a domestic nature. There would not be anything larger than a dog. Chairman Smith inquired if this kennel would be only for cats or dogs or whether other animals would be involved. Mr. Shaner stated that a family might have hamsters or snakes. Chairman Smith stated that this request was only for typical household pets and would not include donkeys or goats.

Mr. Shaner showed the Board slides of the property and the proposed structures. In response to questions from the Board, Mr. Shaner stated that all of the noise would be contained inside the structure and would not have any adverse affect on the surrounding property. Mr. DiGiulian stated that the adjoining property was zoned residential and might be developed eventually. Mr. Yaremchuk stated that lot 7 was pretty close to the subject property. He stated that he would like to know the noise decibal from outside. He indicated that he has been near kennels before and that they were loud from the outside. Mr. Yaremchuk stated that he was aware that this was an isolated area but noise does carry. He indicated that if he were the owner of lot 7, he would be concerned.

Mr. Shaner informed the Board that the animals would be kept there on a temporary basis. The animals that would be outside exercising would be on a limited basis. He stated that they were trying to conserve energy and that the structure would be properly insulated. He stated that they do not intend to allow the dogs to have the opportunity to go back and forth from their pens on their own. Mr. Shaner stated that because of the Dulles Impact Study, there were requirements for other structures to have certain acoustics to be provided because of the airport noise. Mr. Yaremchuk inquired as to the decibal level and was informed it went to the 40 decibal level. Mr. Shaner stated that because of the 40 decibal level, the adjoining property was not allowed to be developed for residential purposes. Mr. Yaremchuk stated that if the adjoining property was industrial, he would not have any problem with this application but as long as the property was zoned residential, he felt someone could come along and build a house there. He stated that they might have to put in more insulation because of the decibal level. Ms. Ardis inquired as to how close the pens would be from the property lines. Mr. Shaner stated that the adjoining parcel F was owned by the Park Authority and that it was over 1,000 ft. to the nearest corner of the lot. In response to a question from the Board, Mr. Shaner stated that they would not have an animal hospital there. Chairman Smith inquired as to whether there was a limit on the amount of time that an animal could be housed there. Mr. Shaner stated that they would not want that restriction. He stated that the typical period was from 5 to 7 days. Chairman Smith stated that with no time limit, an animal could stay for its natural life.

Ms. Ardis stated that she had a question about the Code as the definition of kennel relates to 100 dogs but makes no reference to the other small animals. Mr. Shaner stated that kennels also take cats. Chairman Smith stated that animal shelters are included in this section of the Code. He stated that the application was proper. Animal shelters house any animals that happens to become homeless which would include hamsters. Chairman Smith stated that larger and wild animals have been shelters for short periods of time. Ms. Ardis stated that the Code only refers to dogs. She stated that cats would be less offensive from the noise standpoint. Chairman Smith stated that as long as the animals are completely housed there, it could include any domestic animal that would be a common household pet. He further stated that he felt that this was as good a location as can be found in the County for a kennel. Mr. Barnes stated that it was perfect and ideal and that there was no better place. Mr. Yaremchuk suggested a better place would be in Loudoun County.

There was no one to speak in support of the application. Mr. Mike Giguere of Boothe, Prichard & Dudley represented the Pleasant Valley Associates which was an approved subdivision for 500 single family residences in that area. He stated that he represented the people who were opposed to the kennel. They felt the kennel would adversely affect the surrounding property insofar as noise and odor. In addition, they were concerned that the kennel would be expanded into a veterinary clinic or hospital which was not allowed in this particular zoning district. Mr. Giguere stated that they realized that the kennel would be along the noise overlay for Dulles Airport. However, they felt that the noise from the kennel would be more detrimental than the noise from the airport. He requested that the Board impose adequate safeguards to protect the interests of the citizens in the area. They also felt that it should be limited to a two year period and that the dogs only be allowed in the runs from 9 A.M. to 6 P.M. In addition, Mr. Giguere asked the Board to limit the use to domestic animals and to require adequate soundproofing as for a clinic. He asked that all of the natural screening be left in tact and that additional screening be provided along the west property line.

Mr. Yaremchuk inquired as to whether the association had held a meeting on this application. Mr. Giguere stated that only the owners of the property and the developer had met to discuss the case. He stated that there are only a few homes currently built and they are futher to the north. Mr. Giguere

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stated that the entire area had been approved by the County for single family residences and the developer would be building shortly. He asked the Board to consider the feelings of the people who would be living there in the future.

There was no one else to speak in opposition. During rebuttal, Mr. Shaner stated that the ~~major access would be from the~~ 50' off of Pleasant Valley Road. Mr. Shaner stated that the cleared area of the subject property in the northern portion was where they proposed their structure. There was an old barn which would be removed. In so far as the evening hours for the animals in the pens, Mr. Shaner stated that they recognized the intent of the restrictions. He stated that the operating hours would be 9 A.M. to 6 P.M.; however, in the summertime evening hours, they might want to let the animals out. Mr. Shaner stated that the animals would not run free at all hours of the day. He indicated that under the group six requirements of the Code, this use was limited to a three year term. He informed the Board that the construction of the kennel would necessitate some considerable costs. Mr. Shaner stated that they planned the kennel to be functional by summer of 1980.

Mr. Yaremchuk inquired if the structure would be brick. Mr. Shaner stated some of it would be brick. In response to questions about insulation, Mr. Shaner stated that they would use the best energy effective package that they could find. He stated that they would have several employees. Ms. Ardis inquired if the applicant had any problems with limiting the hours for the animals from 8 A.M. to 8 P.M. Dr. Powell informed the Board that would not be a problem. She indicated that they would only allow the dogs out between 7:30 to 8:30.

R E S O L U T I O N

Ms. Ardis made the following motion:

WHEREAS, Application No. S-246-79 by DULLES GATEWAY KENNELS, LTD. AND RITA POWELL AND MARK A. JOHNSON under Section 3-103 of the Fairfax County Zoning Ordinance to permit kennel operation on property located at tax map reference 33-3(1)9, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on October 23, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the contract purchaser.
2. That the present zoning is R-1.
3. That the area of the lot is 6.05 acres.
4. That ~~compliance with the Site Plan Ordinance~~ is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is ~~not transferable~~ to other land.
2. This special permit shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

R E S O L U T I O N

4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.

5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.

7. The number of animals (classified as household pets) shall be 200.

8. The hours of operation shall be 9 A.M. to 6 P.M., seven days a week.

9. Hours for animals to be permitted outside is limited between 8 A.M. and 8 P.M., daily.

10. This permit is granted for a period of three (3) years with the Zoning Administrator empowered to grant three (3) one-year extensions.

Mr. Barnes seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

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12:00 P.M. ST. ANDREW'S LUTHERAN CHURCH, appl. under Sect. 3-303 of the Ord. to permit construction of a church and operation, located 54-1((1)) pt. 3, Springfield Dist., 5.000 acres, R-3, S-262-79.

Mr. Michael LeMay, an architect of 1601 Washington Plaza in Reston, represented the church. He informed the Board that the location of the church was on Braddock Road consisting of about 5 acres. The application was to allow the construction and operation of a house of worship for approximately 220 families. It would be known as St. Andrew's Lutheran Church. The property is zoned R-3.

Chairman Smith inquired as to the type of materials to be used in construction. Mr. LeMay stated that they had not decided that issue yet. He stated that they hoped it would be a frame structure. He indicated that the church would be in harmony with the character of the area. Mr. LeMay stated that the church was the contract purchaser of the land. Reverend Sorenson would be the pastor for the church.

Chairman Smith inquired if the applicants were familiar with the requirements of the Preliminary Engineering as far as the road widening of Braddock Road was concerned. He inquired if they had read the staff comments and asked if the church was prepared to comply with these requirements. Mr. LeMay informed the Board that the church could not comply with the requirements. Chairman Smith stated that Braddock Road was in pretty bad shape along that area and he inquired once more if the church would dedicate for road widening. Mr. LeMay stated that the cost would be too much of a burden for the congregation. Chairman Smith stated that the road widening was a requirement that had to be met. He indicated that the applicant was making it difficult for him to support the application even though it was a church.

There was no one to speak in support of the application and no one to speak in opposition.

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 ST. ANDREW'S LUTHERAN CHURCH

Board of Zoning Appeals

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-262-79 by ST. ANDREW'S LUTHERAN CHURCH under Section 3-303 of the Fairfax County Zoning Ordinance to permit construction and operation of a church on property located at Braddock Road, tax map reference 54-1((1))pt. 3, County of Fairfax, Virginia has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on October 23, 1979; and

WHEREAS, the Board has made the following findings of fact:

R E S O L U T I O N

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1. That the applicant is the contract purchaser.
2. That the present zoning is R-3.
3. That the area of the lot is 5.000 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has not presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance and

NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED.

Mr. DiGiulian seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 475, October 23, 1979, Scheduled case for

12:15 P.M. GOODTIME PRODUCTIONS, appl. under Sect. 4-603 of the Ord. to permit dance hall for young people, located 6355 Rolling Road, 79-3(1)7, Springfield, Dist., 113,367 sq. ft., C-6, S-224-79.

Chairman Smith informed the Board that there were several letters in the file including communication from Supervisor Travesky's office concerning opposition to the dance hall or listing questions about the operation of it.

Mrs. Kelsey from the Zoning Administrator's Office gave the Board some background on this application. She stated that Mr. Rock had approached the staff earlier in the year about the feasibility of a disco at this location providing the Zoning Ordinance could be amended to permit this use. The amendment was completed on October 15 to permit this use in the C-6 zoning district. During meetings earlier in the year, the staff had called to the attention of Mr. Rock certain problems with respect to the parking. He was advised that the parking was not adequate for the use unless they used the underground garage. Ms. Kelsey stated that the underground garage at this point, was in a bad state of repairs. Mr. Rock was asked to acquire an agreement from the owner of the shopping center that the garage would be repaired and close it off for the dance disco during operating hours only. Ms. Kelsey stated that she had not seen such an agreement. In addition to that agreement, Ms. Kelsey stated that the staff had also requested that there be a parking retabulation for the shopping center. She indicated that the Zoning Ordinance had changed since the shopping center had been established and that any new use in the center would have to be calculated in accordance with the new regulations. She stated that she did not know whether this had been done. Mr. Rock had informed Ms. Kelsey that he had discussed the parking with Preliminary Engineering and that they had approved the dual use of the parking lot. Ms. Kelsey stated that there was not any document from Preliminary Engineering in the file to confirm that discussion. She suggested that perhaps the Board might want to request a statement from Preliminary Engineering on the parking situation. She indicated that earlier one of the Board members had questioned her regarding whether the BZA could overrule the Director of Environmental Management with respect to the parking. Ms. Kelsey stated that she had checked with the Zoning Administrator and he felt that the BZA could overrule the Director if it was under special permit use.

Chairman Smith stated that the Board was in receipt of a request to defer this application. However, he stated that in view of the questions that were being asked that a hearing might resolve some of them and give the Board some insight as to whether this use should be permitted. He indicated that he felt there probably would still have to be a continuation of the hearing at a later date in order to get the additional information that might be necessary. He asked the Board for their views on the deferral question. Mr. DiGiulian stated that he felt the Board should hear the application. Ms. Ardis inquired as to whether Mr. Rosenberg had the information available regarding the parking.

Mr. Russell Rosenberg, attorney for the applicant, informed the Board that there was a plan submitted to the BZA with the application with respect to the parking which had been initialed by the representative of Preliminary Engineering. That plan indicated that the joint use of the parking to serve this facility would be sufficient for a total occupancy of 490 people. Mr. Rosenberg stated that apparently DEM had not written a formal memo to the BZA about this matter. Mr. Rosenberg stated that he thought this matter had been resolved by this plan. He showed the Board a copy of the plan contained in

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the file. He stated that it was in the file earlier when the staff was looking for it. Mr. DiGiulian stated that the plan he was examining showed a notation that 35 spaces would be allowed to be used to meet the parking requirements because of the different hours of operation and it was initialed on April 26, 1979. Mr. DiGiulian stated he could not make out the initials. Mr. Rosenberg stated that the initials belonged to Mr. Sammy Sooksanguan.

Mr. DiGiulian moved that the Board hear the application as scheduled. Mr. Yaremchuk seconded the motion. The motion passed by a vote of 5 to 0.

Mr. Russell Rosenberg, an attorney at 9401 Lee Highway in Fairfax, stated that he represented Goodtime Productions. Chairman Smith informed him that the Board would like answers to some of the questions raised. Any questions that could not be answered would have to be deferred to a later date. Mr. Rosenberg stated that he had answers to all of the questions and hoped that they would be to the satisfaction of the members of the Board.

Mr. Rosenberg stated that this special permit request was fairly unique in terms of uses that exist in Fairfax County. He stated that it was the intent of this application to have a teenage youth facility or a teenage disco geared or restricted to the use of young people under the age of 18. The use would be restricted to people 17 and under except for special activities where the parents might be invited or other members of the family invited for special activities.

Mr. Yaremchuk inquired as to how this restriction would be enforced to limit the age to under 18. Mr. Rosenberg stated that they intend to implement an identification card system. Mr. Rosenberg stated that this proposed use surfaced in the spring of 1979. He indicated that at that time a lease was entered into between the owners of the shopping center and Goodtime Productions with the intention of getting approval for the necessary permits. He stated that it was recognized immediately that a Zoning Ordinance amendment was needed to permit a dance hall under a special permit use in the C-6 district. The Zoning Ordinance had been amended a week before the scheduled BZA hearing. Mr. Rosenberg stated that this application was in compliance with the Zoning Ordinance as far as use.

For information purposes, Mr. Rosenberg distributed materials that had been sent to Mr. Rock who was the general partner of Goodtime Productions which addressed this use as well as an article from the newspaper about the one teenage disco located in Fairfax County known as "Little Feet" operating in Seven Corners. Chairman Smith stated that he believed that "Little Feet" had closed shortly after it had opened. He stated that at least the sign had been taken down and he had not seen anybody around there. Chairman Smith stated that he had been interested in that operation and was not sure whether it was still operating. Mr. Rosenberg stated that he had not personally checked it but believed that it was still in operation. Chairman Smith stated that perhaps it was open on a very limited basis and he did not pass by when it was open. Mr. Rosenberg stated that he believed it was open on weekends only.

With respect to this proposal, Mr. Rosenberg stated that it would be located in what was formerly the Twin Cinema Theaters in the West Spring Plaza shopping center. The theaters have been closed for some time. It was the intent of the applicant to take over the two theaters for the disco operation. The center wall between the theaters had been removed so that the entire area could be used by the teen disco.

Mr. Rosenberg stated that he had circulated a statement of proposed conditions regarding this use. He indicated that with respect to the question raised about a deferral of this application, many of the questions were addressed in the statement which should answer any questions. Mr. Rosenberg stated that he had a statement from the Rolling Valley Civic Association which included a marked up version of the applicant's conditions. Mr. Rosenberg stated that he would attempt to address some of those revisions suggested. The first item listed on the conditions was the hours of operation. He stated that different hours had been set up for the school year as opposed to the summer hours. The school year hours rely principally on the Friday and Saturday nighttime frames for the heaviest use of the teen disco. However, it would be open during the hours of 4 P.M. to 9 P.M. on the school day evenings. The only time it would be open after 9 P.M. would be on Friday and Saturday. The summer hours were more extensive because of the lack of school. Monday through Thursday, the hours would be 12 noon through 12 midnight. Friday and Saturday would be 12 noon through 1 A.M. Again, the only nights that the facility would be open after midnight would be Friday and Saturdays during

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the summer. Mr. Rosenberg stated that they also plan to have special activities like dance lessons, or parents evenings, or the hall might be made available to various groups like civic associations, jaycees or other groups that decide to sponsor some type of an event to be held in the teen disco. Mr. Rosenberg stated that item c under the hours of operation had been inserted in the conditions to allow these special activities to take place in addition to the hours set forth.

The next item of concern related to the occupancy. Mr. Rosenberg stated that occupancy was governed by the Zoning Ordinance. In terms of the parking set forth, Mr. Rosenberg stated that this use catered to those under the age of 18. For that reason, they did not feel that the parking standards specifically addressed this use. Mr. Rosenberg stated that they were seeking to have an occupancy of 750 people. He indicated that they would be controlled by the Ordinance. It had been determined by the zoning staff that this use would have a peak occupancy of 490 people. Mr. Rosenberg stated that he did not believe that they would need that many parking spaces. He stated that they would have to establish that in terms of the use of the facility. He asked that the BZA approve the use for 750 but that they would work within the limitation imposed by the BZA.

Chairman Smith inquired about the occupancy. He stated that the applicant's written statement submitted with the application had indicated a maximum of 490 persons with 163 parking spaces with 6 employees making a total of 169 parking spaces. Chairman Smith stated that based on that information and the plat, that was all the Board could consider. He stated that they could not consider the use for 750 with the plats submitted. Mr. Rosenberg stated that in terms of the Zoning Ordinance, that was correct. He stated that number had been arrived at by the Preliminary Engineering Branch and the Zoning Administrator's Office. Mr. Rosenberg stated that if they were bound by that limitations then they would be bound by it and live within that restriction. Chairman Smith stated that they were bound by the submission as part of the application. The plats submitted indicated 490 persons and that would be the maximum number the Board could consider. Mr. Rosenberg explained that what he had been trying to say to the Board was that they felt that the amount of parking was not really going to be required for this use. Again, he stated that was something that they might have to come back at a later time and establish to the Board. Chairman Smith suggested that this matter be addressed if there was a continuation of the hearing. Chairman Smith inquired as to the maximum number of persons allowed in the two theaters. Mr. Rosenberg stated it had been 550. Chairman Smith stated that this was close to the maximum allowed. He indicated that he did not know whether the removal of the wall had created a greater area which would increase the distance of travel as far as exits were concerned. Chairman Smith stated that the Board could not consider more than 490 persons based on the submission of the plats.

Mr. Yaremchuk inquired that if the Board approved 490 persons, he wondered whether the Fire Marshal controlled the number of people allowed. Mr. Rosenberg stated that the Fire Marshall had indicated that they could go as high as 1,000 people. Chairman Smith stated that the BZA controls the number of people as far as the use permit was concerned. Mr. Yaremchuk stated that if the Board approved 490 and the Fire Marshal felt that the most the facility could support was 300 then that was all that could go in there. Chairman Smith stated that he assumed that the zoning staff had researched this and that the 490 was a figure that everybody had agreed on. Mr. Rosenberg stated that the figure of 490 had been approved by the Zoning Administrator and by the Preliminary Engineering Branch. He indicated that was the reason why it was shown on the plan submitted with the application. However, they also have to comply with County Fire Standards. He stated that they have approached the Fire Marshal and the 490 figure was no problem and, in fact, it had been approved for 1,000 persons.

Mr. Rosenberg stated that the next item related to the minimum required employees who would be on duty during the operating hours of the facility. He stated that there would be at least one usher, one doorman, one person selling tickets, a disc jockey and a concessionstand person. He indicated that he had purposely left the concessionstand personnel unnumbered because it would depend on the particular time and period of operation and the demands placed upon the concessionstand. He stated that was an unknown for the applicant and for the Board at this time. The concessionstand would be within the facility and it would be manned but they did not know how many people would be required to man that facility. Mr. Rosenberg stated that the Rolling Valley Civic Association had suggested that the language in Item No. 3 be changed or modified to require the minimum number of employees to be on the premises. Mr. Rosenberg stated that he had no objections to that being

made a part of the conditions if the use were granted. It was also requested by Rolling Valley that one of the employees on duty be appointed a manager and that the manager must be required to be at least 21 years of age. Mr. Rosenberg stated that at all times there would be a manager on duty and he would be at least 21 years of age or older.

Another item relating to security came about as a concern or questions from the civic association. Mr. Rosenberg stated that at that meeting held with the civic association three or four months ago, statements had been made that this area had a lot of loitering, drug use, some drinking, etc. Mr. Rosenberg stated that the applicant would provide for security for the disco during the operating hours and particularly the hours after 9 P.M. They would use at least two fulltime security police who would be on duty outside of the building in addition to the personnel on duty inside the building. Mr. Rosenberg stated that the shopping center has an underground parking area under a substantial portion of the center. Because of its location, you have to enter it from the back of the center. He stated that it has not been used to any great extent if at all by the existing merchants in the center. Mr. Rosenberg stated that this garage has been a cause of concern to the owners of the center because it has been an area that has been difficult to control and it has accumulated a lot of litter and required constant cleaning. Mr. Rosenberg stated that they have an agreement with the owners to have that area closed off except during the operating hours of the disco when the teen center was open. There are 54 parking spaces located in the garage which are included in the required number of parking for the use. On Friday and Saturday night when the disco was open late, they would have security people on duty to control the underground parking area. In order to close off the area during the time when the teen center was not in use, it would require wiring fencing to be put up at the opening of the entrances to the stairwell going down to the garage. Mr. Rosenberg stated that the entrances would be secured so that there would not be any access to that area except during the hours when the disco was open. Ms. Kelsey had raised the issue that the underground garage was in great need of repair. Mr. Rosenberg stated that the principal area of repair was mainly that it needed to be cleaned out. Chairman Smith inquired if the parking could be used without repair. Mr. Rosenberg stated that the only repair necessary was that certain ceiling tiles had fallen out and there was some insulation hanging down from the ceiling. He indicated that this was only in a few areas of the ceiling and that it would be repaired. The only other item needing repair was the lighting. Mr. Rosenberg stated that it has been impossible to keep proper lighting down there because the people constantly come in and break the lights. Mr. Rosenberg assured the Board that the lights would be repaired and could be attached as a condition to the granting. Mr. Rosenberg stated that those were the only repairs necessary and stated that he had visited the area recently in order to determine what needed to be done.

The last item under security related to an usher who would be on duty inside the disco during all hours of operation. Mr. Rosenberg stated that the concept of an usher was one who would circulate throughout the dancing area. Chairman Smith inquired if this person would be an adult and was informed it would be.

In terms of the layout of the disco, both theaters would be used. There would be a concession stand beside that area from what was formerly the lobby for the theater. Mr. Rosenberg stated that the concession stand would open both to the lobby area as well as to the internal dancehall area. Another concern raised was with respect to restrictions on smoking. Mr. Rosenberg informed the Board that smoking would be restricted to that area which is now the lobby area. He indicated that smoking would not be permitted within the dancehall area itself.

With respect to the admissions policy, there were proposed conditions which had been submitted to the Board previously. Mr. Rosenberg stated that the conditions had indicated that admissions would be limited to persons 17 years or younger except for guardians and/or parents of a minor and except for special events or group activities. After meeting with the Rolling Valley Civic Association a week before the BZA hearing, it was stated by the applicant that he intended to have an identification card system in order to control admissions into the disco. At that time, it had not been included as a stated condition because the attorney felt a concern about limiting the business of the owners. Mr. Rosenberg stated that it was a matter of concern among the civic association and the applicant was agreeable to the implementation of an identification card system. The civic association had proposed language to be included in the conditions requiring that a positive system of identification to insure compliance with the age limits specified be adopted. Mr. Rosenberg stated that the applicant proposed to use a system similar to one used by the

Wakefield Recreation Department. They have a system where the person first comes in and picks up an application form and takes it home to be signed by the parents. Mr. Rosenberg stated that the disco hopes to have a picture card system as part of the identification card system. Mr. Rosenberg stated that the civic association was concerned as to how the applicant would keep the 18 year olds and older persons out of the disco. He indicated that the only way that could be done was through the use of the identification card system. He stated that they were prepared to commit themselves to that as a condition of the granting.

Mr. Yaremchuk inquired as to why the applicant was drawing the age limit at 17 and under. He asked why not 19 or 20? Mr. Rosenberg explained that the intent was to create a facility geared primarily towards high school and junior high age children. Seventeen appeared to be the dividing line. He stated that they did not want a facility where there would be any beer or alcoholic beverages. Seventeen seemed to be the right age for a cutoff. Mr. Yaremchuk stated that when you have 490 teenagers, he inquired as to how in the world the applicant could stop them from bringing beer or whatever inside the disco. He asked how the applicant would enforce that with one usher and a few other employees inside. Mr. Rosenberg stated that everyone would have to enter the disco at one point where there would be a doorman on duty. There would be one person selling tickets and another doorman on duty. Mr. Yaremchuk inquired if the doorman would search the teenagers as they enter. Mr. Rosenberg stated he did not believe that they could institute a search policy but indicated that they would check pretty closely. He stated that it was their intent that no food or alcoholic beverages be brought into the disco. Mr. Yaremchuk asked if the attorney had ever been to RFK Stadium on Sunday where you are not allowed to bring beer in and all around there is people drinking. He stated that these people are watched also. He stated it was a real problem to control. Chairman Smith inquired as to how many of these people were 16 or 17 years old. He stated that he only saw the adults doing that. Mr. Yaremchuk stated that the Chairman apparently was not familiar with teenagers where a lot of the 15 and 16 year old drank beer. Mr. Yaremchuk stated that no matter what age, it was hard to enforce that condition when people can hide it under their coat or under their raincoat. He stated that unless they were searched, it was hard to enforce that condition. He stated that teenagers were not the only ones doing it. He stated it would be a real problem when you have 490 people no matter what age. Mr. Yaremchuk stated that you can't hold the line to check for liquor because the people move pretty fast. Mr. Rosenberg indicated that no matter what system was implemented, it would not be perfect. He stated that they believed that the identification card system would give them control over who was coming into the disco. When the applications were distributed, the rules set forth by the BZA would be published. Mr. Rosenberg stated that the only other thing they could do was to check and monitor those conditions as close as possible through the use of the doorman and the roving usher. Mr. Yaremchuk inquired if the disco personnel would be trained to spot people trying to sneak liquor into the center. Mr. Rosenberg stated that none of the employees had been hired yet but he indicated that they could be specifically instructed to be aware of that. Mr. Yaremchuk next inquired as to what would be done to people violating the rules? Mr. Rosenberg stated that they would have the liquor taken away from the people. Another suggestion made by the Rolling Valley Civic Association was that anyone attempting to sneak liquor into the facility be automatically expelled from the disco. However, Mr. Rosenberg stated that he was not sure that was the appropriate way to handle with the situation. He indicated that perhaps there could be a period of probation for offenders.

Another problem seen by the applicant to be of a great concern was food or drink taken out of the center which would then create a situation of litter in the parking lot. In addition, it would create a problem of standing around in the parking lot. Mr. Rosenberg stated that for that reason, they have specifically stated that no food or beverages would be permitted to be taken outside of the center. Anything bought at the center would stay within the center.

With respect to the admissions policy, once a person was inside the center they would not be allowed to leave the center and then re-enter without paying a totally new admissions fee. The idea behind that was to prevent someone from leaving and getting something to drink out of their car and then going back inside. Once they are in, they stay in. Once they leave, they have to pay a totally new admissions fee to get back inside.

The next items discussed by Mr. Rosenberg were concerns expressed by the Rolling Valley Civic Association on the marked up version of the conditions. Mr. Rosenberg stated that the concerns about the positive system of identification had already been discussed. Another item of concern was the hours of operation and the age limit requirements being prominently displayed outside of the center. Mr. Rosenberg stated that they did not have any problem with that requirement. He indicated that a small sign could be placed by the entrance to the disco by the ticket person clearly setting forth what the hours of operation were and what the age requirements were for the center. In addition, the civic association had also added that illegal drugs not be brought into the disco. Mr. Rosenberg stated that he had not included that in the original conditions because he didn't feel anything illegal would need be dealt with in the statement of conditions. He indicated that the applicant did not want alcoholic beverages or illegal drugs to be used within the center. Another condition added by the civic association was related to consumption of alcoholic beverages or use of illegal drugs within the confines of the security area of the disco. Mr. Rosenberg reminded the Board that it was their intent to provide security within the confines of the shopping center. He indicated that he did not feel that the applicant could be responsible for everything that happened within the shopping center. He asked that that restriction not be imposed as a condition on the special permit.

Mr. DiGiulian inquired as to the parking under the building and asked if it only extended under the proposed use. Mr. Rosenberg stated that it extended under more than just the disco. The applicant would be closing in the entire parking area which was located under about 3/4 of the shopping center. In response to further questions, he stated that the applicant would have total control of the underground parking. It would only be open totally during the hours of operation for the disco. Mr. Rosenberg stated that one of the reasons for having the security personnel was to take care of the underground parking area. He indicated that would be an area of concentration in addressing the security needs and stated that they would assume responsibility for that area of the shopping center.

Another item of concern of the Rolling Valley Civic Association was smoking. Mr. Rosenberg stated that it was their intent to restrict smoking to the lobby area located around the concession stand.

Another item from the marked up version of conditions was related to mandatory expulsion of persons who were found to be in violation of the conditions. Mr. Rosenberg stated that he did not believe that was the answer to enforcement of the conditions. He indicated that the conditions could be enforced by the management of the center without the requirement of mandatory expulsion.

The last item on the list of Rolling Valley Civic Association was that there be three public telephones installed in the center. Mr. Rosenberg stated that they would certainly have public telephones but didn't know exactly how many telephones would be installed. Chairman Smith stated that what the parents were probably concerned about was when the disco closed that any teenager that would have to call their parents would probably put it off the last minute and then there would be a long line at the telephone and 30 to 40 minutes after the facility closed the teenager would finally get to call their parents. Chairman Smith stated that three telephones would be a minimum for 490 teenagers. Mr. Rosenberg stated that the hours of operation would be published so that the parents would know the cutoff hour and there would not be any last minute rush. For those who want to go home earlier, phones would be available to call their parents. Chairman Smith stated that perhaps the kids would have to call their parents to remind them to pick them up.

Another item on the Rolling Valley's list was that the hours be restricted to 12 midnight as opposed to 1 A.M. on Friday and Saturday evenings. Mr. Rosenberg stated that for Friday and Saturday evenings they have proposed two shifts and they really need that additional hour in terms of implementing the two shifts. The earlier shift would be for students 14 and younger and the later shift would start about 9:15 and run through 1 A.M. would be for those between the ages of 14 and 17. Mr. Rosenberg stated that it was felt that the division between the two groups would be desirable by the people of the ages so they could be with people of their age. Mr. Rosenberg requested that the time limit on Friday and Saturday evening be left at 1 A.M. and indicated that it would be restricted for those in the 14 to 17 age group.

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Mr. Yaremchuk inquired as to the experience of the applicant in handling 490 young people and some of the people who would be hired. He indicated that he was concerned as to how they would be handled and what kind of experience the operators have and what kind of place this would be. Mr. Rosenberg stated that they felt that they would have one of the best teenage facilities that have ever been operated. He stated that they would be subject to the continuing jurisdiction of the BZA to make sure that they operate the facility in a good fashion. Mr. Rosenberg stated that Mr. Rock would be happy to answer any questions the Board might have. He stated that Mr. Rock has been engaged in the painting and decorating business in the area for some period of time. He stated that Mr. Rock has had no experience in the operation of a teenage disco but over the past four months has travelled over the country looking at such facilities. Mr. Rosenberg stated that Mr. Rock had travelled to Virginia Beach with a civic association representative and a member of the Fairfax County Police Department to look at a similar facility operating there. Mr. Rosenberg informed the Board that this was the first venture of this type of use for Mr. Rock. Mr. Yaremchuk inquired as to the length of the lease with the shopping center. Mr. Rosenberg stated that it was a six year lease with options to renew. Mr. Yaremchuk next inquired as to the admission fee. Mr. Rosenberg stated that it would be comparable to the admission fee for a movie being in the neighborhood of \$3.00 to \$3.50. He stated that they would probably have an initial fee for the identification card. Mr. Yaremchuk inquired if youngsters would be allowed to leave the facility once they had paid by having their hand stamped in order to reenter the facility without repaying. Mr. Rosenberg stated that once they were in, they have to stay in. If they leave, they have to pay a totally new fee in order to get back in. Mr. Rosenberg stated that they would have to pay double which would be a deterrent. He assured the Board that that condition would be strictly enforced.

Mr. Rosenberg stated that one last item related to the traffic impact for this use. He stated that the intersection of Old Keene Mill Road and Rolling Road was a very busy intersection. From a site planning point of view, the access provided is not desirable. Mr. Rosenberg stated that the traffic generated for this disco would not be as heavy as traffic generated for other uses that could go into the shopping center as a matter of right under the Zoning Ordinance. In addition, they felt that the timing of the traffic would be such that it would be dominantly off peak from the major traffic congestion. Mr. Rosenberg stated that it was their belief that this use would not have any adverse impact in terms of traffic on the adjacent streets.

In summary, Mr. Rosenberg stated that the use was appropriate and the location was appropriate. He stated that they had demonstrated satisfactorily the conditions for granting the use as set forth in the Zoning Ordinance. Mr. Rosenberg stated that timing was critical in this application. One extension of the lease had already been obtained in order to permit the various Ordinance amendments. Mr. Rosenberg stated that the lease contingency would run out on October 31st. Mr. Rosenberg stated that if it were the decision of the BZA to defer the decision, he asked that it be deferred for no more than one week. He stated that they did not have any more options for extensions of the lease. Chairman Smith stated that the only other meeting the Board had in October was a night meeting. Time was very limited on that agenda. Chairman Smith stated that Ms. Ardis had to leave the meeting because of previous commitments. Chairman Smith stated that the Board would leave the record open as far as any extension that might be necessary. If there were any additional information, Chairman Smith stated it should be provided in writing.

There was no one else to speak in favor of the application. The following persons spoke in opposition to the application. Mr. Travis Henry of 6913 Rolling Road in Springfield stated that he represented the Springfield Golf and Country Club. One of his responsibilities was the security of the grounds and the golf course. Mr. Henry stated that he was not that familiar with the application prior to attending the public hearing. Mr. Rock had allowed him to read through the file and much of what he had read was what Mr. Rosenberg had discussed. Mr. Henry stated that what the file lacked was information from the schools regarding this facility. He stated that he had not seen any comments from the Police Department even though Mr. Rosenberg stated Mr. Rock had visited Virginia Beach with one of its officers. Mr. Henry was interested in the capacity of the disco being 490 or over when there was not any comment from the Fire Marshal as far as the interior requirements and the parking area. Mr. Henry stated that there were problems with the conditions of the parking facility and was concerned that there was not any county inspection report in the file to determine if repairs could be made to make it acceptable for occupancy. Mr. Henry stated that he had a great concern for the security of the area. He indicated that the country club had experienced property

damage in the amount of \$5,000 over the past eighteen months. He stated that 90% of the damage was done by juveniles not over the age of 18 coming onto the property even though it was legally posted. Mr. Henry stated that the club has security guards and the records indicate that there are parties of at least 9 juveniles every Friday and Saturday night who enter the property as trespassers. On nights when the schools in the area have activities, the number of trespassers increases to 13 juveniles. With the disco, Mr. Henry stated that they would have more a problem with the property. The grass on the golf course is cultured and very easily damaged. He stated that they have great concerns over that. Prior to the closing of the twin theaters, the guards had to constantly patrol the grounds to pick up bottles of beer that were thrown over the fence.

One of the main concerns of Mr. Henry was the response of Mr. Rosenberg that they could adopt policies, make language, etc. if need be. Mr. Henry stated that the applicant should give the BZA firm plans and have the plans written into the articles of the corporation. Mr. Henry stated that he had not come to the hearing to oppose the application but after hearing the testimony he had the authority from the Springfield Golf and Country Club to oppose it.

Mr. Yaremchuk inquired as to where the members of the club resided. It was stated that they lived in the Springfield postal district. Mr. Barnes asked if the club had a fence to protect the grass. Mr. Henry stated that there was a fence only around the shopping center area. However, it does not restrict the youngsters. On one occasion, two youngsters climbed the fence and broke into the gas pumps of the pro shop and set a fire across the lake. No damage had been done but they were sighted crawling over the fence. Chairman Smith stated that as the youngsters were not apprehended that Mr. Henry could not be certain that they were teenagers who had set the fire.

The next speaker in opposition was Mr. S. J. Cuchana who represented the Rygate Homeowners Association. The president had to leave and had asked Mr. Cuchana to speak on the group's behalf. The association met to discuss the application and a motion was made and passed unanimously that the application for the disco be denied. In response to questions from the Board as to the location of the subdivision, Mr. Cuchana stated it was right off of Rolling Road. The subdivision borders the shopping center. There was a chain link fence around the golf course and then you have the Rygate homes.

The next speaker in opposition was Mrs. Cuchana who had attended the civic meeting at Rygate. She stated that she was speaking as a private citizen and wanted to express her apprehensions about the facility. In addition to the physical problem of traffic off of Rolling Road, there would be noise, litter, drinking and possible drug traffic. She stated that it was naive to accept the idea of a dance hall for children 10 to 17 to be a clean cut operation. She stated that she was aware that it was the intent of the applicant to have it be clean cut but there was no guarantee that it would provide anything but problems. She stated that she could not understand why children ages 10 to 17 need a dancehall during the school year. She stated that they should be doing homework. Mrs. Cuchana stated that she did not want to sound derogatory but indicated that the applicant wants a business to make money. Children of today are more affluent than they ever were. She stated that the Board should think seriously about this facility because it would be a problem no matter what the applicant states.

The next speaker in opposition was Mrs. Rita Pearsall speaking on behalf of the Rolling Valley Civic Association. She stated that they do not oppose the dancehall but they wanted an extension in order for the citizens to look into the situation. She stated that they wanted some assurance that the identification card system would work and ~~that there would be enough parking.~~ In addition, she stated that the number of children on the weekends should be limited. She asked that the Board grant an extension and schedule an evening meeting so that the men and the citizens could attend and express their opinions. Chairman Smith stated that the applicant had expressed a desire for a decision within a week which would mean a night meeting. At the night meeting, Chairman Smith stated that they would not take any additional testimony other than in writing. He stated that the citizens could submit anything in writing before the next meeting.

The next speaker in opposition was Samuel Davis who stated that he lived one block from the proposed facility. He stated that he was not opposed to the dancehall. Testimony had been given that there was drug use and drinking at the shopping center. Mr. Davis stated that if the County Police hadn't been able to curb that use then two additional security personnel or rent-a-cops

wouldn't be able to solve that either. Mr. Davis stated that his problem was vandalism in the neighborhood by teenagers who slash tires. If there is a facility at the proposed location, there is a buffer of trees that provides screening and Mr. Davis stated that the incidents of vandalism would increase with 490 youngsters. He stated that the applicant does not have any experience in management of crowds. Mr. Davis stated that he did not oppose a dancehall but only at this particular location.

The next speaker was Judy Turner of Springfield Station who asked that the Board give very strong consideration to why they would only allow one more week for the extension of the hearing. She stated that the main concern of the applicant for an extension of one week was that it would cost a few more dollars for their lease. She stated that they have had one extension already and felt that they could another one. She stated that the safety of the children was worth more than a few more dollars. She stated that the civic associations were interested in hearing answers from the applicant and stated that a week would not be enough time.

Mr. Rosenberg informed the Board that the lease runs out on the 31st. There are four owners of the building and Mr. Kincheloe was present at the hearing. Mr. Rosenberg stated that he had difficulty in even getting the 1st extension much less a second one. Mr. Rosenberg stated that he would make himself available at any hour and during the weekend to answer anyone's concerns.

Chairman Smith stated that Ms. Ardis had to leave the meeting earlier but wanted an opportunity to read the record to participate in the decision. Chairman Smith asked the Board for its reaction to the deferral. Mr. DiGiulia stated that he would like to have a parking tabulation with the current users of the shopping center since the Chesapeake Bay Seafood was no longer in operation. Mr. Rosenberg stated that it was still being operated as a restaurant which was basically the same use. Mr. DiGiulian explained that what he wanted was a tabulation of the required parking for each use currently in the shopping center and their hours of operation. He indicated that he had a problem with the dual use principle.

Chairman Smith inquired if the staff could respond within a week with the applicant's participation in obtaining the tabulation. Ms. Kelsey stated that she felt the applicant should provide the parking tabulation to the Department of Environmental Management and get a memorandum from them. Chairman Smith stated that according to the plat submitted, the DEM had approved the parking. Chairman Smith stated that all the Board was asking for was reaffirmation of it. Mr. DiGiulian stated that the plat did not show the hours of operation for the other uses. Mr. Rosenberg stated that they would be happy to go back to DEM and get confirmation and the additional clarification Mr. DiGiulian was requesting on the hours and indicated it could be accomplished in the one week time frame.

Mr. Yaremchuk stated that he would like to have more specifics or an outline on how the applicant would control and enforce the teenagers entering the facility and leaving it. He asked how they would control the parking and the traffic. Mr. Yaremchuk stated that on a Saturday night with 490 children, there would be at least 300 cars coming in and asked if they would have a policeman to control the cars. Mr. Yaremchuk stated he was concerned about the type of people who would be hired at the facility and wanted to know the background and the experience. He asked that the Board get more specifics rather than just being informed in general terms.

Mr. DiGiulian moved that the Board continue the hearing until Tuesday, October 30, 1979 and to allow additional limited testimony in ~~oral~~ written form. Mr. Yaremchuk seconded the motion. The motion passed unanimously. Chairman Smith announced the time of 9:15 P.M. on October 30, 1979 for the continuation of the hearing.

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Page 484, October 23, 1979, Scheduled case for

12:30 CALVIN O. & LINDA S. COX, appl. under Sect. 18-401 of the Ord. to
P.M. allow subdivision into two lots, one of which would have width of
10 ft. and the other a width of 140.02 ft. (150 ft. min. lot width
req. by Sect. 3-106), located 11273 Waples Mill Rd., 46-4((1))18,
Centreville Dist., 2.7577 acres, R-1, V-226-79.
(Deferred from October 2, 1979 for Notices.)

Mr. Robert Hal, an attorney at 4020 University Drive in Fairfax, represented the applicant. He stated that the property was located on Waples Mill Road containing 2.7577 acres. He indicated that the request was for two variances for the lot width requirements. He stated that the property has frontage on Waples Mill Road for about 150 ft. Mr. Hal stated that this property was irregularly shaped and goes back 700 ft to the rear of the lot. Mr. Hal stated that the applicant could put in one house as a matter of right. Mr. Hal stated that the property was bounded at the rear by the Fairfax Farms development. There is no access to Fairfax Farms. The only access is to Waples Mill. Mr. Hal stated that the property slopes with its highest point in the back. There are six dwellings along Waples Mill Road. The majority of the land around the subject property is similar to the proposed lots. Mr. Hal presented the Board with a letter from the property owner to the north whose driveway accesses over the subject property. In conclusion, Mr. Hal stated that this variance request would be in keeping with the Ordinance.

There was no one else to speak in favor of the application. The following persons spoke in opposition. Mr. Michael Dennis stated that he was appearing on behalf of the Navy-Vale League. He stated that as a community, they objected to this subdivision because it was a pipestem situation. He stated that pipestem lots should only be developed in cluster subdivisions. Mr. Dennis stated that this location was not an appropriate place for a pipestem. He stated that this variance request was not in accordance with the community. Mr. Dennis stated that this was a rural community and that the people have modest homes on large lots. He indicated that to a certain extent, they feel threatened by the request for subdivision. Mr. Dennis stated that this was a self-created hardship. He indicated that the driveway for the property owner to the north was created by Mr. Cox. Mr. Dennis stated that if a pipestem was necessary for access, it should be located on the opposite side of Waples Mill Road.

During rebuttal, Mr. Hal stated that there was not any indication that the south of the property would provide any better access than the proposed northern access. Mr. Hal stated that from a driveway standpoint, you would want the separate entrances at least 100 ft. apart but there was no better site distance. Mr. Hal stated that the property to the north could not be further subdivided because the house was situated at the back of the property and the septic field was located in the front yard.

Page 484, October 23, 1979
CALVIN O. & LINDA S. COX

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-226-79 by CALVIN O. AND LINDA S. COX under Section 18-401 of the Zoning Ordinance to allow subdivision into two lots, one of which would have width of 10 feet and the other a width of 140.02 feet (150 feet minimum lot width required by Sect. 3-106) on property located at 11273 Waples Mill Road, tax map reference 46-4((1))18, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 23, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 2.7577 acres.
4. That the applicant's property is exceptionally irregular in shape, including long and narrow.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

R E S O L U T I O N

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THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.
3. That the driveway shall remain as indicated on the approved plat because of the topographic conditions of the property.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Ms. Ardis being absent).

Page 485, October 23, 1979, After Agenda Items

Bruce Myers: The Board was in receipt of a letter from Bruce Myers with respect to his variance application which had been unanimously denied by the BZA. The application had been filed under Section 18-401 of the Ordinance and Mr. Myers was inquiring as to why it was not filed under 18-406 of Ordinance which was the mistake section. He was requesting the Board to rehear the application as he believed it had been improperly heard under the Code. It was the determination of the Board that a building permit was not required for a fence so that the application could not be heard under the mistake section and was properly heard under the hardship section.

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Page 485, October 23, 1979, After Agenda Items

Loyola Federal Savings and Loan: The Board was in receipt of a letter from Mr. George Wirth of the 3-E Development Co. requesting an extension of the variances granted for Harborview Subdivision. Mr. Wirth informed the Board that the 3-E development Co. had become the new owners of the property.

As there was a question regarding whether a variance went with the land or the applicant, the Board deferred the matter for review.

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Page 485, October 23, 1979, After Agenda Items

Colonial Animal Hospital, S-206-78: The Board was in receipt of a request for an extension of time of the special permit granted to Colonial Animal Hospital. It was the consensus of the Board to grant a six-month extension.

// There being no further business, the Board adjourned at 3:55 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: _____
Date

Submitted to the Board on _____.
Submitted to the other departments,
Board of Supervisors and Planning
Commission on _____.

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, October 30, 1979. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes; John Yaremchuk and Barbara Ardis.

The Chairman opened the meeting at 8:20 P.M. led with a prayer by Mr. Barnes.

The Chairman called the scheduled 8 o'clock case:

8:00 REEVALUATION HEARING: THE SALVATION ARMY; appl. under Sect.
P.M. 3-103 of the Ord. to amend existing use permit to allow day care center, located 4915 Ox Road, 68-1((1))11, Annandale Dist., 5.00544 acres, R-1, S-269-78.

Major Robert Griffin of 4919 Princess Ann Court represented the Salvation Army. Chairman Smith stated that one year ago the BZA had granted a special permit for the Salvation Army to have a day care center for a lesser number of children than what the Health Department had approved as the citizens were concerned about it. Chairman Smith stated that this reevaluation hearing was to determine if any of the concerned citizens had any problems with the center during the past year and to determine whether the Salvation Army still needed a greater number of children. Major Griffin stated that they still desired the number allowed by the Health Department but indicated that they might not use that number immediately. Chairman Smith inquired as to the number allowed. In response, Maj. Griffin stated that the Welfare Office would allow 120 children and the Health Department had indicated a limit of 114. Chairman Smith inquired as to the number presently at the day care center. Maj. Griffin informed the Board that the Salvation Army had had difficulty in getting the day care center opened. They had just recently opened and have an enrollment of 30 children at the present time.

There was no one to speak in favor or in opposition to the reevaluation hearing.

Page 486, October 30, 1979

Board of Zoning Appeals

REEVALUATION HEARING: THE SALVATION ARMY
R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-269-78 by THE SALVATION ARMY under Section 3-103 of the Fairfax County Zoning Ordinance to amend existing use permit to allow day care center on property located at 4915 Ox Road, tax map reference 68-1((1))11, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public reevaluation hearing by the Board of Zoning Appeals held on October 30, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-1.
3. That the area of the lot is 5.00544 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.

7. The maximum number of children shall be 114.

8. All other provisions of S-281-75 and S-269-78 shall remain in effect.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

Page 487, October 23, 1979, Scheduled case for

8:15 P.M. PILAR G. R. STUMBAUGH, appl. under Sect. 3-103 of the Ord. to permit renewal of special permit for child care center, located 2558 Flint Hill Rd., Five Oaks Subd., 38-3(1)30 & 30A, Centreville Dist., 1.145 acres, R-1, S-253-79.

As the Board had not received the required notice information, it deferred the above-captioned application until December 4, 1979 at 10:15 A.M.

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Page 487, October 23, 1979, Scheduled case for

8:30 R.M. WILLS & VAN METRE, INC., appl. under Sect. 3-803 of the Ord. to amend existing special permit for community recreational facilities to permit construction of additional tennis court and installation of tennis court lighting, located 7999 Edinburgh Dr., Saratoga Subd., 98-2(1)pt. 13, Springfield Dist., 3.52192 acres, R-8, S-259-79.

Mr. Edward Fuelker of 7429 Vernon Square Drive represented the applicant. He stated that this special permit was for the Saratoga Swim and Racquet Club. He indicated that the membership had grown to 363. At the request of the membership, they were asking the Board to allow the expansion of the facilities for a tennis court. In response to questions from the Board, Mr. Fuelker stated that Wills & Van Metre still controlled the facilities. He informed the Board that the current usage of the courts dictated that an additional court be provided. He also added that they were thinking of installing lighting on the courts. In response to questions, Mr. Fuelker stated that they were proposing overhead lighting for all three courts and would insure that the lighting did not impact on the neighbors.

Mr. Covington informed the Board that the original special permit was granted from 9 A.M. to 9 P.M. He stated that there was not any mention of a change in hours in the application. Chairman Smith announced that they could not change the hours. In addition, Mr. Covington stated that there was some doubt as to whether this facility was a community recreational use or not. Chairman Smith stated that was of great concern to him also. The application had been filed under the community recreational use. Chairman Smith inquired as to the target date for turning the facility over to the homeowners association. Mr. Fuelker stated that there was not any target date at this time. The original application had been filed in the name of Wills and Van Metre and nothing was said at that time about turning it over to the homeowners. Chairman Smith stated that normally they are turned over within two to three years if its a community recreational facility. He stated that a commercial facility could be controlled and operated indefinitely. Mr. Covington stated that there was a notation at the bottom of the resolution granted previously that the BZA be notified when there was a name change. Mr. Fuelker stated he only knew of that notation when he received the staff report.

Chairman Smith inquired as to whether Wills & Van Metre intended to operate this facility and to sell memberships. Mr. Fuelker stated that would continue to operate it and stated that they sell memberships for a fee. Chairman Smith stated that this was certainly a commercial recreational use and stated that there was a big difference in the fee schedule.

Mr. Gerald Lenay, President of the Saratoga Community Association stated that Wills & Van Metre have operated and maintained the facilities in satisfactory shape. He stated that during the past years, they have attempted to put lights on the tennis courts. He indicated that the association has worked very closely with Wills & Van Metre but they have not been able to come to any agreement as to the installation of the lights. Mr. Lenay stated that he had been asked by the homeowners association to speak in favor of the application to expand the courts and install lighting on the condition that they installed within a twelve month period. Mr. Lenay stated that Wills & Van Metre have been very generous to the community association. Lights have been procured but they have not been installed. In response to questions from the Board, Mr. Lenay stated that the lights are in the possession of Wills and Van Metre. Chairman Smith stated that as long as the permit and the property was in the control of Wills & Van Metre, it appeared that it was a commercial use rather than a community one. He further stated that the community does not have a governing voice.

There was no one else to speak in support of the application. There was no one to speak in opposition.

Chairman Smith stated that apparently Wills & Van Metre had no thought of relinquishing control or selling the control of the facility to the community. Mr. Fuelker stated that the time the application was filed, both avenues may have been explored. The intent in 1972 was that it was to be owned and operated by Wills & Van Metre. This facility has 363 members. It has been operated in this fashion since 1972. Mr. Fuelker stated that there are about 950 units completed at the present time. He indicated that the membership was restricted to residents of Saratoga. He stated that the facility was just about to break even and that the books were open to any of the members of the community. He stated that they have held the annual dues down for several years keeping it at the same rate. They have suffered through the energy crisis and minimum wage and have tried to hold down the fees. Mr. Fuelker stated that the lighting was a question of economics. He indicated that they have been watching the use of the facility. He indicated that it would take about 150 members to justify an additional tennis court.

Chairman Smith stated that the Board's only concern was whether this facility was being operated under the provisions of the special permit for which it was applied for. He indicated that the Zoning Administrator would have to review it. Mr. Fuelker stated that Wills & Van Metre still have another 900 units to complete. Mr. Covington stated that as long as they have not completed the project, it would appear to be okay.

R E S O L U T I O N

Ms. Ardis made the following motion:

WHEREAS, Application No. S-259-79 by WILLS AND VAN METRE, INC., under Section 3-803 of the Fairfax County Zoning Ordinance to amend existing special permit for community recreational facilities to permit construction of additional tennis court and installation of tennis court lighting for all three courts on property located at 7999 Edinburgh Drive, tax map reference 898-2((1))pt. 18, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on October 30, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-8.
3. That the area of the lot is 3.52192 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

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THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. Tennis court lighting shall be directed to the tennis courts and confined on the property site.
8. The hours of operation shall be 9 A.M. to 9 P.M., seven days a week.
9. This special permit is subject to all provisions of S-23-74 not altered by this resolution.

Mr. Barnes seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 489, October 30, 1979, Scheduled case for

8:45 P.M. JAMES C. JUDKINS, appl. under Sect. 3-203 of the Ord. to permit a home professional attorneys at Law Office, located 2917 Chain Bridge Rd., Gray's Subd., Sec. #3, 47-2((5))6, Providence Dist., 20,741 sq. ft., R-2, S-265-79.

Mr. Bill LoPorto of 10720 Main Street in Fairfax represented the applicant. He stated that clarification was necessary. He indicated that the special permit should be issued to Mr. Judkins. He stated that Mr. Judkins was the applicant and that he was authorized to act on his behalf. Mr. LoPorto informed the Board that he and Mr. Judkins were co-owners of the property. Chairman Smith inquired as to who would live at the property. Mr. LoPorto stated that was the only change in the request. He stated that Mr. Judkins would not live there. He indicated that he would be living there. Chairman Smith inquired as to when the property was purchased and asked to see a copy of the deed. Mr. LoPorto stated that the property was purchased on August 19, but he did not have a copy of the deed. He indicated that the property would stand this year in the names of James C. Judkins and William LoPorto. He stated that perhaps he had not stated it correctly at the beginning but indicated that there would not be any problems. The only change was that Mr. Judkins would not live at the property and that Mr. LoPorto would.

Chairman Smith stated that under the circumstances and based on the statements made by Mr. LoPorto, the Board would continue to hear the case but announced that the permit could only be issued in the name of Mr. James C. Judkins. Mr. LoPorto stated that Mr. Judkins would not be living there. Chairman Smith indicated that was the only way could issue the permit was in the name of Mr. Judkins.

For continuation of the hearing, Mr. LoPorto stated that the property was located at 2917 Chain Bridge Road. He stated that there were three houses

that appeared exactly like his all right in a row. The Oakton shopping center was across the street. The intended use is for a law office. Mr. LoPorto stated that there would not be more than four employees engaged in the law office. He stated that the outside appearance of the house would not change in any way and that the hours of operation would be between 8 A.M. and 5 P.M. as a general rule. There might be some exceptions like Saturday and Sunday hours or evening activity. Mr. LoPorto stated that he expected to have a total of five parking spaces. He stated that there would not be anything changed on the grounds except for the parking and site work that would have to be done.

Chairman Smith stated that the written statement had indicated that this use would have two lawyers and two secretaries but now the applicant was requesting as many six. Mr. LoPorto clarified it by stating there would not be any more than a total of four people. He stated that there would be two lawyers at most. He informed the Board that he had checked with some of the neighbors about the proposed use and no one objected. Ms. Ardis inquired as to the number of parking spaces and was informed there would be five. Ms. Ardis inquired as to the number of people parking there would be employed there. Mr. LoPorto stated that two spaces would be employees with two remaining for clients. Mr. DiGiulian inquired as to the latest hour they would be working in order to determine the hours of operation. Mr. LoPorto stated that it sometimes would be 9:30 A.M. to 10:00 P.M. He stated that many times he would be working alone and that generally the hours would be from 9 A.M. to 5:30 P.M. Mr. DiGiulian inquired if the 8 A.M. to 6 P.M. would cover it. Mr. LoPorto stated that there would be times they would be working on Saturday preparing for trial.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 490, October 30, 1979
 JAMES C. JUDKINS

Board of Zoning Appeals

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-265-79 by JAMES C. JUDKINS under Section 3-203 of the Fairfax County Zoning Ordinance to permit home professional (attorney) office on property located at 2917 Chain Bridge Road, tax map reference 47-2 ((5))6, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public, and a public hearing by the Board of Zoning Appeals held on October 30, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the subject property is James C. Judkins and William J LoPorto.
2. That the present zoning is R-2.
3. That the area of the lot is 20,741 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this

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Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.

5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.

7. The maximum number of employees shall be four (4) including the applicant.

8. The hours of operation shall be 8 A.M. to 6 P.M., Monday through Saturday.

9. The number of parking spaces shall be five (5).

10. This permit is granted for a period of three (3) years.

Mr. Yaremchuk seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 491, October 30, 1979, After Agenda Items

Claire E. Brou: The Board was in receipt of a request from Claire E. Brou asking that the Board accept signed statements from adjacent property owners in lieu of the required certified mail, return receipt requested notification procedure. In addition, she was inquiring as to the possibility of the Board scheduling her case for a time whenever there was a cancellation on the agenda.

It was the consensus of the Board that the signed statements could not be accepted as proper notification. The Chairman stated that the Board does not have the authority to waive that requirement of the State Code. The clerk was asked to so notify Ms. Brou and inform her of the scheduling process.

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Page 491, October 30, 1979, Scheduled case for

8:50 P.M. ROBERT W. PETZOLD, appl. under Sect. 18-401 of the Ord. to allow subdivision into 2 lots which would have width of 80 ft. (100 ft. min. lot width req. by Sect. 3-206), located 4612 Manor Drive, 101-3(1)44, Lee Dist., 48,316 sq. ft., R-2, V-227-79.

Mr. Scott Wheatley of Richmond Highway in Alexandria represented the applicant. He stated that the application was for a variance to allow the lot width to be 80 ft. instead of the required 100 ft. He indicated that the reason for the variance was because the property was being resubdivided. The lot was long and narrow. It was the applicant's intention to subdivide to the midpoint of the property. Mr. Wheatley stated that other lots in the area had been resubdivided in a similar manner. He stated that this was the last remaining lot in this particular area that has not been developed at this time. He stated that this was a non-conforming lot.

There was no one to speak in favor of the application and no one to speak in opposition.

R E S O L U T I O N

In Application No. V-227-79 by ROBERT W. PETZOLD under Section 18-401 of the Zoning Ordinance to allow subdivision into two lots each which would have width of 80 ft. (100 ft. min. lot width req. by Sect. 3-206) on property located at 4612 Manor Drive, tax map reference 101-3(1)44, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

R E S O L U T I O N

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 30, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 48,316 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including long and narrow.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. DiGiulian seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 492, October 30, 1979, Scheduled case for

9:00 NATIONAL PEST CONTROL ASSOC., appl. under Sect. 18-401 of the Ord.
 P.M. to allow construction of building to 10 ft. from front lot line
 (40 ft. min. front yard req. by Sect. 4-607) located 2222 Gallows
 Rd., 39-4((1))pt. 4, Providence Dist., 62,739.468 sq. ft., V-280-79.

Mr. Thomas Lawson, an attorney in Fairfax, represented the applicant. He stated that they were seeking a variance to the front yard setback requirement of 40 ft. Mr. Lawson stated that this was an unusually shaped property that could be a separate lot. He informed the Board that they would have to go to the Board of Supervisors for a special exception as far as the size of the lot. He stated that the reason for this variance was because of the steep configuration of the lot. He stated that they proposed a nominal use of the property. It would be a two story building used as the national headquarters of the National Pest Control Association. The building would bring people to Fairfax County. Mr. Lawson stated that because of the steep configuration of the property and the other lots 2 & 3 the way they are configured, this lot lends itself to development. They are connected by a very narrow piece of ground. It would not be practical to build on each of the lots. Mr. Lawson stated that a variance was necessary for lots 2 and 3. Lot 2 would be developed after the special exception was heard by the Board of Supervisors sometime after the first of the year. It was stated that eventually the building would be served by Oak Street rather than Gallows Road.

Chairman Smith inquired if Cedar Lane was developed in this area and was informed by Mr. Covington that it was vacated. Mr. Lawson stated that 75 ft. extends above the property and the Y.W.C.A. was just beyond it. He indicated that it was just like a little right-of-way that extends back to the property. During questioning, Mr. Covington stated that the road had not been fully vacated which was the reason the applicant was applying for a variance. Chairman Smith stated that as National Pest Control Assoc. was the contract purchaser that the application would have to be amended to include the owners. It was determined that the owner was John T. Hazel. Ms. Ardis moved to include him in the application. Mr. Barnes seconded the motion. The motion passed by a vote of 5 to 0.

MR. DiGiulian inquired if there would be adequate site distance for a car going west on Oak Street from Cedar Lane. Mr. Lawson stated that there would be. He indicated that the land was flat and that there was very little traffic coming from Cedar Lane. Mr. Lawson stated that as far as topography, he was not aware of any obstructions that would cause a site problem.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 493, October 30, 1979 Board of Zoning Appeals
NATIONAL PEST CONTROL ASSOCIATION
& JOHN T. & VIRGINIA E. HAZEL, JR.;
WALTER H. & EVELYN M. LOKOWANDT; AND
CALDWELL C. & ELLEN S. KENDRICK

R E S O L U T I O N

In Application No. V-280-79 by JOHN T. & VIRGINIA E. HAZEL, JR.; WALTER H. & EVELYN M. LOKOWANDT; CALDWELL C. & ELLEN S. KENDRICK AND NATIONAL PEST CONTROL ASSOCIATION, under Section 18-401 of the Zoning Ordinance to permit construction of building to 10 ft. from front lot line (40 ft. minimum front yard required by Sect. 4-607) on property located at 2222 Gallows Road, tax map reference 39-4(1)pt. 4, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been rproperly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 30, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is C-6.
3. The area of the lot is 62,739.468 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, specifically, triangular.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical consitions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would derpive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not trans-ferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless ocnstruction has started and is dilligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 493, October 30, 1979, After Agenda Items

MATTHEW N. & PATRICIA A. SMITH & ROBERT DELUCA: The Board was in receipt of a letter from Marijn Moore requesting the Board to reconsider its motion in the variance application of Matthew N. & Patricia A. Smith & Robert DeLuca. After review of the new evidence presented in the letter, Mr. Yaremchuk moved that the Board allow the reconsideration. Mr. DiGiulian seconded the motion and it passed unanimously.

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9:15 P.M. GOODTIME PRODUCTIONS, appl. under Sect. 4-603 of the Ord. to permit dance hall for young people, located 6355 Rolling Road, 79-3(1)7, Springfield Dist., 113,367 sq. ft., C-6, S-224-79.
(Deferred from October 23, 1979 for a tabulation on parking and additional limited testimony.)

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Mr. Herman Hohouser, an attorney at 5205 Leesburg Pike, represented the applicant as Mr. Rosenberg could not attend the hearing. Mr. Hohouser stated it was understanding that most of what would be presented would be limited testimony. He informed the Board that he had some information principally consisting of amended conditions with input from the civic associations.

Chairman Smith informed the audience that this would have a very limited discussion. He stated that the Board had fully heard the application previously. Mr. Hohouser stated that he would like the opportunity to rebutt. Chairman Smith informed the audience that the Board only wanted to hear about the land use question of the application and not the moral issue.

The first speaker was Robert Burman of 6923 Raspberry Plain Place. Mr. Burman stated that he was the past president of the Winston Knolls Civic Association. He stated that he had been asked by the present president to speak at the hearing. He stated that they were taken by surprise that the Board of Zoning Appeals had acted so soon after the Board of Supervisors' action of two weeks ago. He stated that he was not at the last BZA hearing unfortunately. Chairman Smith informed Mr. Burman that the Board takes its cases in rotation and that it came before the Board in its proper rotation. Mr. Burman stated that Winston Knolls represents 485 single family homes within a two mile area of the subject property. Mr. Burman stated that the petitioner had amended his written statement of conditions which they have not seen. He indicated that this use was not needed. The shopping center is zoned C-6. Mr. Burman stated that an outside wants to attract all of the children in Fairfax County to this area. He stated that his civic association has not received any information to alleviate their concerns. This disco would have a lot of traffic. There would be a lot of congregating outside of the facility. Mr. Burman stated that the shopping center has poor ingress and egress. There is inadequate parking presently. This use would attract more children. He stated that children with cars between the ages of 16 to 19 would park there to pick up girls. Mr. Burman stated that this was a neighborhood with problems already because of the 7-11 in the area. The applicant would be involved with the custody of the children. Mr. Burman stated that they were concerned about the environment and the safety of the area. He stated that the Board should not allow this to be granted. The applicant was proposing to have inside security of one disc jockey and one bouncer for 500 children. ~~Mr. Burman stated that~~ at functions at the area high schools, the ratio was 10 to 1. The applicant proposed a smoking area. Mr. Burman stated that children are not supposed to be smoking. In addition, there was no background information about the investors or the officers involved in the application. Mr. Burman stated that the use was not needed. Mr. Burman stated he would appreciate a copy of who is backing the use. Chairman Smith informed Mr. Burman that that was a matter involving the business license office and was not a function of the Board. Mr. Burman stated that the applicant had refused to tell them who was backing the operation. He stated that the citizens have a right to know. He stated that he would not want his children there unless he knew who was operating it. Mr. Burman stated that there was a memorandum in the file dated October 22nd which describes the type of activity around the Little Feet disco which included a knifing. Mr. Burman stated that his civic association opposed the application.

The next speaker was George Pearsall of the Rolling Valley Civic Association. He stated that their neighborhood was the closest to this proposed facility. Mr. Pearsall stated that the Board should take a ride out to Springfield. He stated that there was no direct access into the shopping center. It is a very poor arrangement traffic wise. Mr. Yaremchuk stated that there was a median strip to keep people from making a left hand turn. Mr. Pearsall asked the Board to consider the safety of the neighborhood. He stated that in a land use, the community would have a big say. He informed the Board that he had been Chairman of the New York Board of Zoning Appeals. He stated that he believed the Board had a moral obligation to safeguard the community. Mr. Pearsall presented the Board with a statement from Mr. Lee Hanson of Lee Boulevard Heights next to Little Feet. The letter referred to a series of mini-crimes which broke out after the opening of Little Feet. Mr. Pearsall stated that there was no direct evidence but the timing made it obvious. Mr. Pearsall also presented the Board with statements from students from West Springfield High School who did not want the disco.

The next speaker was John Price of 10505 West Drive in Fairfax. Mr. Price represented the Rygate Homeowners Association. He stated that there was concern for the safety of the community if the disco were allowed to operate. There is vandalism in the area already. Mr. Price stated that the area was not well lighted. There are no sidewalks along Rolling Road. There are a few lightposts bordering the golf course but they have been damaged by vandals. He stated that the citizens were afraid that if the disco were granted, it would encourage the patrons to use this area for a makeout spot. Mr. Price stated that the country club was located behind the disco about 200 ft. During the past year, there has been numerous breakins on the golf course and in the neighboring homes all involving juveniles. Mr. Price stated that the citizens were also concerned about the additional traffic. He stated that they felt that the overflow of traffic would use the streets from the subdivision in which to park. They were afraid of litter. Mr. Price stated that the majority of the homeowners were in opposition to this use. In conclusion, Mr. Price stated that it would be better to have this use in a larger commercial area.

The next speaker was Ted Reynolds of 8612 Canterbury Drive in Canterbury Woods Subdivision. Mr. Reynolds felt the use was in violation of the standards and conduct for the County. He stated that he had tried to operate a teenage disco for his community with parental supervision. He stated that there are many problems to have to face as many of the youngsters are not controllable. He stated that the use of pot and alcoholic beverages are not enforced by the police. Mr. Reynolds stated that they had to discontinue the disco. He indicated that vandalism would take place and was something that could not be controlled by the operators or the police. Mr. Reynolds stated that the use of off duty policemen at the disco was not possible. If it were, then they would be using the policemen at football games at the high schools. One of the biggest problems would be the use of illegal drugs. Mr. Reynolds inquired if the operators of the disco would have a qualified person to be able to identify the drugs.

The next speaker was Sue Downs of Springfield who stated that she had two teenagers. She stated that there were a lot of juveniles seen in juvenile court. A juvenile court judge had stated to the West Springfield Civic Association that this type of operation always attracts the kids who use drugs heavily. Ms. Downs stated that the disco would be a very dangerous situation for the community. Ms. Downs stated that the purpose of the BZA was to hear applications to determine the proper use of the land for the community. She stated that if the Board granted the disco, then they would be acting in the interest of a private concern over the interests of the communities and the churches in the area. Ms. Downs presented the Board with a petition signed by over 70 people from the community and six letters from individual citizens.

Chairman Smith inquired as to the age limitation on the one guest permitted at the disco. Mr. Hohouser stated that there was no minimum age. Chairman Smith reminded the audience that the age question was a moral issue that the parents of the children would have to decide. He stated that the BZA could not regulate the morals of the people. Chairman Smith stated that he was familiar with the area as he had a daughter with two children living a mile away from the proposed use. He stated that he was aware that the shopping center was very difficult to get in and out of. He again stated that the Board had to concern itself with the land use and the safety factor.

Mr. Gregory Sisak of Rolling Valley informed the Board that he had been a resident of this area since 1956 and a resident of Rolling Valley since 1966. Mr. Sisak stated that he attended the Rolling Valley Civic Association meeting at which Mr. Rock had presented this proposal. Mr. Sisak reminded the Board that the movie theater was not a financially profitable use even when it was reduced to showing x-rated films. He stated that he drives by this area 7 days a week at least twice a day. He stated that the area is a hangout for undesirable teenagers. He stated that the sale of beer is not policed in this area and is often taken out to younger children. Mr. Sisak stated that the disco would bring a larger group of people to the area. He stated that it would be incompatible with the community. Mr. Sisak asked the Board to deny the application.

During rebuttal, Mr. Hohouser stated that he would like Mr. Rock to make a statement before the Board and to have an opportunity for a consultant to speak. He stated that Mr. Rock and the consultant are partners and have spent many months before the community trying to insure that the disco would fit into the community. He presented the Board with letter of support for the disco from the Pastor of the Prince of Peace Lutheran Church and the Spring-

field Golf and Country Club.

Mr. Rock informed the Board that he had been working on this proposal for over 10 months. He stated that he had contacted over 15 discos across the nation and contacted the local police departments and found them to be very helpful. Mr. Rock stated that he had also contacted the Youth Services in Fairfax Co. and the narcotics squad and the Planning Commission and the Juvenile Courts and the security police who control the area. Mr. Rock stated that he had done a lot of research and had been to two international conventions with people who promote teen discos. He presented the Board with a statement with some of the information he had been provided on teen discos.

During questioning, Ms. Ardis stated that she had a real problem with the number of employees proposed with only one being 21 years of age. Ms. Ardis stated that her concern was based on her experience in 1971 teaching junior high school. She stated that the prospect of having 5 employees with only one being at least 21 years of age to supervise over 500 children was absurd. She indicated that it was a real problem. She stated that there may be a need for this type of use but the number of employees raised a potential for real concern. Mr. Rock stated that the Rolling Valley Civic Association had requested that there be at least one person as a manager over 21 years of age. Mr. Rock stated that the other employees would also be adults. He stated that anyone, parents, or whoever who would wish to come and work at the facility for no charge would be allowed. Ms. Ardis was concerned with the ratio of one employee per 100 persons. Mr. Rock stated that the disco he visited in Virginia Beach often serves up to 1500 people. He stated that it was operated by a manager only 23 years old and had less employees than what he was proposing for his disco. They only had a person selling tickets, a disc jockey, two persons on the concession stand, one security guard to patrol inside and out, and two ushers to walk around. Ms. Ardis inquired if there was a statement from the Police Department in Virginia Beach included in Mr. Rock's statement to the Board. Mr. Rock stated that the operator of the disco was involved in roller rink across the country. He indicated that he had talked to him at great length. Ms. Ardis stated that her only concern was there be consideration of an additional number of employees.

Mr. Barnes was concerned with the smoking in the facility. He stated he was not concerned with the smaller children but the 17 year olds. He stated that somebody would start smoking pot because it was human nature for them to do it. He indicated that it would be better if there was no smoking at all because then you would have a chance to catch violators. Mr. Rock stated that the smoking would be allowed only in the lobby. He indicated that the lobby was visible from the office area. Mr. Barnes suggested that if the use was granted, that the applicant allow some of the civic associations and the churches in the area to act as host for awhile so they could see what goes on.

Mr. DiGiulian stated that one of the things he had requested previously was a tabulation of the uses and the hours of operation for other businesses in the shopping center and the required parking. Mr. Hohouser stated that they had found out that they were not entitled to the extra 35 parking spaces unless the issue was decided by the Board of Supervisors. He indicated that they were willing to go by the present statute which makes the maximum occupancy allowed 385 which was stated in the amended statement of conditions. Mr. DiGiulian stated he understood the dual use and that it could only be granted by the Board of Supervisors. Chairman Smith asked Ms. Kelsey to address the question of parking. She stated that if the applicant wanted to have the occupancy of 490 as was previously requested, they would have to go through the Director of Environmental Management and get a recommendation and then go to the Board of Supervisors. She stated that the Board would have to approve a reduction in the number of total for this use and the other uses presently there. Ms. Kelsey stated that on a quick computation, it appeared that there was enough parking for the maximum occupancy of 385 but she had not computed it prior to the hearing and so was not a firm figure.

With regard to the experience of Mr. Rock, Mr. Hohouser stated that they recognized that Mr. Rock was not experienced in such matters and they have hired a consultant. Working on the project with Mr. Rock for the last several months was a Mr. George Pakliologist. He has given them input. At present, he is President of the National Children's Island, Inc. in Washington, D.C. sponsored by the D.C. Government. He was voted the outstanding citizen of Montgomery County in 1974 and in 1975 by the Chamber of Commerce. He is intimately involved in youth programs in the District of Columbia, in church and in camp organizations. Mr. Hohouser presented the resume for the Board's review.

Mr. George Paliologist of 816 East Avenue in Silver Spring, Maryland. He informed the Board he had been hired by the Goodtime Productions as a consultant as well as one who has worked with youth over the past ten years. He stated that one thing he has been involved in is trying to create programs that would enable youth to participate in wholesome environment and yet be able to exhaust their energy without creating difficulty to themselves or any problems to surrounding areas. He explained to the Board about his program and its purpose.

At the conclusion of the hearing, Chairman Smith stated that the question of parking had not been resolved. Mr. Yaremchuk informed the Board that he had called Cpt. Mustaine and found out that if the use was granted and after it opened, they could hire a on-duty police officer to control the ingress and egress. Mr. DiGiulian stated that the concern was great. He indicated that if this were proposed for some other location, he would be inclined to support it. He stated that he was familiar with the intersection and the shopping center. He stated that there were parking problems on the site and that the intersection is dangerous.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-224-79 by GOODTIME PRODUCTIONS under Section 4-603 of the Fairfax County Zoning Ordinance to permit dancehall for young people on property located at 6355 Rolling Road, tax map reference 79-3(1)17, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on October 30, 1979 and deferred from October 23, 1979; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the lessee.
2. That the present zoning is C-6.
3. That the area of the lot is 11,367 sq. ft.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has not presented testimony indicating compliance with Standards for Special Permit Uses in C Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 2 (Mr. Barnes and Mr. Smith).

Page 497, October 30, 1979, After Agenda Items

MATTHEW N. & PATRICIA A. SMITH & ROBERT DELUCA: The Board continued to discuss the rehearing and whether or not a readvertising was necessary. After discussion, it was determined the application would have to be readvertised. The Board scheduled the rehearing for November 20, 1979 at 11:50 A.M.

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Page 497, October 30, 1979, After Agenda Items

Gerald Dunn: The Board was in receipt of a letter from Mr. Gerald Dunn asking for an out-of-turn hearing on his variance application. It was the consensus of the Board to deny the request and have the variance heard as was scheduled for December 11, 1979.

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BANK OF VIRGINIA: The Board was in receipt of a letter from Ken White of Alexandria Surveys requesting the Board to grant an extension of the variance granted November 7, 1978. Mr. Barnes moved the Board to grant a six month extension of V-230-78. Mr. DiGiulian seconded the motion and it was unanimously approved.

// There being no further business, the Board adjourned at 11:15 P.M.

By *Sandra L. Hicks*
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: _____
Date

Submitted to the Board on _____.
Submitted to the other departments,
Board of Supervisors and Planning
Commission on _____.